

Report of the Scoping Inquiry into Historical Sexual Abuse in Day and Boarding Schools Run by Religious Orders

Mary O'Toole, SC
June 2024



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- Kieran McGrath, Survivor Engagement Lead
- Michele Clarke, Survivor Engagement Advisor
- Julie Maher BL, Counsel to the Inquiry
- Finn Keyes BL, Research Lead to the Inquiry

Glossary

ACCS	Association of Comprehensive and Community Schools
AEARS	Alternative Education Assessment and Registration Service
AGS	An Garda Síochána
AIRR	Access to Institutional and Related Records Project
AJP	Association of Joint Patrons of Community and Comprehensive Schools
AMRI	The Association of Leaders of Missionaries and Religious of Ireland
APTCS	The Association of Patrons and Trustees of Catholic Schools
CAMHS	Child and Adolescent Mental Health Services
CAPP	Child Abuse Prevention Programme
CASP	Child Abuse Substantiation Procedure
CCJ	Criminal Courts of Justice
CEP	Common Experience Payment (Canada)
CEP	Catholic Education Partnership
CES	Centre for Effective Services
CFA	Child and Family Agency (Tusla)
CFIDIG	Children First Inter-Departmental Implementation Group
CICA	Commission to Inquire into Child Abuse
CORU	Ireland's multi professional health regulator
CORI	Conference of Religious of Ireland
COSICA	Commissioner for Survivors of Institutional Child Abuse
CPD	Continuing Professional Development
CSA	Child Sexual Abuse
CSO	Central Statistics Office
CSSCU	Child Safeguarding Statement Compliance Unit
DCC	Designated Community Colleges
DCEDIY	Department of Children, Equality, Disability, Integration & Youth
DLP	Designated Liaison Person
DPC	Data Protection Commission
DPP	Director of Public Prosecutions
DPSU	Divisional Protective Services Unit (a specialist unit of An Garda Síochána)
EAG	Expert Assurance Group

ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
ERST	The Edmund Rice Schools Trust
ETB	Education and Training Board
ETBI	Education and Training Boards Ireland
GDPR	General Data Protection Regulation
HIAI	Historical Institutional Abuse Inquiry (Northern Ireland)
HIQA	Health Information and Quality Authority
HSE	Health Service Executive
IAP	Independent Assessment Process
IARG	Inter Agency Review Group
IASW	Irish Association of Social Workers
IICSA	Independent Inquiry into Child Sexual Abuse (England & Wales)
INTO	Irish National Teachers' Organisation
IRSSA	Indian Residential Schools Settlement Agreement (Canada)
IRSCC	Indian Residential School Survivor Committee (Canada)
LSR	Local Safeguarding Representative
NBSCCCI	National Board for the Safeguarding of Children in the Catholic Church in Ireland
NCCA	National Council for Curriculum Assessment
NCCIS	National Child Care Information System
NCRR	National Centre for Research and Remembrance
NCTR	National Centre for Truth and Reconciliation (Canada)
NDA	Non-Disclosure Agreement
NEWB	National Educational Welfare Board
NSHCC	Nova Scotia home for Colored Children (Canada)
OCD	Obsessive Compulsive Disorder
PJP	Public Juridic Person
PDST	Professional Development Service of Teachers
PTSD	Post Traumatic Stress Disorder
QM	Quality Matters
RIRB	Residential Institutions Redress Board
RSE	Relationship and Sexuality Education
SCAI	Scottish Child Abuse Inquiry

SJORI St. Joseph's Orphanage Restorative Inquiry (USA)
SPHE Social, Personal & Health Education
SVS Sexual Violence Survey
TRC Truth and Reconciliation Commission of Canada
Tusla The Child and Family Agency
VEC Vocational Education Committees
V-SAC Victim Support at Court
VSCP Victim-Survivors Consultative Panel (England and Wales)
VSJO Voices of St. Joseph's Orphanage (USA)
VSS Victims and Survivors Service (Northern Ireland)
WSO Witness Support Officers (Northern Ireland)

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Volume 1

Executive Summary

On 7 November 2022, the RTÉ Documentary On One: Blackrock Boys was broadcast on RTÉ Radio 1. The documentary described the accounts of Mark and David Ryan, two survivors of sexual abuse at Blackrock College, Dublin. Following the broadcast many men came forward from this school and others, outlining similar experiences. The Minister for Education, Norma Foley T.D. subsequently announced the establishment of a Scoping Inquiry to inform the Government's response to revelations of historical sexual abuse in schools run by religious orders. Central to this approach was a Survivor Engagement process, to enable consultation with survivors and to learn what is important to survivors now and what the next steps should be.

The Scoping Inquiry was established on 7 March 2023 as a non-statutory inquiry. We were asked to complete a number of tasks, the foremost of which was to set out a potential framework for a Government response that, in so far as possible, would best meet the outcomes sought by survivors of historical sexual abuse.

The detail of the work done and recommendations made are set out in the body of this Report.¹

As a Scoping Inquiry it was not our function to investigate the allegations of historical sexual abuse referred to in this Report. We make no findings of any kind in this regard.

1 The Executive Summary sets out the main recommendations of the Scoping Inquiry. To see all of the recommendations of the Scoping Inquiry, and the reasons for those recommendations, see Chapter 25: Conclusion: Potential Framework for a Government Response.

A. The Extent of Allegations of Historical Child Sexual Abuse in Religious Orders' Schools

Having sought information from a range of sources, we have found that the primary direct source of data on allegations of sexual abuse in schools run by religious orders was the religious orders and schools themselves. We requested the religious orders that ran schools to provide us with information as to the number of allegations of historical sexual abuse arising in respect of those schools. The Scoping Inquiry appreciates the co-operation it received from the religious orders in this regard. Through a process of issuing questionnaires and follow-up correspondence with the religious orders we have found that:

- in total, there are 2,395 allegations of sexual abuse in respect of 308 schools recorded by the religious orders that ran those schools.² A full table of the numbers of allegations and alleged abusers recorded by each of the 42 religious orders concerned is set out in Chapter 9;³
- these allegations are made in respect of 884 distinct alleged abusers;
- the number of schools with allegations of historical sexual abuse shows that such allegations are not confined to schools in any particular geographic or social category. However, there are some schools where particularly high incidences of allegations of historical sexual abuse are recorded. A school-by-school breakdown of allegations recorded by religious orders is set out in Appendix 7;
- the total number of allegations likely exceeds that figure, given the level of underreporting of childhood sexual abuse noted in the Central Statistics Office Sexual Violence Survey.⁴
- the religious orders' records indicate that over half of the 884 persons accused of historical sexual abuse are known to be deceased;
- there is a particularly high number of allegations in special schools.⁵ 17 special schools recorded 590 allegations involving 190 alleged abusers.⁶

2 These figures include community schools where the religious order are only co-patrons. Excluding community schools the relevant figures are 2,375 allegations in respect of 293 schools.

3 Some 42 of the 73 religious orders that run schools confirmed that they had allegations of sexual abuse falling within the Scoping Inquiry's Terms of Reference, and particularly within the period 1927-2013.

4 Central Statistics Office (CSO) 2022 Survey of Sexual Violence. See discussion of the Sexual Violence Survey in Chapter 23.

5 The term 'special school' refers to schools for pupils with special educational needs.

6 This is reflective of a wider pattern of rates of abuse of disabled people tending to be higher than rates of abuse in the general population.

B. What Survivors Have Told Us

This Report sets out what survivors of sexual abuse in day and boarding schools run by religious orders told the Scoping Inquiry's Survivor Engagement team about their childhood experiences, the impact on them as children and as adults up to the present day and what they want the Government to do next.

The accounts given by survivors of their experiences of sexual abuse in schools set out in this report are distressing and often harrowing to read. This is noted at the beginning of Chapters 4, 5, 6, and 7. Reading these accounts of abuse may be extraordinarily difficult, particularly for those who have been abused or whose loved ones have been abused. It is no failing on any person's part if they do not wish to do so.

On the establishment of the Scoping Inquiry, people were invited to register their interest in participating in the process, which was open to all former students of day and boarding schools run by religious orders. Some 205 people, the overwhelming majority of whom were men, completed questionnaires about their experiences. In their questionnaire responses, survivors spoke of experiences of historical sexual abuse in schools in at least 22 counties in Ireland, naming over 80 schools, run by 24 religious orders. The incidents of sexual abuse were, in the main, described as having occurred between the early 1960s and the early 1990s, with the highest number of reported incidents occurring in the early to mid-1970s. Of those completing questionnaires, 182 were assessed as falling within the Scoping Inquiry's Terms of Reference and invited to the second stage.

Following the completion of questionnaires, 149 participants whose experiences fell within the Scoping Inquiry's Terms of Reference opted to take part in the second stage of the process, where they could choose to give an interview to a trauma-informed facilitator or provide a written submission. 137 participants completed in-person interviews and 12 participants provided written submissions. These interviews and submissions form the basis for the Survivor Engagement team's report.⁷

This trauma-informed process was key to ensuring that participants had choice and control over what they told us and how that information was documented.

Participants did not have to answer set questions in their interviews, and could choose to say as much, or as little, as they wanted about any topic. In the course of these meetings, participants spoke frankly, and often eloquently, of their memories, insights, loss, and pain, and for this the Survivor Engagement team is extremely grateful. In some cases, this was the first time they had told the full extent of their

⁷ The contributions contained in the 205 questionnaire responses and the views of persons who fell outside the Scoping Inquiry's remit are also described in the Survivor Engagement Report.

experience of sexual abuse and its impact on their lives. Due to the age of the participants now, many were able to describe how their experiences had impacted every part of their lives. It was evident that for some, the experiences of sexual abuse recounted had a devastating impact on their childhood and that the effects had lasted throughout their lives.

For many participants, their stories explain that there was no place or sense of safety in their schools or indeed, their lives, as a result of their experiences of sexual abuse. Appalling childhood sexual abuse is described by participants and is reported as occurring in various locations including in classrooms, dormitories, sports facilities, and at musical and extracurricular activities. Some reported being sexually abused in their own homes by adults associated with their school who had gained their family's trust, only to abuse that trust egregiously. Participants described being sexually abused in the private offices and residential quarters of school staff and religious order members.

Many spoke of being sexually abused in the presence of other children or adults, and others reported being sexually abused when alone with a teacher, priest or religious brother, other school staff or a visitor to their school. Many recounted that the sexual abuse had been ongoing, whilst others said it had occurred randomly, or followed a period of grooming, and was often reported as having been accompanied by ferocious violence. Participants described being molested, stripped naked, raped and drugged amidst an atmosphere of terror and silence. Many spoke of their strong belief that what was happening was so pervasive that it could not possibly have gone unnoticed by other staff, and the members and leadership of the religious orders. Many participants were very clear in their belief that there had been a cover-up in their schools or by the religious order and some believed there was collusion between some institutions of the State and the Church.

Participants spoke of their fear, shock and naivety about the sexual abuse when it occurred. They described how it evoked in them feelings of shame, responsibility, isolation, powerlessness and secrecy. Participants described trying to avoid the sexual abuse, avoiding their favourite activities, their friends and ultimately their school. Some described how, as children, they began to experience mental health problems and adopted unhealthy coping mechanisms including the misuse of alcohol and drugs, and how some of those problems followed them into adulthood. Many described their confusion about why it happened to them and some said that other children sometimes tried to warn them about risky situations or certain staff. Participants spoke of their confusion about their own developing sexuality, and also of declining academic performance which limited their opportunities in education and employment later on. Many participants said that they felt that the power of the Catholic Church permeated their lives in every way and, for the majority, they felt

there was no one they could tell, including their parents. For some this has led to lifelong estrangement or difficult family relationships. Many said that their childhood stopped the day the abuse started.

As adults, participants said the impact of the sexual abuse led to serious and ongoing difficulties in relationships, mental and physical health problems, addiction issues, lost career opportunities, and damage to their sense of place and/or community. Many described failed early intimate relationships and marriage breakdowns. Some said that, as a result of the sexual abuse, they decided not to have children, or when they did, it impacted their parenting, with many participants describing the effects of intergenerational trauma on their families. Many spoke with very real sadness of the impact of telling their elderly parents of their experiences. Participants spoke of difficulties with authority figures in employment, with their long-term solution being to undertake contract work or self-employment. Other impacts on careers included lost opportunities to go to university as a result of poor academic progress or inappropriate behaviour in employment resulting from mental health difficulties and addiction. Some participants outlined how they had successful careers as they worked excessively, at the cost of their close relationships, to distract themselves from their early trauma. Participants spoke of emigrating and creating distances from family and friends to avoid traumatic memories. Many described becoming alienated from religion and church-related services to the extent that some avoided attending a parent's funeral or other family event, as they could not enter a church.

Participants frequently described a crisis in adulthood, such as a suicide attempt or time in a rehabilitation programme, as a time when their childhood experiences came to the fore for the first time and were identified as a source of their difficulties, and this realisation began the process of healing. The majority of participants who, in later years, approached the religious order seeking acknowledgement said the encounter had not been helpful, especially where it involved a defended legal process, although a minority found the experience helpful where a sincere apology was offered with compassion and meaning.

C. What Survivors Want the Government to do Next

A key purpose of the Scoping Inquiry was to ask participants what they wanted the Government to do next. In advance of the interviews, participants had been given a booklet setting out options and also inviting other proposals. The responses, set out in detail in Chapter 7 of the Report, show that two matters particularly emerged as key concerns that most participants wanted, namely a statutory inquiry and a redress scheme.

(i) A Statutory Inquiry

It was important to participants that any process have the power to compel attendance and documents, and that there would be a published report, and access to the process for the public and the media. However, it was also important that the process would be inclusive for survivors, which means that it must have an option to give evidence in private for those who are unable to speak publicly, as well as an option to speak in confidence about their experiences. Survivors were also clear that it is vital to mitigate the risk of retraumatisation in participating in an inquiry process in so far as possible.

Most survivors said that they wanted a statutory inquiry. The two models of statutory inquiry in Ireland are Tribunals of Inquiry (under the Tribunal of Inquiry (Evidence) Acts 1921 to 2002), and Commissions of Investigation (under the Commissions of Investigation Act 2004). It is also possible to establish a bespoke statutory inquiry, (an example of this is the Commission to Inquire into Child Abuse) but this would require passing special legislation, and would be likely to cause significant delay in the establishment of a future inquiry, which we considered would not be appropriate in light of the views expressed by survivors that a future inquiry be established as quickly as possible.

As to the type of statutory inquiry that survivors wanted, most said that an inquiry process that was the least adversarial possible was desirable. However, most survivors also said that they wanted an inquiry held in public, because they felt this would be the best way to hold the religious orders and others to account and to prevent any cover-up of historical sexual abuse in schools. Those who wanted an inquiry held in public were concerned that a future process would have sufficient powers to compel witnesses and documents to fulfil its purpose.

The default position for a tribunal is that it sits in public. The default position for a commission is that it sits in private. Each however, has the power to do the opposite in certain circumstances. Tribunals are generally considered to be the most adversarial model of inquiry, with proceedings very similar to that of a court, affording the full range of procedural rights to a person accused of wrongdoing before a tribunal, including a right to cross-examine their accusers. Commissions are less court-like in their processes than tribunals. Commissions are intended to be speedier and more flexible in their processes and have statutory powers giving them flexibility as to whether it is necessary, in order to fairly determine an issue, for other parties to cross-examine a witness or be present while a witness is giving evidence. A commission may also hear evidence by video link or recording.

There is some difficulty in reconciling the views that evidence should be heard in public, which would generally require a tribunal, the most adversarial model of inquiry, and the view that an inquiry process should be as non-adversarial as possible. In assessing the type of inquiry that should be established, we also considered the views of most survivors that any inquiry process should be as inclusive as possible, to encourage the broadest range of survivors to come forward. Many participants said they did not want to give evidence in public or be cross-examined.

Our view is that any inquiry process should be as inclusive as possible. The more court-like processes of a tribunal risk discouraging survivors from coming forward and would pose a greater risk of retraumatisation. The procedural flexibility of a commission affords the least adversarial model of inquiry, and therefore the greatest prospect of reducing the risk of retraumatisation. A commission model is also likely to be speedier than a tribunal model of inquiry.

We recommend that a Commission of Investigation pursuant to the Commissions of Investigation Act 2004 be established.

(ii) Financial Redress

There is a clear mandate from the Survivor Engagement process that a redress scheme should form part of the Government response. Many survivors expressed the view that the religious orders should pay for, or contribute to, a redress scheme.

There was wide acknowledgement that redress can never heal the damage done to those who had experienced childhood sexual abuse. Participants said that there has been a financial cost for many in accessing necessary therapeutic support, and that there have been real impacts on people's employment and earning potential as a result of the after-effects of the childhood sexual abuse they reported. Some who had attended fee-paying schools also spoke of the sacrifices parents had made to

send them there. Not all participants wanted redress for themselves, but they were broadly supportive of it being available for those who do.

We recommend that, in early course, consideration be given by the Government to establishing a redress scheme for survivors of historical sexual abuse in day and boarding schools run by the religious orders. We further recommend that the Government approach the relevant religious orders about contributing to a redress scheme.

(iii) Establishment of a Survivor Engagement Programme

The function of the proposed Survivor Engagement Programme is to provide survivors who cannot, or do not wish to give evidence before the Commission, an opportunity to recount their experiences on a confidential basis and in a wholly non-adversarial environment.

We envisage a process similar to the Survivor Engagement process established by the Scoping Inquiry. However, the proposed Survivor Engagement Programme would have a broader remit in that it will also allow the families of survivors, and other relevant persons to recount their experiences. This would allow the families of those who have died to be heard while also casting light on the wider impact of historical sexual abuse. The Survivor Engagement Programme would produce a report in relation to the experiences of those who come before it and include proposals to the future Commission as to how those experiences should inform future policy on the impact of historical sexual abuse on the lives of those affected. The Report would also seek to raise public awareness of child sexual abuse and its lifelong impacts.

It is not intended that the Survivor Engagement Programme would hold formal hearings, act as a public inquiry, conduct a formal legal process, or make findings. It will not identify any person or institution in its report. Instead, it will identify broader themes, systemic concerns, and proposals as to future policy and practice concerning survivors of historical sexual abuse in schools, for the consideration of the Commission. The proposed functions of the Survivor Engagement Programme are set out in greater detail in the Terms of Reference appended to this Report.

We recommend that a Survivor Engagement Programme be established by the Commission in accordance with the proposed Terms of Reference in this Report.

D. Terms of Reference of a Commission

We set out in Chapter 26 of the Report our proposals for the Terms of Reference of a Commission.

(i) Scope of Commission

Most survivors said that they wanted an investigation to look at what happened in schools, who was responsible for what happened, whether there has been a cover-up and what can be learned. Survivors wanted to establish what had been known by religious orders and school management at the time and what actions had been taken. If no action had been taken, they wanted to investigate why that was so.

Survivors also wanted the role of An Garda Síochána, health and social services, and government departments to be investigated as to what was known about the prevalence of sexual abuse during relevant periods, and if steps were taken to address any concerns or issues identified.

The type of investigation desired by most survivors fits into the rubric of an investigation into the handling of allegations, concerns and suspicions of sexual abuse in schools. Such an investigation would be able to look at what was known at the time, what steps were taken, and if no steps were taken, why that was; whether there were cover-ups, or co-ordinated actions, and whether persons accused of abuse were moved to other schools or institutions where they continued to have access to children.

An investigation into the handling of abuse allegations will involve hearing from individuals, including survivors, about their experiences at the time. The Commission will then examine what was done about those concerns, suspicions or allegations by the religious order/school concerned. If a Commission were to be tasked with making specific findings of sexual abuse, this would inevitably involve a much more adversarial approach, akin to a mini-trial.

Given the scale of historical sexual abuse allegations revealed in the records provided by the religious orders, and the numbers of schools in respect of which allegations are made, the speediest and most effective approach to discovering what the scale of complaints and concerns were in relation to particular orders and schools, and how they were dealt with, is to task the future commission with examining the handling of abuse complaints and concerns.

The Scoping Inquiry recommends that the Commission investigate the handling of historical sexual abuse allegations and concerns and suspicions of sexual abuse in day and boarding schools run by the religious orders.

(ii) Inclusion of All Schools

During the course of our work various individuals and bodies spoke of their concerns about the relatively narrow focus of the Scoping Inquiry's Terms of Reference, because it was confined to day and boarding schools run by religious orders only. In our view, an approach that excludes from consideration all other schools where historical sexual abuse may have occurred would be arbitrary and difficult to justify. We recommend, therefore, that consideration be given to extending the remit of the future commission to all schools in due course.

However, we recommend that any such considerations should not delay the setting up of the Commission to deal with sexual abuse in day or boarding schools run by the religious orders; the Scoping Inquiry has already undertaken significant preliminary work in this area and it is important, in light of the views expressed by survivors of schools run by religious orders, that the Commission be established as quickly as possible.

There is a mechanism under the 2004 Act that enables the Minister to extend the Terms of Reference of a commission, with the consent of the commission, and provided that this does not prejudice anyone who has come before that commission to give evidence or provide documents. It seems to us that this mechanism might be utilised to extend, in due course, the work of the Commission to other schools.

We Recommend that consideration be given to extending the Terms of Reference of the Commission to all schools.

(iii) Proposed Framework for a Commission

We recommend that the future Commission be as survivor-centred as possible, consistent with fair procedures. To that end we recommend that, in so far as possible, the following arrangements be put in place:

- **Consultation with survivors and other stakeholders:** At the outset of the Commission's work, time should be set aside for preliminary consultation with a wide range of survivors and other stakeholders, to consult on issues such as language and nomenclature, how survivors and stakeholders will engage with, and communicate with the Commission and the Survivor Engagement Programme during the course of its work.
- **Transparency:** The Commission and the Survivor Engagement Programme should provide clear and regular information on how they intend to go about their work. Furnishing clear explanations as to the differences between the Commission and the Survivor Engagement Programme and providing practical information on issues such as waiting times and when a survivor is likely to be called to give evidence will be of clear benefit to survivors.

- **Regular Communication with Stakeholders:** The commission should establish a means of regular communication with all stakeholders, particularly survivors, in an accessible manner, about the Commission's ongoing work and any interim findings or rulings of the inquiry. The development of an inquiry website would be essential to achieve this.
- **Support for Survivors:** At key stages of the process, when survivors are preparing statements, giving evidence before the Commission or attending at the Survivor Engagement Programme, and in the aftermath of these stages, survivors should have access to appropriate one-to-one support, as required, to assist in reducing the risk of re-traumatisation.
- **Training:** Future Commission members, staff and their legal teams should receive appropriate and adequate training to understand trauma associated with sexual crimes.
- **Practical Steps:** We recommend consideration of a number of other practical measures as set out in Chapter 25 to facilitate survivors in giving their evidence in a manner that minimises re-traumatisation.

We recommend that, in furtherance of a survivor-centred approach, the Commission should put in place the arrangements set out above, and in relation to the 'Practical Steps' give consideration to putting them in place as far as practicable and consistent with fair procedures.

(iv) Policy Focus of Commission

The future commission may make such recommendations as it deems necessary as a result of its investigation, with particular focus on policy matters relevant to survivors.

The Commission shall receive a report from the Survivor Engagement Programme and may have regard to any proposal in such a report in respect of policy matters relevant to survivors, particularly in relation to managing lifelong impacts of childhood sexual abuse, in making its recommendations.

We recommend that the Survivor Engagement Programme furnish a report to the Commission and that the Commission may have regard to any proposal of the report, including in respect of policy matters relevant to survivors and the lifelong impact of child sexual abuse, in making its recommendations.

E. Best Practice Findings Regarding Restorative Justice and Child Protection

(i) Restorative Justice

We set out elsewhere in this Report our conclusions on restorative justice, and the independent report commissioned by the Scoping Inquiry in respect of same. In summary, the report found that there was a divergence of approach amongst the 10 orders surveyed, with some using a ‘facilitated approach’ and other using a ‘pastoral approach’. The report concluded that the ‘facilitated approach’ is to be preferred as more closely mapping onto traditional and best practice models of restorative justice processes.

By way of response to this conclusion, one religious order that operates a ‘pastoral’ approach fairly noted that this is, in their experience, an approach sought by survivors themselves, and that they have specialist lay staff trained to facilitate their processes in relation to survivors and that these staff are sufficiently independent to carry out this purpose. It thus appears that while a facilitated approach is in line with international best practice in restorative justice, a pastoral approach may nonetheless be appropriate in particular cases.

In addition, the independent report outlined areas for improvement in restorative justice initiatives run by the religious orders as including: compensation; preparedness; understanding survivors’ perspectives; and collective responsibility (where an alleged abuser is deceased).

There was relatively little support among survivors for a restorative justice scheme as a response to the revelation of sexual abuse in schools. It is also clear that, in order for a restorative justice response to be safe and effective in the context of child sexual abuse, a number of particular resources and safeguards would have to be put in place. The independent report commissioned by the Scoping Inquiry found that a further feasibility study would be necessary in order to assess this. It is therefore not recommended, at this juncture, that a large-scale restorative justice project be included as part of the government response. However, that is not to say that restorative justice values do not have a role to play, and restorative values such as accountability, respect, survivor-centredness and a focus on repair and healing have informed the Scoping Inquiry’s recommendations.

(ii) Child Protection

Child protection is an issue of the utmost importance to survivors. This Report includes an extensive examination of current child protection provisions in schools. We have also appended the expert report of Dr Helen Buckley, commissioned by the Scoping Inquiry, on the development of child protection over the decades since the early 1990s and how the current child protection framework operates in schools.

The Scoping Inquiry is of the view that there is currently a robust child protection structure in place in schools. However, there are a number of areas where this system could be further strengthened, and as noted previously, we recommend that the Department of Education set up an a Child Protection in Schools Group to give effect to the child protection recommendations set out in this report, with the intention that the Group will report to the Commission as to its progress in implementing the measures recommended.

We recommend that the Department of Education set up a Child Protection in Schools Group to carry out the functions set out in paragraph 125 of Chapter 25 of this Report and that there be a review of child safeguarding measures in unrecognised schools to consider current measures and make any recommendations to improve or strengthen same.

F. The Scale of Sexual Abuse That May Emerge

There is reasonable cause to believe that further allegations of sexual abuse in schools will emerge, and that the numbers of allegations will exceed the number recorded in the religious orders' records. This is due to several factors. It seems clear that there is a high level of underreporting of sexual abuse generally. This is reported internationally, but significantly, the Central Statistics Office's ('CSO') 2022 Sexual Violence Survey ('SVS') shows low levels of reporting of sexual violence, including sexual violence experienced in childhood, particularly amongst men. Men are likely to be the largest group of survivors coming forward to a future commission, given the prevalence of boys' schools associated with allegations of historical sexual abuse as recorded by the religious orders. The CSO asked participants in the survey whether the sexual violence about the location where the sexual violence occurred, including at school.⁸ The resulting figures are estimates only and subject to a number of qualifications.⁹ In summary, however, the CSO suggest that, in the age cohort of persons aged 35 years and older, some 15,300 men and 26,000 women are estimated to have experienced sexual violence as a child in a school.

Previous inquiries have established that some child sexual abusers were prolific. As there are a large number of alleged abusers recorded, there is a risk that some of these will have affected a greater number of children than the current records suggest.

The overall number of persons coming forward to allege historical sexual abuse in day or boarding schools is likely to increase following the publication of this Report and the further public discussion of this topic which may follow on its publication.

While it seems reasonable to suggest that further allegations of historical sexual abuse will emerge, predicting the scale of the increase is difficult. We have sought, by considering the data of the Sexual Violence Survey carried out by the CSO, to give some indication of how this might translate to overall numbers of the population affected by childhood sexual violence.

8 The SVS data was solely based on the experience that affected the participant the most, and the sexual violence may have been perpetrated in a number of locations. See Chapter 23.

9 The SVS data caveated based on a number of factors, including that it is solely based on the experience that affected the participant the most, and the sexual violence may have been perpetrated in a number of locations. See discussion in Chapter 23.

Given the likely scale of allegations, the Commission may need to use a sampling approach or consider sitting in divisions in order to complete its work in a timely fashion.

We recommend that the Commission be entitled to adopt a sampling approach, if required, to decide what issues it must investigate and the extent of the investigation of same, and may give consideration to sitting in divisions to enable it to complete its work in a timely fashion.

G. The Level and Extent of Co-operation of the Religious Orders with a Future Inquiry

The Scoping Inquiry's Terms of Reference required us to engage with the religious orders regarding the likely level and extent of their co-operation with a future inquiry. The great majority of the religious orders have indicated that they are, in principle, willing to engage and cooperate with a future inquiry, with the majority saying that they would appear before such an inquiry and provide documents if requested to do so.

Some orders suggested that the level of such cooperation might depend on whether fair procedures are duly observed by such an inquiry. In addition, a number of orders, and in particular the larger orders, indicated that certain procedural protections for witnesses should be in place and, further, that it would be necessary for a future inquiry to have powers of compellability, in order to obviate concerns regarding data protection law and/or obligations of confidentiality.

However, the great majority of orders did not respond to the more specific queries raised by the Scoping Inquiry as to what issues they might be willing to concede, on the basis that they could not respond until they see the terms of reference of a future inquiry. In particular, the religious orders in respect of which there are a significant number of allegations did not respond to these questions for that reason.

The attitude of the religious orders against which there are large numbers of allegations is particularly important to any future inquiry. The religious orders are entitled to rely on their legal and procedural rights before a commission. However, the extent to which they may do so, and the extent to which issues are contested, will be relevant to the likely duration of the commission's work, and to the experience of survivors before such an inquiry, having regard to the need for oral evidence and cross-examination. It is therefore clear that further engagement with the religious orders is advised after the Terms of Reference are fixed by the Government.

H. Conclusion

The Scoping Inquiry team wish to express our appreciation to the many people who have assisted us with our work and who have generously given of their time to assist us. In particular, the Scoping Inquiry is profoundly grateful to everyone who contributed to the Survivor Engagement process. We were deeply affected by the privilege of hearing survivors' accounts of abuse and we do not underestimate how difficult it was for many survivors to participate. We have made every effort to do justice to what survivors have told us and to treat them and their stories with the utmost respect and dignity. We thank each person who came forward to speak to us, and all of those who supported them in doing so.

Chapter 1: Introduction

1. The Scoping Inquiry into Historical Sexual Abuse in Schools Run by Religious Orders was established by the Minister for Education on 7 March 2023. It was set up in response to revelations of sexual abuse in schools run by the religious orders and, in particular, following the broadcast of the RTÉ Documentary on One: *Blackrock Boys*¹ on 7 November 2022. The documentary described the accounts of Mark and David Ryan, two survivors of sexual abuse at Blackrock College. The broadcast of the documentary led to others coming forward to report their experiences of sexual abuse in Blackrock College and allegations concerning historical sexual abuse in other schools also emerged.
2. Sadly, Mark Ryan died on 21 September 2023. Not only were Mark and David Ryan's accounts the catalyst to the establishment of the Scoping Inquiry, but many of the survivors who came forward to participate said that they found the courage to do so because of the bravery of the Ryan brothers in speaking about their experiences.² Many spoke with sadness at Mark Ryan's passing during their engagement with the Scoping Inquiry, and the Scoping Inquiry team shares their regret that Mark Ryan did not see the outcome of the process that he was so instrumental in establishing.

A. The Terms of Reference – What the Scoping Inquiry Was Asked to Do

3. The Terms of Reference of the Scoping Inquiry³ require it to provide a report to the Minister for Education that, amongst other things, sets out a potential framework for a Government response to historical sexual abuse in day and boarding schools run by religious orders, which could also form a template for Government responses elsewhere.

1 Produced by Liam O'Brien with Seán Mac Giolla Phádraig. It is available at <https://www.rte.ie/radio/podcasts/22168257-blackrock-boys/>.

2 There are different terms used to describe people who have experienced sexual abuse. We acknowledge that language is important, and many have different views about the terms used. In this report we use the term 'survivor' as that is the language in our Terms of Reference. In chapters reporting what we were told in the Survivor Engagement Process, the term 'participant' is used to indicate survivors who took part in that process.

3 These are set out in Appendix 9.

4. The Terms of Reference set out a series of tasks for the Scoping Inquiry and lists certain considerations that must be borne in mind. The Terms of Reference are included in an appendix to this Report, but for ease of reading, the key tasks assigned to the Scoping Inquiry are to:
 - (i) make recommendations on the scope/breadth and sequencing of a response that will, in so far as is possible, best meet outcomes sought by survivors of historical sexual abuse and to suggest Terms of Reference for same;
 - (ii) give consideration to child protection and restorative justice initiatives by religious orders;
 - (iii) analyse previous domestic inquiries, their methodologies, outcomes achieved, impact on policy and practice, and impact of outcome on survivors and their families;
 - (iv) assess the options for an independent inquiry, having regard to the outcomes sought by survivors, the impact of the process on survivors and their families, including the potential for re-traumatisation, the legal issues that may arise, and timeframe and cost;
 - (v) have regard to international practice;
 - (vi) engage with religious orders to establish the level and extent of their intended co-operation with any proposed inquiry;
 - (vii) identify the potential scale of historical sexual abuse in schools run by religious orders in Ireland;
 - (viii) commission expert reports on child protection and the restorative justice schemes/supports operated by the religious orders; and,
 - (ix) have regard to the potential impact of their considerations and/or report on any criminal prosecution or ongoing Garda investigations.
5. As can be seen from the above, the Scoping Inquiry has a clearly defined scoping function, in terms of being asked to ascertain what survivors want, what the likely attitude of the religious orders is going to be to a future inquiry, to identify the scale of abuse in schools run by religious orders, and to assess what Irish past inquiries as well as international inquiries have to teach us about the best framework for a future process.
6. Additionally, the Scoping Inquiry has some separate, somewhat interrelated, tasks:
 - (i) to examine child protection in schools and identify best practice in this area;
 - (ii) to consider the restorative justice processes/supports offered by religious orders.

7. The Scoping Inquiry's remit included all primary and secondary schools, day or boarding, that are run by, or had been run by, religious orders. In practice, religious orders are, or were, involved in the majority of secondary schools in the country, and a considerable number of primary schools. A general overview of the Irish education system is set out in Chapter 12 and describes in greater detail the schools the Scoping Inquiry considered to be covered by its Terms of Reference. A consideration of the position of special schools is contained in Chapter 13.
8. In this Report we set out the information religious orders gave us about the numbers of complaints of historical sexual abuse made to them in respect of their day and boarding schools. We also set out what survivors say about historical sexual abuse in day and boarding schools run by the religious orders. As a Scoping Inquiry we have no function to investigate, and we have not investigated, the allegations made, or the extent of historical sexual abuse in day and boarding schools run by the religious orders. We make no findings of any kind in relation to the veracity of the allegations and complaints made, or the extent of historical sexual abuse in schools run by the religious orders.

B. Extension of Time for Filing of the Scoping Inquiry's Report

9. On its establishment the Scoping Inquiry was to furnish its report by 7 November 2023. Unfortunately, this timeframe was not attainable, and on 5 October 2023 the Minister announced that the date for the submission of the Scoping Inquiry's report had been extended to 7 June 2024.

C. The Survivor Engagement Process

10. The Scoping Inquiry was asked to consult with the survivors of historical sexual abuse in day and boarding schools run by religious orders, asking them what they wished to see happen next and what steps the Government should take in light of the revelations that had emerged. Designing and implementing the Survivor Engagement process was the Scoping Inquiry's immediate priority upon its establishment. This was particularly so in light of the short timeframe initially envisaged and the fact that much of the Scoping Inquiry's recommendations were to be considered in the light of the survivors' wishes. At the outset, it was necessary to ensure the availability of trauma-informed facilitators to assist in carrying out the process.

11. In addition to designing and implementing the Survivor Engagement process, the Scoping Inquiry had to consider issues such as confidentiality, data protection and reporting obligations as part of the Survivor Engagement process and, where necessary, to advise survivors of these issues accordingly.
12. The Survivor Engagement Report, produced by the Survivor Engagement Team, is set out in the first section of this Report. The details of the design and implementation of the Survivor Engagement process are outlined in Chapter 2. Survivors were invited to register their interest in participating in the Survivor Engagement process on 7 March 2023, and the last formal survivor interview was held on 22 November 2023. It took some time to analyse the considerable volume of information gathered by way of questionnaires, interviews, and written submissions. Chapters 2 to 8 of this Report set out the results of the Survivor Engagement process, looking in turn at the accounts given to us by survivors of their experiences, the impact of those experiences on their lives, and what they wish the Government to do about the revelations of historical child sexual abuse in day and boarding schools. The team is immensely grateful to the survivors who gave so generously of their time and their deeply personal stories, and without whom the Scoping Inquiry could not have achieved its goals.

D. Engagement with the Religious Orders

13. Engagement with religious orders involved two distinct aspects. Firstly, the Scoping Inquiry sought to ascertain the extent and level of cooperation the relevant religious orders would provide to any proposed inquiry, as required by the Terms of Reference. The details of this process are set out in Chapter 24 of this Report.
14. Secondly, the Scoping Inquiry sought information from the religious orders regarding the number of allegations of historical sexual abuse in their schools. The gathering of statistical information from the religious orders was a complex and time-consuming task. The results of this process are set out in Chapter 9. The Scoping Inquiry first had to identify the relevant religious orders that ran schools and then contact each order individually. The Scoping Inquiry issued a number of questionnaires to be completed by the religious orders and their schools. It required considerable time and effort for those religious orders with large numbers of schools, or where the congregation is now small in size or elderly, to respond to the Scoping Inquiry's requests for information. The Scoping Inquiry is grateful for the co-operation and assistance of the religious orders in this regard. Chapter 10 sets out further sources of data on the potential scale of allegations in schools while Chapter 23 considers wider indicators of the likely scale of historical sexual abuse in religious order run schools. Chapter 11 considers what records are held by state and non-state bodies of allegations of historical sexual abuse in religious order run schools.

15. The Scoping Inquiry asked the religious orders whether they would co-operate with a future inquiry by providing their records and attending to give evidence before a future inquiry if necessary. The answers received to this question are set out in Chapter 24 of the Report. That chapter also examines the responses of the religious orders to a letter sent in December 2023 asking in detail about the likely level of co-operation with any proposed inquiry.

E. Interpreting our Terms of Reference

16. The Scoping Inquiry adopted a reasonably broad approach to the interpretation of its Terms of Reference, given that its primary purpose was to scope out the issues that were likely to arise for a future inquiry. The Scoping Inquiry devised a 'Meaning of Terms' document, which was provided to religious orders and various other bodies approached for assistance in order to explain the type of allegations and circumstances that came within its Terms of Reference. The document is set out in full later in this Report,⁴ but the following key working definitions should be highlighted:
 - (i) The Scoping Inquiry defined the term '*Day or Boarding Schools run by a Religious Order*' as referring to a day or boarding school in the Republic of Ireland, whether a primary or a secondary school, currently or previously run by a religious order. This included special schools and community schools but did not include industrial and reformatory schools. This was a source of great disappointment to a number of survivors of those institutions who contacted the Inquiry. The Scoping Inquiry gave careful consideration to whether industrial and reformatory schools fell within its remit, and ultimately concluded that they did not. Industrial and reformatory schools were state care institutions, established under specific legislation for that purpose. Primary and secondary schools did not fall under that legislation and had been set up under entirely different mechanisms and for different purposes.
 - (ii) The term '*Run by a Religious Order*' was taken to include circumstances where the religious order concerned currently or previously ran a school or schools, whether day or boarding, where it is alleged that abuse occurred.

4 Appendix 6.

17. The Scoping Inquiry's analysis of previous domestic inquiries into sexual abuse is prefaced by a consideration of the procedural rights of persons coming before inquiries in Chapter 14. An analysis of the Ferns, Dublin and Cloyne inquiries and the Commission to Inquire into Child Abuse ('CICA') is set out in Chapter 15, while the connections between the scope of inquiries and the experience of survivors who appear as witnesses before them is considered in Chapter 16. Chapter 17 surveys a number of relevant international inquiries, while Chapter 18 addresses the research on the impact of inquiry processes on survivors, including the potential for re-traumatisation, before considering certain how the scope and extent of an inquiry should be determined in light of these concerns. Chapter 22 surveys certain legal issues that may arise in a future inquiry, including the impact on Garda investigations and the timeframe and cost of a potential inquiry.

F. Expert Reports

18. The Scoping Inquiry commissioned two expert reports. The first, a critical analysis of current child protection systems in schools, was provided by Dr Helen Buckley. Dr Buckley's report is referred to in Chapters 19 and 20 of this Report and set out in full in Appendix 4.
19. The second report, a critical analysis and audit of the response of religious orders to historical sexual abuse allegations by way of Restorative Justice schemes and other initiatives/supports, was provided by the Centre for Effective Services ('CES'). Their report is referred to in Chapter 21 of this Report and set out in full in Appendix 5.

G. Co-operation with the Scoping Inquiry

20. The Scoping Inquiry is a non-statutory inquiry with no power to compel co-operation with its aims. Happily, with very few exceptions, we nonetheless received assistance and co-operation from those we approached.
21. The religious orders, with few exceptions, provided the Scoping Inquiry with all the information that was sought from them. One religious order declined to provide the names of their relevant schools, two provided those details but declined to specify how many allegations of historical sexual abuse and alleged abusers were made in respect of each of those schools. However, those orders did provide information as to their records of the overall number of allegations made in respect of their schools, the number of their schools concerned, and the number and category of alleged abusers in respect of whom the allegations were made.

22. The Scoping Inquiry met with a number of Government departments, statutory bodies, and Non-Governmental Organisations as part of its work in assessing the scale of allegations of historical child sexual abuse and identifying what records exist that might be of interest to a future inquiry. The Scoping Inquiry met with certain bodies, such as An Garda Síochána and Tusla, the Child and Family Agency, on several occasions. The details of the records held by Tusla, An Garda Síochána and a number of other public bodies and NGOs regarding sexual abuse in schools run by religious orders are set out in Chapters 10 and 11.
23. Separately, the Scoping Inquiry was assisted in its work by the Data Protection Commission, the Central Statistics Office, and the National Archives. A number of people who had worked on previous inquiries met with the Scoping Inquiry on an informal basis. One in Four provided considerable assistance to the Scoping Inquiry, particularly in the early stages of its work. The Scoping Inquiry met with a number of academics who generously shared their thoughts and research in relation to the impact of inquiries into historical sexual abuse on survivors.⁵ The Scoping Inquiry also met with the Papal Nuncio, His Excellency Archbishop Montemayor, in relation to whether there are records held in the Vatican that might be of interest to a future inquiry. Representatives of the Methodist Church in Ireland, contacted the Scoping Inquiry and met with us for a general discussion on a number of matters of interest to the Inquiry. The religious orders greatly assisted the Scoping Inquiry in providing their records of allegations of historical sexual abuse in respect of their schools. In addition, the NSBCCCI was also of great assistance to the Scoping Inquiry in its work. There are many others who gave generously of their time and expertise to the Scoping Inquiry, contributing greatly to our work. The many people who assisted us are listed in our Acknowledgment section.

H. Conclusion

24. It has been an honour and a privilege to Chair the Scoping Inquiry. Special thanks and acknowledgement must go to the survivors, whose willingness to participate in the Scoping Inquiry was central to our work. The descriptions given by survivors of their experiences makes for distressing, often harrowing, reading. The Scoping Inquiry team wish to express our deep gratitude to survivors and to acknowledge their courage and fortitude in coming forward to speak to us.

5 Dr James Gallen, Prof Anne-Marie McAlinden, Dr Marie Keenan, and Dr Sophie Van der Valk. Two members of the Scoping Inquiry also attended, as observers, a workshop held in Queens University Belfast on 4 September 2023 on 'Transforming Justice Responses to Non Recent Institutional Abuse' which was part of a broader cross-border project examining justice responses to non-recent institutional abuse on the island of Ireland: <https://transformingjusticeproject.org>.

25. The process of conducting the Inquiry has afforded a unique opportunity to hear from a wide range of people and agencies who contributed to our work.
26. Among the survivors who participated in the Inquiry's process, there are many views and shades of opinion on what should follow the revelations of child sexual abuse in schools run by religious orders. We have endeavoured to reflect the broad range of opinions and suggestions brought to us, and we recognise the complexity and nuances of each survivor's contribution, and in particular their views on the need for inclusivity. Careful and in-depth consideration was given to all of the recommendations made by survivors. Whilst we were not able to include every suggestion in our conclusions, every effort has been made to accurately reflect the overarching priorities of the survivors who spoke to the Scoping Inquiry.
27. This Report sets out the views of survivors about what they wish the Government to do in response to revelations of historical sexual abuse allegations concerning day and boarding schools run by religious orders and the likely scale of such allegations. We hope our recommendations will assist in guiding that response.

Chapter 2:

Introduction to the Survivor Engagement Process and Methodology

- A. Introduction
- B. Overview of the Survivor Engagement Report
- C. Survivor Engagement Process – Acknowledgements
- D. Methodology – Design and Implementation of the Survivor Engagement Process
 - (i) First Stage – Questionnaire
 - (ii) Questionnaire Responses
- E. Second Stage Methodology: Written Submissions and Interviews
 - (i) Written Submissions
 - (ii) Interviews
 - (iii) Principles Underpinning the Process
 - (a) Choice and Accessibility
 - (b) Transparency and Control
 - (c) Respect and Care
 - (d) Quality
- F. Design and Implementation of the Interview Process
 - (i) Invitation to Interview
 - (ii) Advance Information
 - (iii) The Interview
- G. Data Management and Security
- H. Thematic Analysis of Summary Notes
 - (i) Finalising Summary Notes
 - (ii) Coding of the Interviews

I. Process Parameters

(i) Qualitative Approach

(ii) Inclusion

J. Chapter Summary

A. Introduction

1. From the early 1990s, the Irish public became increasingly aware of the reality of the sexual abuse of children following extensive media coverage of a number of high-profile cases. These were largely stories of sexual abuse in families, and were followed by a series of high-profile cases of clerical sexual abuse from the mid-1990s. These cases of sexual abuse related to a range of settings, including industrial and reformatory schools, which were the subject of the Commission to Investigate Child Abuse (CICA).
2. The broadcast of the RTÉ Documentary on One: Blackrock Boys¹ (7 November 2022) featuring the story of Mark and David Ryan's experiences of sexual abuse brought the issue of historical sexual abuse in day and boarding schools run by religious orders to the fore and led to the subsequent announcement of the Scoping Inquiry. The Survivor Engagement process is central to the work of the Scoping Inquiry, and its aim is to give voice to survivors in a trauma-informed process.
3. The Survivor Engagement team set out to hear what individual survivors had to say about their experiences of sexual abuse, how it affected them and what they would like the Government to do in response. Over several months, the team gathered information from survivors in questionnaires, interviews, written submissions and other correspondence. This section of the Report of the Scoping Inquiry details the outcomes of that Survivor Engagement process, from Chapter 2 (the present chapter) through to Chapter 8. **We should note that these chapters may be distressing to read as they describe survivors' accounts of sexual abuse, physical violence and references to suicide.** As the process did not have a remit to make findings, the report simply sets out what the Survivor Engagement team has been told by participants.
4. Section D of this chapter outlines the methodology for the Survivor Engagement process the trauma-informed approach taken by the team. It describes the design of the two-stage Survivor Engagement process and how it was established, how survivors were invited to participate, and the steps taken to ensure that they were informed of the process. It underlines the team's priority to ensure the approach was trauma-informed and to endeavour that participants would be treated with the utmost dignity and respect throughout.

1 Produced by Liam O'Brien with Seán Mac Giolla Phadráig.

B. Overview of the Survivor Engagement Report

5. This section provides an overview of the next six chapters:
 - **Chapter Three – First Stage of the Survivor Engagement Process and Other Contributions:** This chapter sets out the information gleaned from the questionnaires completed by participants during the first stage of the Survivor Engagement process. It also contains other contributions and correspondence received from survivors whose experiences could not be included in the main body of the report.
 - **Chapter Four – Second Stage of the Survivor Engagement Process – Participants’ Accounts of What Happened:** This chapter describes, in detail, what participants who took part in the second stage of the Survivor Engagement process told us about their experiences of sexual abuse when they were children attending day and boarding schools run by religious orders.
 - **Chapter Five – Participant Accounts of the Impact of Sexual Abuse on their Childhood and Adolescence:** This chapter details participants’ descriptions of the effects on their childhood arising from their experiences of sexual abuse.
 - **Chapter Six – Participant Accounts of the Impact of Child Sexual Abuse on their Adulthood:** This chapter describes the ongoing impact of sexual abuse on some participants into their adult lives.
 - **Chapter Seven– What Participants Want to See Next:** This chapter describes the wide range of views that participants expressed on what they would like to see happen as part of a government response to historical sexual abuse in day and boarding schools run by religious orders.
 - **Chapter Eight – Summary of the Survivor Engagement Process:** This brings together a summary of what survivors told the team in the Survivor Engagement process.

C. Survivor Engagement Process – Acknowledgements

6. The Survivor Engagement team would like to thank Quality Matters, whose team of trauma-informed facilitators and support staff were central in conducting interviews with participants and providing support for participants throughout the second stage of the process. Their extensive thematic account of the interviews was invaluable to the Survivor Engagement team, and we wish to commend their professionalism and compassion in their work with participants throughout this process.
7. We would also like to acknowledge that there were people who did not participate in the Survivor Engagement process formally, but who provided information in other ways, including conversations and correspondence with the team. Some of this has been included in Chapter 3 in Section C: Other Contributions. Whilst the team was not able to use all of what we were given, we were nonetheless grateful to receive it.
8. The Survivor Engagement team has worked hard to do justice to what we have been told by the men and women who came forward and offered us their stories and views for future action. We wish to acknowledge the bravery and humanity of each of the survivors who trusted us with their accounts and who told us how it has affected their lives and the lives of their families and loved ones. This is especially significant as many participants told us how difficult it is for them to talk about what happened.
9. We wish, in particular, to acknowledge the role of the late Mark Ryan, and his brother David, whose revelations of their experiences of sexual abuse have been instrumental for so many survivors in their decision to speak about their own experiences.
10. We would like to sincerely thank each person who engaged with us, and anyone in their lives who supported them in doing so.

D. Methodology – Design and Implementation of the Survivor Engagement Process

11. This section provides an overview of the stages of the Survivor Engagement process of the Scoping Inquiry. The first stage of the process comprised a questionnaire about participants' experiences and their preferences for participating in a second stage, which would consist of an interview or a written submission if the participant wished to take part in that stage.

(i) First Stage – Questionnaire

12. In the first stage of the Survivor Engagement process, those who had registered their interest in participating were initially sent information about the two-stage process, how it would work and what it hoped to achieve.² This information was provided to assist those who had registered to make an informed decision about taking part in the process. Following this, those who had registered were invited to complete a short questionnaire which sought to gather some initial information about experiences of sexual abuse. This would help to begin to build a picture of the nature and scale of sexual abuse that survivors had experienced and would indicate the number of people whose experiences came within the Terms of Reference for the Scoping Inquiry, and who were interested in participating in the second stage of the process, thus allowing the team to ensure the availability of trauma-informed facilitators, note-takers and venues for meetings around the country to meet participants' needs.
13. In order to best suit the preferences of each individual participant, the questionnaire was designed to be administered in different formats, including completing the questionnaire online using a secure survey tool; completing a paper copy with a pre-paid addressed envelope provided for return to the Scoping Inquiry; or requesting that a suitably qualified facilitator read through the questionnaire with the participant over the phone and record their answers. All formats were available in both English and Irish.
14. At the outset, participants were provided with information on the nature of the questionnaire and its purpose, and on what would happen to information provided to the Scoping Inquiry. Participants were advised that some of the questions may be sensitive or distressing, and information on support was included. They were asked for their consent to proceed with the questionnaire.
15. In the questionnaire itself, participants were asked how they would like to be contacted as the Survivor Engagement process progressed, and about their current country or county of residence. The questionnaire then asked some initial details about individual experiences of abuse including the type of school attended; whether they were day or boarding pupils; the name of the school; the location and approximate time frame when the abuse occurred; their age when abuse occurred and whether they had been able to tell anyone. Other questions related to next steps in the process, and the preferences for each participant if they chose to continue on to the second stage.

2 See Appendix 2: About the Survivor Engagement Process.

16. Participants had the option of ending their participation at the questionnaire stage, or of progressing to a second stage interview with a trauma-informed facilitator or providing a written submission. Those who opted for an interview could indicate preferences for this to be in-person, online or over the phone. Participants were asked to complete or return their questionnaires within two weeks of issuing, and this was later extended by ten days. Whilst the majority of those participating completed the questionnaires within this timeframe, some people who had not registered or completed the questionnaire in time for various reasons approached the Scoping Inquiry after the timeline outlined. Whilst it was necessary to organise the process to scheduled timelines, the team took the view that where people could be prioritised over process, it would do so on a case-by-case basis. In any case where the team was asked to take individual circumstances into account, inclusion was prioritised where at all possible.
17. Information provided by participants at this point made it possible for the second stage of the process to be flexible and responsive in meeting people's individual requirements for their interviews. This is described in more detail later in this chapter.

(ii) Questionnaire Responses

18. A total of 211 questionnaires were completed. A small number of participants (6) completed the questionnaire twice and so, when duplicates were accounted for, this gave a total of 205 people in the first stage of the survivor engagement process.
19. In reviewing the questionnaires, it was clear from the information provided in some cases that the participant's experience was outside the scope of the Terms of Reference for the Scoping Inquiry. The team endeavoured to contact those people directly where possible to explain that, whilst we did not seek to in any way undermine the seriousness of what they had experienced, their particular circumstances were not covered under the Scoping Inquiry's remit and engagement was respectfully concluded at that point. While these individuals did not progress to the second stage, summaries of their main points are included in Section C: Other Contributions in the next chapter (First Stage of the Survivor Engagement Process & Other Contributions). In addition, a small number of participants indicated that they did not wish to progress to the next stage. In total, 182 participants whose experiences potentially fell within the Terms of Reference for the Scoping Inquiry indicated that they wished to proceed to the second stage.

20. In the second stage, participants had the option of either giving an interview or making a written submission and could change their method of participation during the process if they wished. Some who had initially indicated that they wished to participate in the second stage did not actually do so. Among the reasons given for this were that some found recalling their experiences too upsetting; some were engaged in legal processes and had decided not to further participate whilst these were ongoing; others felt that they had said all that they needed to in the questionnaire. In other cases, participants did not respond to communications relating to either scheduling their interviews or sending their written submissions. In total, 149 participants whose experiences were within the Scoping Inquiry's remit completed the second stage with either an interview or written submission. Of these, 12 were written submissions and 137 were interviews.
21. Whilst the Survivor Engagement process had advertised deadlines for completion of registration of interest and response to the first stage questionnaire, a small number of individuals made contact after those deadlines had passed, asking to be included. Where it was possible to do so, the team prioritised inclusion, and those people are included in the figures outlined above. A small number of people (less than 5) whose experience would have fallen within the Terms of Reference made contact at a very late stage in the process, where much of the formal analysis had already taken place. It was explained to them that, whilst their accounts could not be included in the formal analysis, the team still wanted to give them a hearing to note any information they wished to provide as part of our overall consideration. A summary of these conversations was checked with the person to ensure accuracy. Their accounts are mentioned separately (see Section C: Other Contributions in the next chapter), and their agreed notes of the conversation are stored alongside those of other participants in the records of the Scoping Inquiry.

E. Second Stage Methodology: Written Submissions and Interviews

(i) Written Submissions

22. Survivors had the option of providing a written submission in the second stage of the process. An optional template was available which provided prompts aligned with the goals of the Survivor Engagement process, and similar to those used in the interviews. These related to what happened to the person as a child; the impact of the abuse on them as a child and as an adult; and their views on a potential Government response to revelations of historical sexual abuse in day and boarding schools run by religious orders. Participants were not obliged to use the template and could choose to write as brief, or as detailed, a submission as they wished. They could submit by post or by email.

(ii) Interviews

23. This section details the steps taken to conduct the interviews and to develop an overview of the themes raised within the interviews and written submissions.
24. To assist in conducting consultations and interviews with survivors, an organisation called Quality Matters ('QM') was engaged. QM is a social research consultancy which specialises in trauma-informed care in research and project management. The process of engagement with survivors from initial contact through to thematic analysis of findings, was overseen by the Scoping Inquiry's Survivor Engagement Lead.
25. QM had extensive experience in conducting interviews of a sensitive nature with people who have faced traumatic experiences in their life. They had an appropriately qualified team of 25 people who conducted and took notes in interviews with survivors. Facilitators who carried out interviews with survivors all had training in trauma informed practice and research, and, at a minimum, a Master's qualification in a relevant discipline such as Social Care, Community Work, Psychology, Psychotherapy or Social Work. The team all had experience conducting interviews with people who have experienced traumatic events, and all had *Children First*³ training.
26. A note-taker whose role was to take typed summary notes of the conversation was present at each interview. Note-takers had, at a minimum, a degree in a related field and had worked with QM on prior projects in a note taking or similar role. Facilitators and note-takers all underwent additional training both with the Scoping Inquiry's Survivor Engagement team and through QM on how to conduct interviews ethically and sensitively. Two clinically qualified members of the Scoping Inquiry's Survivor Engagement team also carried out a number of interviews with participants, using the same methodology.

(iii) Principles Underpinning the Process

27. To ensure a trauma informed process, the team worked to four key principles. Together these principles reflect the core tenets of Trauma Informed Practice, which is an approach to service provision that acknowledges the duty of professionals to creatively, and flexibly, provide services that engage and support people who may have had past traumatic experiences.

3 Dept. of Children & Youth Affairs (2017) *Children First – Children First: National Guidelines for the Protection and Welfare of Children*. Dublin: DCYA.

(a) Choice and Accessibility

28. Choice is a core part of a trauma informed approach and was built into the process. Participants could choose how and when the interview was conducted, as well as how long it would take. A choice of locations around the country was available, with a contribution for travel expenses available to participants. If booked online, participants were provided with a photo and a biography of each facilitator and could choose which facilitator they wanted to work with.
29. Underlining the importance of choice within the process, participants could opt to have their interview notes sent to them, which the vast majority did. They could then decide whether or not they wanted to adapt or add to these notes. Participants could also choose to opt out of the process up until the week before analysis started.
30. The focus on the provision of choice can be seen in the design of the interviews. All interviews were semi-structured which allows for only a small number of formal questions to be asked of each participant. During interviews, facilitators therefore had the ability to follow the interviewee's lead and to encourage them to talk about as much, or as little, as they wanted on the topics they wished to discuss. Gentle prompts were used to help people tell their story; however, the focus was on ensuring that participants always felt in control.

(b) Transparency and Control

31. Where participants had requested, interview summary notes were sent to them, either by email or by post, according to their stated preference. They were then able to delete, add to, or otherwise amend the notes. This step ensured that participants felt that they had control of the way in which their story and views were presented, and it gave them the chance to ensure that what they said was recorded accurately.

(c) Respect and Care

32. The team who worked with survivors were selected for this project based on their experience in working with vulnerable groups and on their proven empathetic, sensitive, and respectful approach to supporting and engaging with people with an experience of trauma. The training given to the team emphasised the importance of engaging with authenticity, flexibility, and attention.

(d) Quality

33. The analysis of key themes, which included a review of over 700 pages of interview summaries and resulted in a thematic analysis, was completed in line with qualitative research standards. This process involved a team of six people. There were several layers of quality assurance embedded throughout the coding, drafting, and editing stages of the process. A key purpose of these quality controls is to manage any possible bias in the selection and write up of themes. The process, which is described in detail within this chapter, means that one person was never solely responsible for deciding whether a quote or theme raised within an interview appears in the thematic analysis. While it is not possible within such a process to have complete objectivity, these checks, balances, and guidelines aim – as far as possible – to reduce bias, make the process as replicable as possible, and, hopefully, result in those who participated feeling that the report reflects their key points and concerns, as well as the tone of what was said. To assist in the unbiased reflection of what participants said, direct quotes and extracts from interview notes have been used throughout the report.

F. Design and Implementation of the Interview Process

34. In consultation with the Scoping Inquiry's Survivor Engagement Lead, an interview schedule or set of questions, was developed by QM. Following an introduction at the interview, the schedule was explained to each participant. It included questions on the three key themes that aligned with the goals of the Scoping Inquiry's Survivor Engagement process. These themes were:
- The nature and extent of abuse that may have occurred;
 - The impact that the abuse had on survivors as a child, and in later life;
 - What survivors wanted to see happen next.
35. The introduction to the interview included outlining the objectives of the Survivor Engagement process, as well as detailing how the interview would be conducted. The process by which summary notes would be taken and handled was also explained at this point including information on how notes would be stored and managed. The introduction also included information from the Scoping Inquiry about participation in the case of ongoing legal processes and/or Non-Disclosure Agreements that prospective participants may have entered into in other contexts, outside of the Scoping Inquiry.

36. Participants were asked if they would like to receive and review their notes from the interview and were invited to generate a unique password which would be used to protect their interview notes if sent electronically. The process of what would happen to interview notes was explained; namely how each participant's summary notes would be anonymised and combined with other participants' interview notes to form the report themes. It was explained that names and information that might identify the participant or others would not be included in the summary notes.
37. The facilitator also outlined the supports available for participants, namely three sessions with a psychotherapy service, should participants need immediate support following the recounting of their experiences. Participants were assured that this service was free and confidential.
38. Consent was explained, and participants were informed that they could choose to not answer or to say as little as they wished in response to any question and could pause or stop the interview at any time. Participants were asked if they understood the terms of participation and were happy to provide informed consent to continue.
39. The main body of the interview was designed to ensure participants felt comfortable recounting their experience in as much, or as little, detail as they felt appropriate. The interview asked three key questions, as below, with some prompts commonly used across interviews:
- **What happened?** Participants were invited to outline details of any sexual abuse they might have experienced and wished to share with the Scoping Inquiry.
 - **What impact did this have on their life?** Optional prompts were used to help participants think about the answer to this question in reference to impact on their childhood, adolescence/early adulthood, and then at the present time. Prompts could also be used in relation to how it affected their feelings about themselves, were they able to tell anyone, their relationships with others and their career.
 - **What would participants like to see happen next?** Participants were provided with a booklet in advance called the *Guide to Potential Government Responses*⁴. During the interview, participants were asked if they had read the booklet and whether they would like the facilitator to go through any of the content with them. They were then asked what, if any, of the options outlined they would like to see implemented from the guide. In the instance that the participant had recommended a type of inquiry, an optional prompt was whether they would participate at such an inquiry in the future. Participants were also asked whether they would like to suggest actions that were not included in the guide.

4 See Appendix 1.

40. The interview closed with a check-in with the participant as to how they were feeling and how they had experienced the interview; a reminder of the supports available; and an expression of genuine appreciation and thanks for their time and trust in the process.

(i) Invitation to Interview

41. Participants could opt to engage in an interview online, in-person, via phone or WhatsApp call. They were also asked if they had any specific needs, which were met when identified. For example, a small number of home visits were provided where this was necessary to facilitate a survivor's participation. In-person interview venues were offered in nine locations throughout Ireland, including Dublin, Galway, Limerick, Cork, Wicklow, Kerry, Kilkenny, Westmeath, and Laois which reflected the regions with requests for in-person interviews. When participants choose a time and location, they were sent a confirmation email with the name and a brief profile of their facilitator.
42. In the case of people who did not make contact to request an interview time, follow-up invitations to participate were sent twice from QM and once more by the Survivor Engagement team.
43. The first interviews took place in July 2023 and initially the timeframe for engagement was scheduled to run to the beginning of October 2023. This was extended until the end of November 2023 to facilitate maximum engagement from survivors who had expressed an interest in participating and were not available until that time.
44. Potential participants could contact the QM team via email or phone at any stage during office hours to discuss their needs or to request further assistance. Participants could also contact the Survivor Engagement team by phone or email throughout the process.

(ii) Advance Information

45. Participants who had indicated in the first stage questionnaire that they wished to proceed to an interview were emailed or posted the *Participant Information Booklet*.⁵ This outlined the purpose of the Scoping Inquiry's Survivor Engagement process, how to engage with it, the information needed to give informed consent, and contact details for the team as well as information on psychological supports available. Participants were also emailed or posted a separate *Guide to Potential Government Responses*⁶ with information on some of the potential options for the Government's response to revelations of historical sexual abuse in day and boarding schools run by religious orders. This booklet was sent by the Scoping Inquiry's Survivor Engagement team in the week prior to participants receiving an invitation from QM to book an appointment for their interview.

(iii) The Interview

46. The participant met with the facilitator and a note-taker either in-person, online or by phone. The facilitator introduced themselves, told the participant briefly about their background and experience and then introduced the note-taker and their role.
47. Facilitators engaged with participants in a person-centred and trauma informed manner, being respectful of each participant's unique experience and reactions during the interview. The top priority was to provide as safe and comfortable an environment as possible for participants to tell their story. Reflective and active listening techniques such as paraphrasing, pausing, empathising, and non-directive prompts, such as 'Would you like to add anything else?' were used to facilitate the conversations. Participants were encouraged to speak to the level of detail they wanted, on the topics they wanted to discuss, and were not directed towards topics that they did not raise, except for the prompts identified above.
48. Participants were invited to take breaks if they became upset at any stage and were reminded that they were under no obligation to continue with the process.
49. Interviews took between thirty minutes and over two hours, with most interviews taking at least an hour. Participants were able to engage with the facilitator for as long as was needed. An hour and a half was scheduled for each interview, and extra time was made available, if required.

5 See Appendix 3 – Survivor Engagement Participant Information Booklet.

6 See Appendix 3 – Survivor Engagement Guide to Potential Government Responses.

50. A note-taker took summary notes during the interview in a narrative form which consisted of summary text and direct quotes. Notes were kept of all key points and were edited both to ensure limited repetition and for clarity. Written summaries avoided the use of names. Efforts were made to ensure that accounts recorded in the summary notes were of events that happened directly to participants, or which were observed directly by them. Quotes were recorded which highlighted a particular point in the participants' own words. Note-takers had the option of asking to read out quotes to check for accuracy. A summary of the main topics discussed was given verbally to the participant at the end of the interview.

G. Data Management and Security

51. At the outset of the first stage questionnaire, the Scoping Inquiry's Data Privacy Notice was made available to participants which outlined how data gathered in the Survivor Engagement process would be stored and used. The Data Privacy Notice explained that the Department of Education would be providing administrative support to the Scoping Inquiry and would act as the Data Controller for all data processed for the purpose of conducting the Scoping Inquiry.
52. Participants could complete the questionnaire online using a secure online survey tool. Only Scoping Inquiry team members whose roles required the use of information gathered and stored on this online survey tool had access to it. Participants could also return paper-based questionnaires by post and access to completed hard-copy questionnaires would be restricted to those members of the Scoping Inquiry team whose roles required it. Paper-based files were locked in a room which was only accessible to members of the Scoping Inquiry team, and access to electronic data was restricted to those whose roles required the use of such data, and who had the appropriate credentials to access the relevant data storage. Participants who completed the questionnaire were assigned a unique six-digit Participant ID to protect their identity, and this was used to manage and store information provided by participants in questionnaires and interviews to ensure privacy and confidentiality.

53. In the first stage questionnaires, survivors who indicated that they wished to participate in the second-stage interview were asked if the Scoping Inquiry team could share their information with their trauma-informed facilitator prior to interview. The Scoping Inquiry team provided contact information to QM for those who expressed an interest in participating in a facilitated interview and consented to having their information shared with the facilitators. Data was transferred by encrypted hard drive and the information was stored in a password protected folder in QM's encrypted secure cloud storage facility. To ensure high levels of document protection, when notes were emailed to participants following the interview, unique passwords were used. These unique passwords were generated at the beginning of each interview with the participant, which ensured that only the participant could open the file. Participants could also request that summary notes were sent by registered post.
54. A dedicated email address, which was only accessible to staff directly contacting participants to arrange interviews, was used. A dedicated phone number was also arranged to ensure ease of engagement with the team whilst minimising the number of staff who would deal directly with survivors.

H. Thematic Analysis of Summary Notes

(i) Finalising Summary Notes

55. Almost all participants requested a copy of their summary notes. Participants were asked to review their notes and if they had any corrections, clarifications or changes they wished to make, to return these to the team by email or post (pre-paid envelopes were provided for this purpose). Notes were then stored using participant ID numbers and each was assigned a coding number to further assure confidentiality. A sample of anonymised notes was sent from Quality Matters to the Scoping Inquiry team for review and quality control during the process. Including the written submissions, the views of 149 individuals whose experiences appeared within the Terms of Reference were recorded in the second stage.

(ii) Coding of the Interviews

56. The thematic analysis team at Quality Matters worked in three teams of two people each. There was a team of two for each of the three sections of the interview. Open coding was used to explore and establish initial themes from the summary notes. This involves sorting the interview notes into common categories and identifying common themes. An initial sample of 30 interview notes were open coded by each team. This process established a list of over 90 themes across the three interview sections. This list of early-stage, open coding was then reviewed by another three team members as well as the Survivor Engagement team to ensure that, as far as possible, the themes were inclusive of the issues arising in the interviews. At this stage twelve people reviewed the themes to ensure that no significant themes or issues had been left out of the initial coding.
57. Following initial coding, three teams worked to extract segments from each interview summary under the themes that had been identified as significant. Each team's work was then reviewed. The themes were reviewed again when 25 interviews had been coded, and again when 50 had been coded to ensure that the themes were as reflective as possible of what was said by participants, and that where themes were similar, that they could be combined. Additional reviews checked to see if further thematic headings were required.
58. On completion of the coding, each team began to write the narrative for the thematic analysis. Each theme's section or sub section starts with the more common points and then discusses more specific and less common sub-themes. For a theme to be included in the report it needed to be discussed in at least two interviews. As the thematic analysis was drafted, it was reviewed twice internally by Quality Matters and again by the Scoping Inquiry's Survivor Engagement team.
59. Occasionally, minor grammatical edits were made to selected direct quotes and note excerpts used in the report. This was done where there was a spelling or grammatical error or a missing word (e.g., 'to' or 'at'). These minor changes were made to aid reading and did not change the meaning of the sentence.
60. Throughout this report, the voices of survivors are heard in extracts from interview summary notes, and in direct quotes from survivors' conversations with facilitators. In both cases, these are indented as separate paragraphs and are easily identifiable throughout the text. Italics have been used for direct quotes from survivors. Details that might identify a survivor or another person have been omitted.

I. Process Parameters

(i) Qualitative Approach

61. As discussed, to ensure participant choice and control, the facilitation process drew its methodology from good practice for semi-structured qualitative research and was guided by a flexible trauma-informed interview protocol.
62. While facilitators provided some prompts or questions, participants could respond or not, depending on what they chose to disclose during the interview. This meant that participants may have chosen not to discuss certain topics or experiences in the course of the interview. This was taken into account by the team in analysing and reporting on the semi-structured qualitative interviews and the main themes were dealt with by way of a narrative, with few instances of counting the exact number of participants who spoke of an issue or preference. The content of interviews was complex and nuanced, with many overlapping issues and themes for most participants.
63. An example is useful to illustrate the rationale for this. If, for instance, six people had said that they were fearful their sibling may also be at risk of abuse, then stating that 6/149 people or 4% felt this way, would provide a potentially false sense of the findings, as this could be read as indicating that only 4% of people were of this view. However, if all people had been specifically asked if they feared for their siblings (i.e., if it was not semi-structured), the number may be significantly higher.
64. As finding out what survivors want the Government to do in response to historical sexual abuse in day and boarding schools run by religious orders is a key aim of the Survivor Engagement process, facilitators endeavoured to ensure that all participants were asked what they would like to see happen from the options outlined in the Guide to Government Responses booklet provided to them. However, they were not required to answer this question; they were not limited to selecting a single response if they chose to answer; and they were not required to select any of the options included. In many instances participants gave examples of what they wanted to see happen next and these did not always align with the options offered to them in the booklet; or included elements of more than one option.
65. The chapters in the report of the Survivor Engagement process, therefore, provide an account of the key themes that emerged from a detailed analysis of the experiences and views of survivors. Whilst a qualitative approach can limit the ability to make definitive statements on the number of people who have had a particular experience or have a specific preference, its inherent strength is the flexibility it affords to ensure a trauma-informed approach that facilitates participants describing their experience and is responsive to survivors' needs.

(ii) Inclusion

66. The challenge of reducing more than 700 pages of summary notes into a report with understandable and accessible themes meant that decisions had to be made in terms of what content would be included and what would be left out. To ensure that this process was as transparent as possible and was not unduly influenced by any one team member's perspective or bias, at many stages at least two people were involved in the decision making or in checking decision making on what themes and which quotes were selected.
67. A general guideline was that any point had to be made by at least two people to be discussed in the thematic analysis. This meant that, on occasion, very detailed recommendations that were unique to one participant were not included in the thematic analysis.
68. Even with these quality checks and processes it is not possible to absolutely confirm that every point made by three or more people is expressed within the thematic analysis. This is because many of the decisions come down to an interpretation of what a sentence or paragraph means. When interpretation is present there is always a possibility that another person may look at the issue slightly differently. However, the report has been developed with as many quality control checks as possible, to ensure that the themes presented in these pages represent, as fully as possible, the experiences and recommendations of the survivors who so generously gave of their time to this process.

J. Chapter Summary

69. This chapter has outlined the design and implementation of the two-stage Survivor Engagement process for the Scoping Inquiry. It has explained the steps that the team took to implement a trauma-informed process in which a priority was to do as much as possible to ensure that participants had access and choice in how they participated, and that the process was trauma-informed. The next chapter begins to set out the information gathered from participants in the process.

Chapter 3:

First Stage of the Survivor Engagement Process & Other Contributions

Content Warning: This chapter contains details of participants' descriptions of sexual abuse, physical violence and reference to suicide. It may be distressing to read.

- A. Introduction
- B. Information from the First Stage Questionnaires
 - (i) Profile of Survivors
 - (ii) Information Regarding Sexual Abuse Reported by Participants
 - (iii) Schools Run by Religious Orders Where Abuse Was Reported to Have Occurred
- C. Other Contributions
 - (i) Reports of Experiences Outside the Terms of Reference of the Scoping Inquiry
 - (ii) Culture of Physical Violence and Humiliation
 - (iii) Accounts of Sexual Abuse
 - (iv) Accounts of Grooming
 - (v) Accounts of Witnessing Sexual Abuse and Difficulties in Disclosing
- D. Chapter Summary

A. Introduction

1. This chapter sets out the information gathered from participants who were potentially within the Scoping Inquiry's Terms of Reference and who completed a questionnaire. An account of those whose experiences were outside the Terms of Reference is set out in Section C: Other Contributions later in this chapter.
2. The information gathered in this first stage allowed the Survivor Engagement team to implement the second stage, arranging for interviews or written submissions, in line with the preferences outlined by participants. Participants also provided some general information about their experiences as children in schools run by religious orders, and this informed the Scoping Inquiry's broad understanding of the breadth and scale of historical child sexual abuse. A detailed account of the methodology used in the administration of the first stage of the survivor engagement process is set out in the previous chapter.
3. In relation to the information in this chapter, it should be noted that the Scoping Inquiry is not making findings or conclusions based on this information. This chapter reflects the information provided by participants in response to questions about experiences of childhood sexual abuse which they report occurred in day and boarding schools run by religious orders.
4. The Survivor Engagement team, in keeping with its trauma-informed approach, were clear that participants were generally able to offer as much or as little information about their experiences as they wished. The purpose of this stage of the process was to gather initial information to inform the second stage, where participants would have individual opportunities to describe the complexity of their experiences.
5. The Survivor Engagement team's aim was to ensure that participants could determine what information they provided and how they provided it, and to respect their agency in doing so. Therefore, not all participants provided the same amount of information in response to questions, and in some instances, did not provide any response to some questions in the questionnaire. The information set out in this chapter is indicative of the responses provided on questionnaires. Chapters 4, 5, 6, and 7 outline the details and views expressed in the course of one-to-one interviews and submissions where the complexity of individual experiences could be dealt with more fully.

6. It was evident from some questionnaires that a small number of participants' experiences were not within the Terms of Reference for the Scoping Inquiry. As explained in the previous chapter, the team made efforts to contact these people individually to explain why their particular circumstances were outside the remit of the Survivor Engagement process. While these individuals did not progress to the second stage, it was important that the seriousness of their experiences, their efforts and their contributions to the process were acknowledged. As such, summaries of their main points are included in Section C: Other Contributions later in this chapter.
7. Where the information provided in the questionnaire was insufficient to determine if a participant's experiences were within the Terms of Reference, the team included the individual until further information was available to determine where the person's experiences should be included, whether within the main body of the accounts of survivors, or in Section C: Other Contributions. As noted in the previous chapter, 211 questionnaires were completed. A small number of participants (6) completed the questionnaire twice and these were amalgamated for each participant concerned. When duplicate and evidently out-of-scope questionnaires were removed, a total of 182 questionnaires were considered and those who indicated that they wished to progress to the second stage of the process were contacted as described in the previous chapter.

B. Information from the First Stage Questionnaires

8. The key priority for the Survivor Engagement team was, at all times, to facilitate participation for survivors of sexual abuse in day and boarding schools run by religious orders as much as possible. It was also important that participants had choice and agency in how they took part in the process. In the first stage questionnaire, survivors were asked to indicate if they wished to participate in a second stage, and to outline their preferences for doing so. They were given the options of speaking to a trauma-informed facilitator or making a written submission. The questionnaire also sought participants' preferences for in-person or online/phone conversations and asked people to indicate where they were located. The answers to these questions were instrumental in ensuring the availability of the required number of trauma-informed facilitators and note-takers for the second stage, along with logistical matters including ensuring availability of appropriate venues for meetings around the country and providing as much choice for participants as possible.

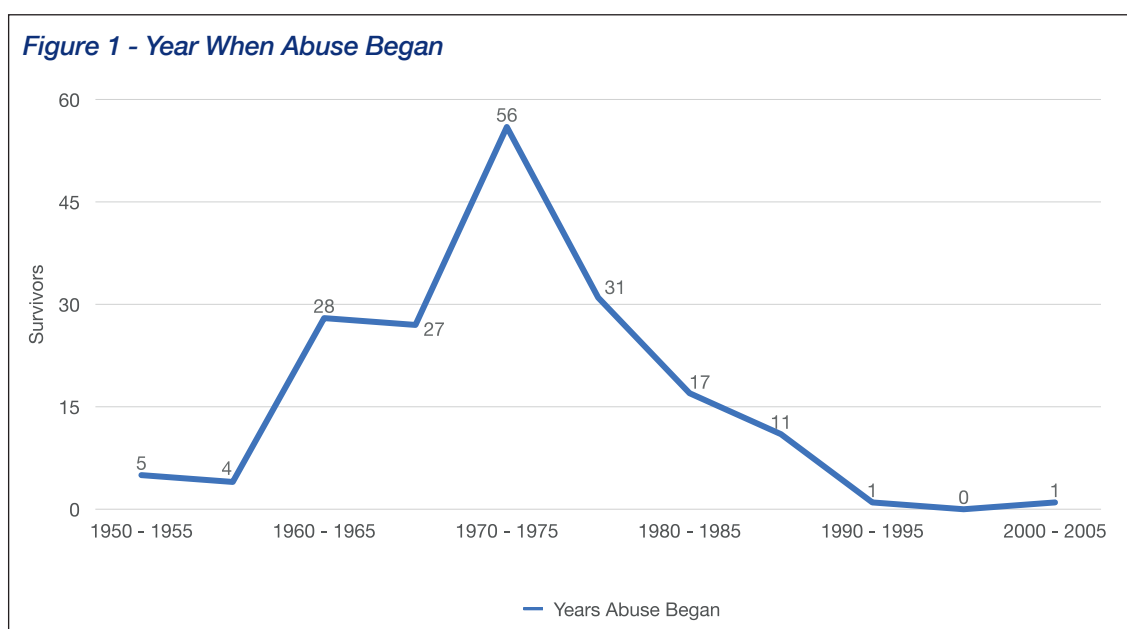
9. The Scoping Inquiry's Terms of Reference sought to establish the views of survivors of historical child sexual abuse in day and boarding schools run by religious orders, including both private fee-paying schools and schools in the free education scheme. A national advertisement campaign, and the Scoping Inquiry's website, invited people who had experienced sexual abuse in such schools to register their interest in participating, and the announcement of the commencement of the work of the Scoping Inquiry was covered in national news media. The Department of Foreign Affairs assisted with providing information on the call for registration of interest through the Irish embassy networks to members of the diaspora. In some instances, coverage in the news media referred to the Scoping Inquiry as relating to private schools run by religious orders, which may have inadvertently created an impression that only such schools were included. However, the Survivor Engagement team heard from a large number of pupils who had attended schools in the free education scheme. Some responses were from participants who attended schools run by female religious orders, but these were very much in the minority. The team treated all responses with equal consideration.

(i) Profile of Survivors

10. The overwhelming majority of participants were male (approximately 95 per cent), and there was a small number of responses from female survivors. Most were currently based in Ireland but a further 14 countries were named as current places of residence.
11. The majority of participants had attended a day school (including those who had attended a boarding school as a day pupil), with approximately one quarter of respondents having attended school as a boarder. A smaller number had attended as a day and a boarding pupil at different times.
12. Descriptions of experiences of sexual abuse were spread evenly across primary and secondary schools. A number of people reported that they had experienced sexual abuse in both primary and secondary school, in some cases run by the same religious order.
13. A small majority of participants reported that they experienced abuse between the ages of 11 and 15. A large minority of respondents reported that they experienced abuse aged 10 or under, and a small minority reported that they experienced abuse at the age of 16 or over. However, many participants described experiencing abuse in more than one age category.

(ii) Information Regarding Sexual Abuse Reported by Participants

14. The first stage questionnaire sought initial information from participants. Themes raised here are then explored in considerable detail in the next chapter, which reports the accounts given by participants in the second stage, primarily in interviews, or in some cases, in written submissions.
15. The majority of participants who completed the questionnaire reported that they were sexually abused in the 1960s and 1970s, with the peak occurring between 1970¹ and 1975 followed by a steady decline in reported instances of sexual abuse. There was some variance in how participants answered this question, with some naming specific dates whilst others indicated a particular year or a broader period (such as 'early 60s'). In some cases, this may have been because some participants experienced abuse as a single isolated event whilst for others, abuse continued over a number of years. The information was organised in five-year intervals according to the first date given for when the abuse began, as illustrated in Figure 1 below:



16. While there was no specific question on how long abuse continued for, some participants provided information suggesting that it had occurred over a number of years.
17. The majority of participants reported that they were sexually abused on the school grounds/premises, with a minority reporting that the abuse had occurred away from the school grounds.

1 Free secondary education was introduced in 1967, leading to a major increase in the number of students attending secondary schools.

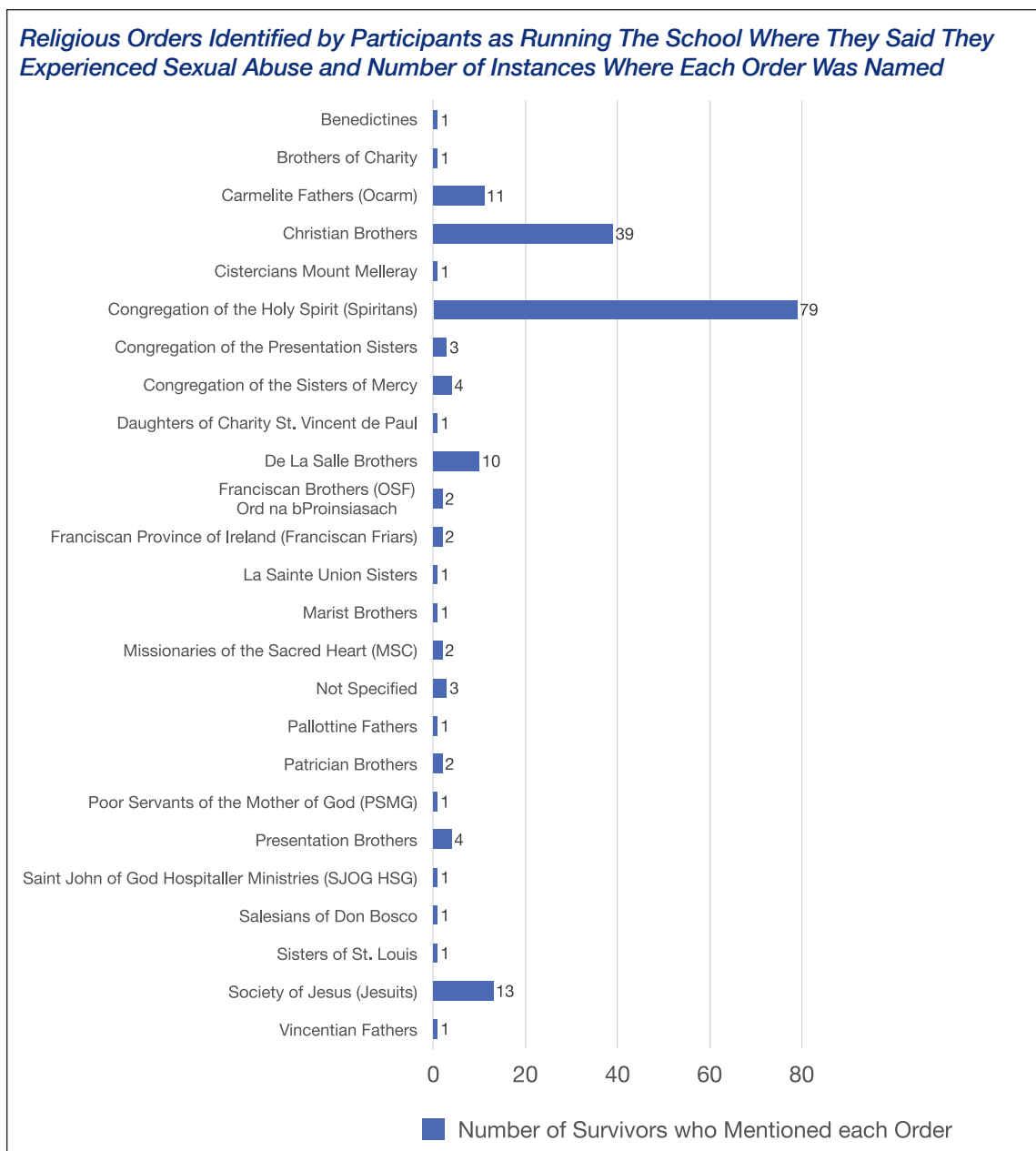
18. Some participants provided further information on the circumstances where sexual abuse had occurred away from the schools, and these included school activities such as tours, excursions or sports; in priests' or teachers' residences; and in the participants' own family home. Some of those who reported a location other than the school grounds as the site of their abuse said that they had also been sexually abused in the school.
19. Participants were asked to identify which of the following categories best described the role of the person or people responsible for the sexual abuse that they described in their school: teaching member of staff; non-teaching staff member; pupil; other. A clear majority of participants reported that they were sexually abused by a teaching member of staff and a minority reported that they were abused by a non-teaching staff member. A small minority reported abuse from another pupil, and some selected 'other'. Many participants indicated more than one category, i.e. that they were sexually abused by more than one person, and in later interviews more participants said that they had been abused by more than one abuser within the same category. Where 'other' was selected, some provided information on the role of the person who sexually abused them. This included onsite staff with roles such as caretaker or janitorial staff, chef, sports coach, clinical staff, visiting clergy and others from outside the school.
20. Participants were also asked if, to their knowledge, the sexual abuse that they experienced has ever been reported at any time since the abuse occurred to the present day and were asked to select from the following categories: An Garda Síochána; the Child and Family Agency ('Tusla') or a local health board (Tusla was established in 2014 and took on the functions of the HSE and previously the Health Boards); a person in authority in the school or religious order; or other. A minority reported that the abuse had not been reported to anyone.² For participants who have reported what happened to them, the most commonly selected option was An Garda Síochána followed by a person in authority in the school or religious order. A minority said that their experience had been reported to Tusla or the Health Service Executive ('HSE')/Health Board. For those who selected 'other', some provided information on who they had reported to, including healthcare professionals such as psychologists, psychiatrists and counsellors; support services; legal professionals including solicitors/law firms; and representatives of the Catholic Church other than the religious order who ran their school.

² All cases brought to the attention of the Scoping Inquiry have been notified to Tusla in compliance with Children First.

(iii) Schools Run by Religious Orders Where Abuse Was Reported to Have Occurred

21. As noted at the outset of this chapter, the Scoping Inquiry is reporting the information provided by participants and it is not drawing conclusions or making findings on this information.
22. Participants were asked the names of the schools where they reported experiencing sexual abuse and the name of the religious order which ran the school. In a small number of cases, participants did not provide the full name of the school, or in some instances, gave the school name but not the name of the religious order. There may be reasons for this, including uncertainty about details, or restrictions as a result of current or past legal processes.
23. The names of schools where participants said that they were sexually abused are listed in Appendix 10. Some of the schools may have closed, moved, amalgamated with other schools or changed their names in the years since the participant attended. The names and locations of schools are set out as they were relayed by participants in their questionnaires. It is possible that some schools may appear on this list more than once, for instance by its Irish and English name, or by a colloquial or formal name as they are recorded in Appendix 10 as reported by participants. Where a participant's school was later identified as being outside the Terms of Reference for the Scoping Inquiry, that school has not been included and the information provided by the participant has been accounted for in Section C: Other Contributions later in this chapter.
24. Participants named over 80 schools in at least 22 counties, with a broadly even split between primary and secondary schools. Four special schools run by religious orders were included. A significant number of schools were named by just one participant, and it is possible there may have been more than one person affected by sexual abuse in that school. The information provided to the Scoping Inquiry in other workstreams would seem to indicate this possibility.
25. Participants were also asked the name of the religious order which ran the school where they reported experiencing sexual abuse. A list of 24 religious orders that were named by participants is set out below. Some orders were named by one participant, and others were named by a significant number of participants. The five most frequently cited orders were the Spiritans (Holy Ghost Fathers); the Christian Brothers; the Society of Jesus (Jesuits); the Carmelite Fathers; and the De La Salle Brothers. This is illustrated in the chart below, along with the other named orders.

26. A small number did not specify the name of the religious order, and this may be related to uncertainty as to the name, or it may be due to restrictions related to current or past legal processes. It should be noted that the total number of participants on this chart is higher than the total number who completed questionnaires as some participants reported that they experienced sexual abuse in more than one school run by different orders and so they have named more than one religious order. Some orders ran a number of schools and there are participants who said that they experienced sexual abuse in more than one school run by a particular order (this is most commonly where an order ran a junior/primary and a related secondary school). The table below sets out the orders as named by participants as running their schools, many of which have now closed, amalgamated or transferred to trusts or other structures. As such, the list shows what was reported by participants in the questionnaires and can be understood to be the circumstances in place at the time of participants' school days.



C. Other Contributions

27. The report of the Survivor Engagement process is based on accounts of the information gathered from questionnaires and interviews from those who reported historical child sexual abuse in day and boarding schools run by religious orders. Additionally, information was provided by people who could not be included in the main report of the Survivor Engagement process. This included people who reported experiencing abuse that fell outside the Terms of Reference for the Scoping Inquiry; people who chose not to take part in the Survivor Engagement process but who provided information through other channels; and people who approached the Survivor Engagement team at a very late stage in the process of the Scoping Inquiry and whose information was relevant but could not easily be included in the main body of the report. This section summarises some of what those people told us, taking account of the reports of approximately 30 people.

(i) Reports of Experiences Outside the Terms of Reference of the Scoping Inquiry

28. The Survivor Engagement team heard from a number of people who wished to participate in the Scoping Inquiry but whose reports or accounts of abuse fell outside its Terms of Reference. The team reviewed the information they provided, whether in questionnaires or correspondence, and endeavoured to contact each person to explain why they could not be included. Many said that they nonetheless wished to make the Survivor Engagement team aware of their experience of sexual and/or physical abuse as children in schools and institutions. Their accounts are included here in recognition of the seriousness of what they described happening to them, and in appreciation for their contribution; but as these were beyond the remit of the Scoping Inquiry, they have not been reflected in participant information presented elsewhere in the report.

29. Included here are those who described being sexually abused in schools that were not run by religious orders, for example, diocesan schools, vocational schools, private schools and national schools run by organisations other than religious orders. Others gave accounts of very serious physical abuse in schools, including those run by religious orders, and a few people came forward to say that, whilst they had not been sexually abused themselves, they had been aware of sexual abuse of others, or they suspected that a family member may have been abused. These accounts also provided further insight into such events and its impact on child witnesses. The Survivor Engagement team also heard from people who said that they had been sexually abused in schools outside of the Republic of Ireland or by a member of a religious order or diocesan priest outside a school context.

30. Some of those whose descriptions of abuse were outside of the remit of the Scoping Inquiry gave accounts of abuse in a reformatory or industrial school or residential institution such as an orphanage.

(ii) Culture of Physical Violence and Humiliation

31. Many of this group spoke of their experience of physical violence in the course of their school life. They described it as being pervasive, unpredictable, painful and normalised as part of the daily routine. Regimes of physical violence were described, far exceeding what might have been considered at the time to be acceptable corporal punishment, including the use of implements such as modified leather straps, wooden sticks and knuckle-dusters. Survivors spoke of a climate of fear. One person said that boys who avoided sexual abuse or complained to their parents about sexual abuse were subject to excessive physical violence.
32. One person reported that he was knocked unconscious and still suffers the physical impact of his injury. Some spoke of long-term cognitive difficulties, and one person described life-long problems with his spine and posture as a result of physical violence. Descriptions of extreme physical violence were given, including from a survivor who contacted the Survivor Engagement team to say that he witnessed violence that he believes to have led to the death of another child and this was investigated by An Garda Síochána. Another said his mother had gone to the school to say her son was not to be beaten but it had no effect. Others outlined behaviours they believed were intended to deliberately humiliate children in front of their peers. Another described his school as having a culture of sadism and cruelty and questioned the motivation of those who worked there. Another survivor spoke of his belief that the physical violence was sexually motivated.

(iii) Accounts of Sexual Abuse

33. For those who described sexual abuse that fell outside the scope of the Survivor Engagement process, the impact they described on them as children and later in life is very similar to the accounts provided elsewhere in this report. Reports of sexual assault and rape were relayed to the team. Survivors spoke of experiencing sexual abuse that occurred in settings other than schools and they described how those responsible included clergy, members of religious orders and lay people. These settings included church activities such as preparation for altar boy duties; in a school that was not run by a religious order; on a school tour; in their own home; in a medical setting; and by staff in industrial and reformatory schools. An account of sexual abuse by an older boy was also given.

34. Other participants, whose accounts of sexual abuse in day and boarding schools run by religious orders were relayed to us at a late stage in the process, described incidents of sexual abuse including under the guise of assisting a child with an injury; another reported sexual abuse over a prolonged period in which the child was repeatedly driven to a hotel near their school and said that some form of inhalant substance was used to render them unconscious.
35. The short-term and long-term impact of the sexual abuse was reported to have been significant. Several people spoke of leaving school prematurely and the detrimental impact of this on their education and subsequent employment. Others described drinking harmfully from a young age to numb feelings of shame and despair; the use of drugs; disordered eating; problems with relationships; criminal convictions and suicide attempts. Some gave accounts that their experience of sexual abuse was an isolated assault while others reported it as an ongoing trauma in their childhood. Survivors spoke of far-reaching effects including one person who described attending a parent's funeral only to find that the person who he said had abused him was buried in a plot near to that of his parent in the cemetery. He said that, as a result, he finds himself unable to visit his family's grave. Others spoke of life-long struggles with mental health and how their experiences had impacted on their relationships with their own children in later life.

(iv) Accounts of Grooming

36. One person reported the long-term effect of the damaging impact of grooming over a very long period, including sexual abuse being described as a secret and 'special relationship'. In this instance the participant reported that as a young adult he described this 'relationship' to a friend who named it for what it was: sexual abuse. He said that it was only at this point that he understood what had actually happened. Another gave an account of meeting a teacher when he was a young boy, and this teacher seemed to really like children, at a time when adults were not always interested in what children had to say. The participant said that as a young boy, he had really liked this teacher, and then reported that this teacher later went on to sexually abuse him when he was a pupil in the teacher's secondary school. He said that he recognises now that the earlier friendship was part of a grooming process.

(v) Accounts of Witnessing Sexual Abuse and Difficulties in Disclosing

37. Some people who contacted the Scoping Inquiry wanted to explain that, although they had not themselves been sexually abused, they reported that there was a sexually charged atmosphere in their school and they spoke of being aware that other children were being sexually abused. They described 'jokes' and warnings from other boys about certain priests or teachers and places to avoid in the school. They said that this was still acknowledged years later when, as adults, they attended class reunions or spoke to former classmates. Some said they wanted to confirm that they had witnessed or been aware of sexual abuse in certain schools and that they had experienced a culture of physical violence and fear. Another person described being aware of inappropriate behaviour by a priest when with a friend, and later said this friend was raped. One participant said that he is aware of severe addictions and suicides of men who he suspects were sexually abused as children in his school.
38. Some people described at length the difficulties in telling anybody about the sexual abuse. One man, in describing why he did not tell, said the priest knew something else about him which he did not want his parents to discover, and this was used as a threat. Others said they were too scared to tell as they had been threatened of worse consequences, or of expulsion from school. One said that he was picked on as his parents were separated and had no or little contact with the school. Another said he did tell but nothing changed. One person told a parent who reported the matter to the school and the priest was moved for a short time, but later returned.
39. The views of survivors who were not within the Scoping Inquiry's Terms of Reference were broadly similar to those expressed by the survivors whose views are set out in the following chapters. Some said that the scope of any future process should not be limited to only day and boarding schools run by religious orders. Others said that if there was to be a redress scheme in the future, it should include those who had been resident in industrial or reformatory schools but who had not received redress under previous processes.

D. Chapter Summary

40. This chapter sets out the information provided by survivors in this first stage of the Survivor Engagement process. Whilst both male and female survivors participated, the overwhelming majority of those who took part were male, and attended schools run by male religious orders. The few female survivors who reported sexual abuse in their religious-run schools mainly reported that visiting clerics or other males were responsible. Participants reported that sexual abuse took place in day and boarding schools; they said that it was perpetrated by teachers, non-teaching staff and outside visitors to schools; they described how it took place primarily on school grounds but also in situations outside of schools including on tours, at sports events and in private residences; they reported that sexual abuse occurred in primary, junior, special and secondary schools; they reported that sexual abuse took place across at least 22 counties and in schools run by at least 24 religious orders.
41. Participants spoke of abuse in a wide range of schools. Some schools and some religious orders were named by just one participant whilst others were named by dozens of participants as set out in Appendix 10. Of the religious orders named by participants as having run the schools where they report sexual abuse, the most frequently cited were the Congregation of the Holy Spirit (Holy Ghost Fathers), the Christian Brothers, The Society of Jesus (Jesuits), the Carmelite Fathers and the De La Salle Brothers.
42. The chapter also includes the contributions of people who approached the Scoping Inquiry with a wish to share their experiences which, for various reasons as outlined above, could not be included in the main analysis.
43. The Survivor Engagement team wishes to acknowledge that the accounts of those who have been included in Section C: Other Contributions were no less important or traumatic, and the contribution that those survivors made to the process and to our overall understanding is sincerely appreciated.
44. Following the first stage of the Survivor Engagement process, those who had indicated a wish to proceed to the second stage were invited to participate in an interview with a trauma-informed facilitator or to provide a written submission according to the preferences they had indicated in the first stage. The next chapters set out the information that participants provided in the second stage, starting with participants' accounts of what happened to them as children.

Chapter 4:

Second Stage of the Survivor Engagement Process – Participants’ Accounts of What Happened

Content Warning: This chapter contains details of participants’ descriptions of sexual abuse, physical violence and references to suicide. It may be distressing to read.

A. Introduction

- (i) Participants’ Voices

B. Descriptions of Sexual Abuse in Schools

- (i) Sexual Abuse in Classrooms Where Other Children Were Present
- (ii) Sexual Abuse Where Other Children Were Not Present
- (iii) Sexual Abuse in Sleeping Quarters
- (iv) Sexual Abuse at Swimming Pools
- (v) Sexual Abuse Involving Use of Drugs, Physical Restraint or Violence
 - (a) Use of Substances or Drugs During Sexual Abuse
 - (b) Physical Restraint During Sexual Abuse
 - (c) Locked Rooms
 - (d) Physical Violence Related to Sexual Abuse

C. How Children Understood and Responded

- (i) Normalisation of Sexual Abuse
- (ii) Incomprehension and Fear
- (iii) Children Felt Shame, Guilt and Responsibility
- (iv) Religious Teaching and Self-Blame
- (v) Being Singled Out

D. Grooming and Gaining Access to Children

- (i) Extra-Curricular Activities
- (ii) Grooming by Exploiting Children’s Interests
- (iii) Building Trusting Relationships with Children’s Families to Gain Access

E. Children Disclosing Abuse

- (i) Non-Disclosure – Why Many Children Did Not Tell
- (ii) Intimidation and Silencing of Children
- (iii) Disclosure – When Children Told and Were Believed

F. Perceptions of a Culture of Cover-Up and Collusion

- (i) Cover-up
- (ii) Leadership Inaction
- (iii) Perceptions of Collusion Relating to Sexual Abuse
- (iv) Transfers of Staff Between Schools and Countries

G. Cultural Issues and Sexual Abuse

- (i) Influential Position of the Catholic Church
- (ii) Hyper-masculinity and Bullying

H. Violence in Schools

- (i) Violence and School Culture
- (ii) Punishment and Humiliation in Schools
- (iii) Descriptions of Violent Assault of Children

I. Chapter Summary

A. Introduction

1. This chapter outlines participants' descriptions of their experiences of sexual abuse in day and boarding schools run by religious orders. For some participants, this was the first time they had spoken about their experiences. Others had been able to speak about their experiences before now, often after attending counselling or other support. For most participants, discussing these events is difficult, and still often associated with feelings of shame. This is in keeping with the findings of investigations and research, nationally and internationally¹. In recognition of this challenge and as part of the Survivor Engagement process's trauma-informed approach, participants were informed at the beginning of the interview that they could choose how much or how little they would share about their experiences. Some participants opted to share limited information, while others discussed their experiences in detail. The goal of participating was different for everyone but could be summarised as wanting to shine a light on dark experiences, and to support a process that they hoped would result in more accountability. Many also expressed the hope that attention given to what occurred would help ensure that it could never happen again.
2. As outlined in Chapter 2 – Survivor Engagement Introduction and Methodology, interviews were semi-structured, meaning that only a small number of set questions were asked of all participants, and participants could choose not to answer those questions. Trauma-informed facilitators used prompts based on the points that participants wished to discuss and on the goals of the Survivor Engagement process. This qualitative approach and its framework are discussed in more detail in Chapter 2.
3. A number of participants spoke about the RTÉ Documentary on One: Blackrock Boys programme and subsequent media focus in 2022 as the catalyst for them being able to speak about their own experiences and engage with the Scoping Inquiry. Some dedicated their accounts to the late Mark Ryan, who was featured in the documentary and who sadly died while these interviews were in progress, in recognition of his pioneering role in this process.

1 Mc Gee, H.; Garavan, R.; de Barra, M.; Byrne, J.; & Conroy, R. *The SAVI report: Sexual Abuse and Violence in Ireland* (Royal College of Surgeons in Ireland, 2002). <https://doi.org/10.25419/rcsi.10770797.v2>

(i) Participants' Voices

4. Summary notes, including some direct quotes, were taken at each participant's interview and participants had the opportunity after the interview to review the notes and to add, change or delete information as they wished. Extracts and quotes from those agreed notes are used throughout this chapter to illustrate the key themes raised. Both direct verbatim quotes (in italics) and summary information from interview notes (indented) are used. The quotes and extracts from interview notes are anonymised and care has been taken to ensure that, whilst individual participants may recognise their own voices, we have not included names or details that could potentially identify the participant or any other person. Chapters 4-7 draw on interviews and written submissions from 149 participants.
5. The chapter sets out what has been said to the Scoping Inquiry by the participants and does not make any conclusions or findings, it is simply recording and sharing their experiences.

B. Descriptions of Sexual Abuse in Schools

6. This chapter outlines the common themes described by the participants who chose to give details in their interviews about what they experienced as children in school. The accounts given include all school-going ages, from junior infants to sixth year in secondary school. Participants gave accounts of abuse occurring in day and boarding schools, and in various locations, with some describing abuse occurring in front of other children. The circumstances in which they described sexual abuse occurring included descriptions of physical restraint, incapacitation and physical violence.

(i) Sexual Abuse in Classrooms Where Other Children Were Present

7. Participants spoke about the locations where sexual abuse occurred and many reported that it had happened in classrooms, often with other children present at the time.

'He'd get through as many of us as he could at a time. He abused us in front of each other.' (Participant)

8. Participants described how some teachers and other persons concerned made little effort to hide their actions from other students or teachers.

The participant described that the abuse occurred in the classroom, in front of other students. He recalled how he was pinned down by his teacher, with others around. (Participant)

The participant emphasised that he knows that the school principal was aware of the acts of his colleagues and was even in class with them while he or others were being abused or raped. The principal would open the door, see the abuse taking place, even rape in progress, and just close the door again. *(Participant)*

The participant detailed a particular account of abuse which occurred while he was around 12 years old. A lay teacher digitally sexually assaulted one boy in an aggressive manner, who protested, and then went around the class and sexually assaulted a number of students in front of the rest of the class, including the participant. The participant detailed the smell from the teacher's hand following the incident. The teacher then went on to teach the class as if nothing had happened. *(Participant)*

9. Participants described incidents occurring in the presence or sight of other people or pupils and the ways in which attempts were made to conceal what was happening. Participants reported that common strategies during class included sitting beside or next to pupils, standing behind them or leaning against their desk.

The participant recalled one of those teachers rubbing his crotch on the corner of the participant's desk with an erection, as if this was *'perfectly normal everyday behaviour.'* *(Participant)*

10. Some participants described how students were called up to the teacher's desk, where the student would be told to sit on the teacher's lap while completing some tasks or would be pinned to the desk by the teacher's body:

'What would happen is the Brother, and principal of the school, would, in front of the class, ask one of the boys to go to the top of the class and eventually sit him on his knee. There he would put his hands up and down the boy's leg moving from the upper thigh to beneath the short trousers.' *(Participant)*

'There was an organ, or piano or something, that blocked the view from the rest of the class, as he touched me, my genitals, he also was sadistic.' *(Participant)*

The participant did anything they asked him to do because he was terrified. There was a gap in the old-style desks at the top of the classroom where the priests sat – this is where he abused the participant. It was done when other students were there but was hidden from their view. *(Participant)*

11. Several participants described how Brothers or priests would use their clothing to disguise what was happening:

The teacher then whispered, *'You obey me'* and with that, opened the participant's trousers and pushed himself between his knees to massage his testicles while masturbating under his cloak. *(Participant)*

The priest would carry out abuse in plain sight in the classroom. The priest would lift his clothing over the head of the participant to hide them from the rest of the class and lick and kiss his ear. The priest did it to multiple students. *(Participant)*

'He would put his left hand up my pants and fondle my genitalia, and I think his right hand was up inside his gown and I think he was masturbating.'
(Participant)

12. Some participants recalled feeling smothered and overpowered as the sexual abuse they described took place in the classroom, which they were unable to leave. One participant recounted an experience in class:

'The priest approached me from the right. He stood close to me, his lower hip area against my right side. He leaned over me and put his left hand across my back and onto my shoulder. His right hand came in from the right to point out the question. He read out the question, and he asked the rest of the class if they had found the answer: they said, 'Yes Father'. Sr [Name] was also reading out the question and the answer. The priest's reading became mumbled as he raised his right hand from the book, caught my left breast and started squeezing it. At the same time, his left hand tightened on my left shoulder pulling me close to him. He had his mouth close to my ear. The mumbling stopped as his breathing got faster; he was shivering. I could feel it, and he was squeezing me too tight. His hip area was pressed hard against my side.'
(Participant)

13. Some participants reported that classmates were given strict instructions or threatened with physical punishment, to keep them focused on their schoolwork whilst a classmate was sexually abused during class:

'We were all forced to read with our heads facing down towards the desk and then his hands were all over us.' *(Participant)*

'I don't understand how Brother X managed to do it. While this abuse was going on, there was a guy sitting next to me on the same bench. When you were told to put your head in the book, and do your work, you did it. The logical part of me says he must have done it to someone else too. But the result of the Garda inquiry said that I was the only one that had reported him.'
(Participant)

14. Other participants described the experience of being digitally penetrated in full view of the class. Participants described being molested by the placing of hands down the back of their clothing, into their pants, shorts or trousers and fondling or squeezing their genitals or masturbating them, in some cases while the teacher or person concerned masturbated themselves. Participants spoke about the abject horror and fear they felt:

'I had difficulty breathing, I thought I was asphyxiating, just terrible, terrible fear and fright.' (Participant)

The participant reported that during this event, it was like he froze in time. *'I was afraid I was going to pee in his hands.'* (Participant)

15. Others spoke about the consequences of trying to prevent further sexual assault by wearing tight clothing:

One day the participant wore extra pants to school to make it more difficult for the abuser to access his body. The abuser went *'berserk'* and punched and kicked the participant. (Participant)

16. Some participants reported that regular and systematic abuse took place in their classroom:

'It was certainly, maybe, a couple of times a week. It was in the middle of a classroom of fellow children.' (Participant)

'Not always me, but someone was abused every day. Everyone was abused two to three times a year.' (Participant)

'When new books came in, [to the library] he would have us put plastic on them. He would stand behind you as you were doing that, pushing up against you. That went on when I was older. That was a much milder form of abuse.' (Participant)

17. Some spoke about a cycle of fear of being abused and then relief if it did not happen, which was endured repeatedly, sometimes over many years.

'When it happened on Monday and Tuesday you knew you were lucky because that meant you were off Wednesday and Thursday. But you were probably back on for the Friday [...] It felt like a monster behind you.' (Participant)

18. A participant reported an incident which occurred in front of family members.

The participant tells of one incident where her sister and mother were collecting her from school, and he came down the stairs with his hands down her skirt. Her sister commented that it looked strange. She had no idea what was happening as these were *'situations you had no preparation for.'*
(Participant)

19. Participants reported that standing out in any way could make a child a target. This could be as simple as sitting at the front or back of the class, or being considered academically smart, or conversely, struggling with schoolwork.

'The abuser was an evil man. Any of the boys sitting along the front of the class, he used to sit with his legs between theirs and put his hand up their pants.' (Participant)

(ii) Sexual Abuse Where Other Children Were Not Present

20. Many participants reported sexual abuse when they were alone or isolated, and described the pretexts that were used to put them in that situation. These included: being kept after class for some reason, or frequently for one-to-one practice or tutoring sessions, in classrooms, residential quarters or common areas. Often, the pretext might include something that was a particular interest for the child, such as sports, music, reading, swimming or drama practice. Participants described incidents which occurred in various locations including churches and sports facilities.

The participant described what happened on being brought to the Brother's rooms. He said: *'He put me on top of his lap and started fondling me. I don't know what happened but very quickly I was down between his legs, in front of his body. I can remember the black material of his pants'*. He then described in considerable detail the Brother's trousers, recalling a creamy white lining, white buttons on the inside and black buttons on the outside, and a type of underpants made of long white material. He continued: *'I remember, and I feel sort of a sick reflux, when I think of this, even now, his grey pubes.'*
(Participant)

'He had me come down and practice reading the lessons in his bedroom. This was a standout moment: that you would be able to go into his room and not to be stopped as a 12-year-old boy. He would have you in the bedroom, and he would sit next to you on the bed. It would have been about April or May, and I was wearing shorts. When reading the Bible, he would fondle you. Stroking the inside of a leg. His hand would be in his pocket, and so on.'
(Participant)

21. This participant went on to outline how, leaving the room, he was seen by another priest;

'I remember coming out of the room and passing another priest, and not even being asked why I was there.' (Participant)

22. Several participants reported that they were directed or invited to quiet or isolated spaces on various pretexts, often based on their personal interests, and described how sexual abuse would then occur:

The abuser took the participant up to the church gallery to see the organ and while there, anally raped the participant. The participant bled for a week afterwards and wore the clothes it happened in for a week afterwards because he was too scared to look at what was going on. (Participant)

This participant added that he did not swim for a week afterwards because:

[...] he was scared to *'fill the pool with blood.'* Recounting this incident, the participant added *'I thought I was going to die.'* (Participant)

23. Participants described the particular vulnerability of the period directly before or after class or practice when other children had not yet arrived or had left. One participant described how his participation in school performances meant that a particular staff member had access to the participant:

'I was frequently alone with him, because I had to practice. He frequently fondled my back, my bottom, and pulled me towards him. That happened over three years.' (Participant)

Another participant reported:

Fr. X told him to go around the back of the handball alley. The participant said seeing the look on the older boys' faces gave him the impression that they knew what might be going on. Fr. X had instructed him to *'loosen the belt on my shorts'*. When Fr. X saw that he hadn't done that, he became angry. *'I remember him chastising me, he said "you didn't do what you were told"'*. (Participant)

24. Some participants reported that they were taken to offices or residential rooms on pretexts such as for discussions, sex education, confession or medical examinations where, on some occasions, they would be shown sex education material or pornography (heterosexual and homosexual in content). One participant explained how sex education was done on a one-on-one basis with all the boys. He explained that parents were told about this at an open day.

He went on to describe how, in his individual sex education sessions the abuser was masturbating under his cloak in both meetings. The examinations of his penis had been going on for a while. (Participant)

25. Others recounted similar experiences:

'He'd start talking about himself masturbating, he used to get a kick out of it.'
(Participant)

'He took me to his room to investigate the rash on my arm. The investigation involved having me strip naked. He proceeded to try to force back my foreskin. I became very upset. I am an only child. This information about masturbation was unknown to me. I said this was what you were telling me was so wrong two days ago.' (Participant)

'I was asked to leave the classroom to go and see a priest. I sat down at the desk and the priest was holding a book in his hand which contained images of naked bodies' (Participant)

He brought [the participant] into the office and pinned him to his desk. The priest had an erection. He could feel it. He could smell drink off him. *"He was behind me on my back. He was really on top of me. It all happened in seconds."* (Participant)

26. Some participants reported that confession was used to manipulate and molest them and to elicit information, which felt intrusive and confusing to them as children.

'He wanted to review my academic progress, or lack thereof. Unfortunately, it turned into ... it was more sinister. He wanted to conduct a confession into my sexual [activities] ... I was exposed to information that I was totally clueless about. These 'confessions' went on for the next three years.' (Participant)

The participant said his first experience of abuse was when a priest in the confessional abused him. (Participant)

(iii) Sexual Abuse in Sleeping Quarters

27. Approximately a quarter of participants attended boarding schools and in their interviews with the Survivor Engagement team some reported being sexually abused as they lay in bed in their dormitory or cubicle. They described their isolation from their families, and their reliance on adults in the school as factors rendering them vulnerable to abuse.

'When you're in a boarding school, and away from home, you were kind of locked away in a bubble and you were seeking adult affirmation. And some of them really abused that position.' (Participant)

28. Participants reported that in some cases, sexual abuse seemed to be integrated into the rituals of boarding school life. They described instances where they were made to undress and be naked in front of the staff for showers, which was understood to be compulsory:

The pupils had showers twice a week. They had to strip naked and then run along the corridors to the communal showers. There were priests in the corridors watching them and sometimes there were priests in the showers 'helping' to wash them. *(Participant)*

29. They described priests and other members of the school staff touching them and masturbating them under their bed covers.

'He would want people to undress in front of him at nighttime. So, I learned to get undressed quickly before he came in. In the morning, he'd like to come and put his hands under the bed covers. If you heard him coming, you'd get out of the bed quickly.' *(Participant)*

30. A participant described how a staff member used to enter their dorm at night and molest boys in their beds, moving from one bed to the next.

'I was rigid with fear. I was an extremely innocent 12-year-old.' *(Participant)*

31. He went on to explain:

'None of us went to sleep the same way after that, we were all armed [...] We were never sure whether or not he had gone.' *(Participant)*

32. Another participant reported their experience of abuse in their dormitory:

The abuser would sit on the chair and abuse the person in the bed. Everyone knew it was happening. *(Participant)*

33. Some reported that these behaviours were repeated by teachers or priests with access to their living quarters.

One priest would often enter the students' cubicle, ripping off the bedclothes in the morning to check for erections and impure thoughts. *'It was hell on a daily basis.'* *(Participant)*

Another participant described a time when he was sick and in bed at his boarding school when a member of the religious order brought meals to his room:

On the second day of being ill, the Brother came to the room and asked the participant to remove his pyjamas. The Brother laid on top of the participant and rubbed up and down. The Brother did not penetrate the participant, but continued until he was satisfied. *'I was covered in semen. I had to take a bath while he was gone. I was ill apart from anything else and this was happening. He knew that no one else was around.'* (Participant)

34. Other participants described how they saw others being raped in their sleeping quarters.

On one of his first nights, he witnessed a boy being raped by two priests in the dorm while the others were sleeping. The boy was beaten unconscious, and they took turns with the boy. (Participant)

35. The participant reported that subsequently:

The participant was taken from his bed at night, wrapped in a cloak of some sort, gagged and raped. (Participant)

36. Participants reported that there were few places where they felt safe. However, on occasion another teacher's class offered a degree of refuge.

'[That teacher] was upstairs. If you could get into [that teacher's] class, you could escape the corridors and the priests. You were safe. It was like Schindler's list.' (Participant)

37. In addition to classrooms, dormitories and the residential areas, participants reported that sexual abuse happened in places both on and off school grounds. Locations included in the church on school grounds, in the library, on the stairs, in the corridors of the school, and outside the school's buildings such as behind a sports facility, or behind the kitchens. Some participants also reported that they were instructed to go to staff sleeping quarters and the pretexts that were used for this:

At night, pupils were required to deliver milk to the priest's room, and all were terrified of being requested to deliver this milk alone, as it placed them in danger of abuse. (Participant)

(iv) Sexual Abuse at Swimming Pools

38. Many participants spoke of swimming pools and changing areas as sites of abuse. This included pools that were owned by schools and outside of schools.

'We came out of the pool and there were two of us left in the dressing room. Someone came into the room and put his hands on my chest and down below, and he kept doing it even though I was crying. I told Sr. [Name] and she told me to go back to my group.' (Participant)

One day in [name] swimming pool, the participant was taking a shower, and the abuser came in naked to the shower. He said that the abuse that took place at this time was the worst incident of abuse he experienced. This happened in 6th class. The participant felt that he went into a trance after this. (Participant)

39. Other participants also described how they were sexually abused in or around swimming pools.

'He would make you float in the pool on your back, and he would penetrate you with his middle finger. That happened many, many times. He would make us model underwear and take photos of us.' (Participant)

The abuse extended beyond the pool area and into the showers as well. (Participant)

'He'd encourage us to go into the pool naked. It wasn't traumatic for me at the time but it did seem like it shouldn't be happening.' (Participant)

The perpetrator instigated the abuse through grooming which took place at the swimming pool. [The participant] said that no one knew that the abuse was taking place. (Participant)

(v) Sexual Abuse Involving Use of Drugs, Physical Restraint or Violence

40. Some participants reported that they were in some way incapacitated to facilitate sexual abuse including the use of physical restraints; locking of doors; and the threat or use of physical violence. A small number reported that drugs or other substances were used to render them unconscious.

(a) *Use of Substances or Drugs During Sexual Abuse*

41. A small number of participants from a handful of schools reported that they were drugged into immobility or unconsciousness prior to sexual abuse or had heard that this had happened to others. Whilst some described how their memories of what occurred may have been affected, most reported that they were aware in the immediate aftermath of these episodes that something had happened, due to pain and physical trauma to their bodies, particularly their anus or genitals. A participant spoke of the use of drugs to facilitate sexual abuse:

They used drugs to immobilise but still be conscious. *(Participant)*

42. Participants reported being drugged in the staff sleeping quarters, and there were some accounts of multiple persons being involved in the abuse and/or multiple victims.

Upon entering the room, he reported a feeling of being overpowered, and having something put over his face. After this, he was completely unconscious and has no memory. He spoke of having no control over what happened to him. *(Participant)*

43. Some participants reported feeling the effects of the drugs they had been given after they regained consciousness.

A very clear memory of abuse that the participant has is when the [person concerned] ejaculated on the participant and told him to lick the sperm off himself. Other memories are not so clear: *'I could never remember this, I can remember the beginning, I can never remember the middle, I can remember the end'*. This is because the participant suspects that the [person concerned] was using chloroform. What the participant remembers is seeing a little brown bottle that the [person concerned] would put on a pillow, however he suspects he lost consciousness. After waking up, the participant remembers feeling terribly ill with pounding headaches and nausea afterwards: *'I could never go home properly because I felt so ill. I used to take the long way home.'* *(Participant)*

44. Other participants described being aware of use of drugs to facilitate sexual abuse:

The teacher's domination of the schoolchildren included sexual harassment in confessional encounters outside class, but during school hours. This included humiliating one-to-one costume fittings, full blown sexual assault, and drugging and raping multiple students. *(Participant)*

The participant spoke about stories of chloroform being used to drug boys, and of gang rapes by three priests of one boy. *(Participant)*

45. One participant reported that he was given medication to make him ill as a pretext for sexual abuse. The participant described how he was given malaria tablets by a priest, and these tablets made him ill, so he would then have to go and seek help. He described how:

It was during this time that the more violent rapes would take place.
(Participant)

46. One participant reported being given alcohol by a prefect prior to being sexually abused:

The participant did not recall being raped, but did note that alcohol was involved, which the prefect would bring. This was the participant's first introduction to alcohol and its effects. (Participant)

(b) Physical Restraint During Sexual Abuse

47. Some participants reported being physically restrained or confined by force during sexual abuse. Participants gave accounts of different forms of restraint, including being physically blocked into a space:

The priest pushed himself up against him, grabbed him by the throat and the back of his neck. He physically pushed up against him. This caused great distress. (Participant)

48. A small number of participants reported being restrained with rope or handcuffs. One participant described being restrained during a violent assault:

As a result of the rape, the participant was injured: *'I couldn't cycle home, I couldn't sit on the seat because I was so, so sore from what happened that night.'* (Participant)

49. Other participants reported being restrained and sexually assaulted by school staff while they were away from the school:

While on the trip, the abuser took the participant away from the group, then proceeded to handcuff and molest him. (Participant)

The participant stated that the abuse occurred off school grounds during (overnight trips) and included elements of bondage and fire. He was masturbated by the teacher at these times. (Participant)

(c) *Locked rooms*

50. Some participants reported being locked into rooms whilst being sexually abused:

The participant said that this happened over a period of time, and occurred in a locked room that was selected by the abuser as being away from supervision and was sound proofed. *(Participant)*

He took up music in school because his family were musical. In the music room, a priest came up and sexually assaulted, battered and falsely imprisoned him. *(Participant)*

51. Others reported being locked into dark rooms on their own as a means of punishment, or as a show of power over the child.

The teacher inappropriately put his hands all over the participant and locked him in a dark room all on his own. *(Participant)*

(d) *Physical Violence Related to Sexual Abuse*

52. Some participants reported that physical violence appeared to be a source of sexual gratification, and others gave accounts of sexual abuse happening at the same time as a brutal physical assault.

At night he was forced to go to the abuser's room. He would be forced to remove his clothes where he would be whipped. He was whipped with a long leather strap with lead weights known as a Pandy Bat. *(Participant)*

The participant experienced physical pain immediately during and after the attack, and saw that as part of the attacker's intention, saying, he made sure he hurt me. *'I didn't know what he had done except that he had hurt me.'* *(Participant)*

The participant remembers that his abuser held him against the toilet cistern, but the participant bit him. Unfortunately, that motivated the abuser to hit him. The participant cried, but the abuser hit him again and said he'd kill him. *(Participant)*

After this violence the participant would be forced to sit on the abuser's knee where they would be tightly embraced and complimented, their head gently rubbed, while the abuser proceeded to ejaculate up the side of their short trousers. *'He was a sadist.'* *(Participant)*

The participant spoke in detail of receiving regular and severe beatings from [Priest]. He used a leather strap with florins stitched into it, to give it more weight. The participant said that [Priest] used to move against him and smell him as he beat him. The participant believes it was a *'sexual thing for him.'* *(Participant)*

'He would take me out of my desk, stand me up against the corner of it. He would press himself up behind me and dry ride me up against the back of the desk. That was very unpleasant; it felt violent. The thing I found most revolting was the spittle that used to form on the bottom of his lip – that was disgusting to me.' (Participant)

C. How Children Understood and Responded

53. A common theme in the reports of participants was their accounts of how incomprehensible the nature and experience of sexual abuse was for them. Many participants referenced not understanding what was happening, and in many cases, this was explained as being due in some part to a sense that the abusive behaviour of adults was normalised in some schools because it was pervasive and sometimes unconcealed. Questioning adults and, in particular, members of religious orders on these issues was described as 'unthinkable'.
54. Many participants reported that this sense of normalisation made it very difficult to contemplate telling anyone about what was happening. They described how this was frequently coupled with a very direct message that questioning or talking about what was happening would result in punishment. Another strong theme was that as children, participants did not have the knowledge or language to make sense of what was happening to them. Many reported feeling traumatised at the time and sensing that sexual abuse was different to physical abuse. However, participants frequently reported having very little understanding of sex or sexual behaviour at the time, with many describing themselves as naïve or innocent when the abuse occurred. Some said they felt that what was happening was bad but internalised the shame of the experience. It was only later, when they began to more fully comprehend sexual behaviour, that they could understand the gravity of what had happened.
55. The literature on child sexual abuse² is clear that it is much more likely that children will not tell, rather than that they will tell about being sexually abused. This is made more difficult where children do not have the language or vocabulary to describe what has happened to them or where the culture surrounding them does not encourage children to come forward.

2 McElvaney, R, *Helping Children Tell About Sexual Abuse* (Jessica Kingsley, 2016)

(i) Normalisation of Sexual Abuse

56. Participants reported not questioning what was happening, primarily because of the faith they had in their church, or their trust in the religious order running the school.

The participant stated that, as a child, he wasn't able to classify the abuse as something bad. *'That it was alright, it is a [name of religious order] Brother, if he is doing it, it is alright.'* (Participant)

57. Some described how the environment in their school and the normalisation of sexual abuse as being the only world they knew.

'When you're in it you don't realise that it's not normal. You don't realise that your norm is not the norm.' (Participant)

'There was nothing normal about this. At the time I didn't know that.' (Participant)

The fondling went on for about a year until one day the teacher put a finger in the participant's rectum in front of the class. In response, the participant yelled 'ow!' and *'gave him a really filthy look in front of the class.'* The participant suspects this is how the teacher knew he'd gone too far because he never touched the participant again. At the time, the participant didn't grasp the severity of the situation since this behaviour was normalised at the school. As a child, the participant thought he'd made a mistake and gave him benefit of the doubt. (Participant)

58. Other participants spoke of how the abuse was treated as a game and was introduced slowly and thereby made to seem like a normal part of school life. In these instances, participants reported that they were initially treated kindly and that a positive relationship was developed at first as a means of controlling them.

'It's scary. I had no idea what was going on. I thought to myself, is this normal, is this not normal? For the first 18 months they would say "Let us play with you, you play with us." Then they encouraged and asked for oral sex.' (Participant)

'You would pretend to like it, but you were too young to know.' (Participant)
A Brother in the order 'thought it was a great game to try to stick his hand down the front of our pants and pinch a scrotum or penis.' (Participant)

(ii) Incomprehension and Fear

59. Participants described their lack of knowledge of sexual practices and how, as children, they were unaware that their experiences at the time constituted sexual abuse. Instead, they saw such behaviour as routine conduct from teachers, or members of the religious orders.

The participant described how the abuse progressed from there, to the abuser taking off his clothes, fingering and masturbating. 'It's hard to understand when you are that age. You still do not know what the hell is going on, but I knew it was wrong.' (Participant)

'I had no knowledge that this was a sexual thing. No eight- or nine-year-old at that time knew anything about sex. I had an inclination that it shouldn't happen. We'd be trying to stay at the back of the line to avoid having to go up [for homework correction].' (Participant)

60. Other participants characterised their lack of knowledge as naïve, despite being a child at the time.

The participant describes themselves as being extremely innocent as a child, and not realising what the teacher was even doing: *'We knew absolutely nothing.'* (Participant)

61. Another participant described not understanding when other pupils tried to warn them:

'They said "You need to be very careful here." I was confused. I thought they meant, be careful of the city, or of the traffic. They said, "No, you need to be careful of the priests and prefects. They like boys." I was pretty naïve.' (Participant)

62. Some participants described how the absence of physical abuse, while they were being sexually abused, was confusing. Given their lack of understanding of sexual behaviour, they were unable to understand whether violence and sexual behaviour belonged together.

The participant described the sexual abuse that happened to him as being different depending on the perpetrator. One abuser was more 'gentle', which caused much confusion because, as a teenager, it was hard to understand if the behaviour was normal or not. (Participant)

63. Other participants reported frequently feeling stunned or shock and struggling to make sense of what had happened.

He only remembers getting on his bicycle to cycle home after the abuse trying to understand what had happened to him. *(Participant)*

64. Others reported trying to dissociate from what was happening or to block it out:

'Where I went to in my mind was warm sunny days, lying in wildflower meadows listening to buzzing bees and watching butterflies. Even with that, it was still painful and horrific. I couldn't escape.' *(Participant)*

(iii) Children Felt Shame, Guilt and Responsibility

65. Many of the participants described corrosive feelings of guilt and shame at the time of the abuse, which they subsequently carried with them throughout their lives. Many reported that they felt, or were led to believe, that the sexual abuse they experienced was their fault.

'Shame, guilt, fear are huge shackles on a youngster, and I experienced those things very intensely.' *(Participant)*

The participant did not understand what had happened to him and had thought he was responsible for it. *'I've been with a counsellor, and I know this isn't the case but I had the feeling of being responsible or that I invited it. The word grooming to me was what you did with animals. I now know what it is. So, for 40-50 years I didn't know that, so I felt I had pimped myself out.'* *(Participant)*

'Shame; a concealed, contagious, and dangerous emotion. Shame informed me of an internal state of dishonour. It made me want to withdraw, to hide, which I did for a while. But now I'm here to give back the shame.' *(Participant)*

[The participant] states that he was *'filled with shame and fear [...] I didn't have the words, just the feelings. But I have the words now.'* *(Participant)*

66. Participants reported struggling with feelings of shame, and fear that there was something inherently wrong with them as people, as well as an oppressive sense that they could not disclose what had happened to them.

The participant experienced significant shame around the abuse, and this enforced a belief that it was not okay to talk about it. *(Participant)*

(iv) Religious Teaching and Self-Blame

67. Participants described how the religious teachings at the time, their own religious beliefs, and their deference to those in authority compounded their feelings of guilt or shame. They discussed how, within this context, shame was their only way of processing the abuse. As children, trying to make sense of what was happening, participants internalised the fault and shame of what was happening.

The day following being raped, the participant was left in intense physical pain and unable to leave his bed to attend morning mass with his fellow students. He explained that he felt ashamed, and that he committed a terrible sin. *“I was in an awful state. I didn’t know what to do. I felt terrible sick. I didn’t go down to mass; we were supposed to go to mass every morning. The priest who was in charge of the whole lot [...] came up and said go down to mass; I said I felt sick and couldn’t. You see, I thought I was after making a terrible sin, so I couldn’t go to communion.” (Participant)*

68. Some participants described how feelings of shame were encouraged in children, with Confession being used as one tool to promote these ideas. In some cases, they reported that the persons concerned capitalised on this dynamic.

The participant viewed the Confession ritual as key to this, as these were often the first encounters whereby the abuser could manipulate the children. The participant feels that the sexual harassment in Confession normalised the abuse, shaming, and dehumanisation of the children. *(Participant)*

(v) Being Singled Out

69. Many of the participants described wondering why they were singled out. Some participants spoke about their particular vulnerabilities, such as having absent or deceased parents, or challenging home lives compared to other classmates, and how these circumstances could be used as a means to prevent the child from resisting or speaking about what was happening. In some cases, participants felt that students who were perceived to be ‘good’ were singled out, whereas others felt that students who were perceived to be ‘bad’ were targeted. Others described social class as a factor in whether pupils were subjected to sexual abuse, and a sense that careful note was taken of pupils’ home circumstances. Participants described the additional vulnerability of students who attended boarding schools, as being essentially cut off from outside supports.

The participant said that the abusers knew who they were targeting, choosing children who might not be able to report the abuse. *(Participant)*

'The Brother in [that school] would never have abused me if he knew I had a family I could talk to. He never went to those from better families. I couldn't do anything.' (Participant)

'These guys (the abusers) knew those things. They spot the kids who are loners [...] they know the kids who don't get their parents at the side of the pitch [...] and I probably was one of those.' (Participant)

70. Participants reported that not coming from a 'traditional' family made them vulnerable:

When the participant was in school, he ran away numerous times. He said that everyone saw him as a problematic child. He was not in his parents' care.
(Participant)

The participant also said that he and a sibling were adopted and that abusers often pick on vulnerable people. (Participant)

71. Some participants described well-behaved or academically successful students being targeted:

To avoid any contact with this teacher, or any other figure of authority, the participant reported that he stopped doing his homework and was generally no longer a good student. *'If you were a good boy, you got abused.'*
(Participant)

72. Participants described the impact of social class and how this varied in different cases:

'If you were a middle-class boy, you were chosen, and if you had health issues, but not if your father was somewhere upper class.' (Participant)

The participant says the lay teachers *'selected poor people like me, who were then the subjects of abuse.'* (Participant)

In secondary school, the participant felt that the abuser was looking after the sons of the other families while targeting the participant because they came from a lower-class background. (Participant)

73. Another participant felt that his sexual orientation was a factor in his being singled out:

'I had a strong feeling; the teacher and serial abuser was able to pick out people's vulnerabilities. There was an unsaid suggestion he could reveal your vulnerability if you didn't do what he said. I think he identified early on that I was gay, and used this to make sure I would stay quiet.' (Participant)

74. Others described blaming their intrinsic selves or personality for their vulnerability. Many felt that this perceived weakness meant that what happened to them was their fault.

The participant thinks that he probably would have let it happen to him again, because he was so scared. He thought no one would like him because there was something wrong with him. He had two brothers in the same school and the abuser never touched either of his other brothers, which made him feel not normal. *(Participant)*

D. Grooming and Gaining Access to Children

75. In the context of sexual abuse, grooming is defined as a series of manipulative behaviours and actions to establish trust or create an environment where children would feel less comfortable resisting sexual abuse. This can involve showing particular interest in a child or singling them out for positive attention at first to form attachments. A number of participants in the Survivor Engagement process reported that grooming and efforts to gain access to children occurred as a precursor to sexual abuse, and these actions included leading extracurricular activities, involvement in activities where children were present, and developing relationships with children's families.
76. One participant described how he was initially befriended and treated in a way that suggested that he was special before he was sexually abused:

The abuser put his hand in his shorts and then penetrated the participant's anus with his fingers. The abuse was interrupted by other students walking in and it stopped. He is unsure if the other students saw what happened. *"I remember his smell and his face."* The participant was terrified and froze. The abuser had taken interest in him for the months leading up to the abuse, paying him special attention. He did not tell anyone what happened. *(Participant)*

77. Participants described the various strategies used to create opportunities for sexual abuse of children. Whereas violence and intimidation were described earlier in this chapter as part of how sexual abuse took place, in other circumstances, grooming and other ways of forming attachments to children and young people were used.

'No, it was one of those environments, you dare not talk, even to your peers. You don't know who was involved. They focused on individuals, yet you knew they were attending to other boys in the room. There was a certain amount of jealousy there. Why is this person getting more attention than me?' *(Participant)*

(i) Extra-Curricular Activities

78. In many instances participants reported that activities occurring outside of the regular school timetable when fewer adults were around was when sexual abuse took place. Participants reported that activities such as sports, running clubs, managing libraries, theatre productions, school scout groups, music lessons, nature walks, trips abroad and swimming excursions were among the circumstances in which they were sexually abused. These activities often involved a child being alone with a teacher or other adult.

The participant recalls that the abusers looked for ways to access children in the school, and that sports was one such way. He noted that he played different sports and that *'These were places where I was abused. The dressing room, at the football pitch, the handball alley that was in Croke Park at the time. I still tremble every time I go to see the Dubs play.'* (Participant)

The participant said that he stopped participating in sports (to avoid being abused). He recalled that the teacher used to train the rugby team and that seemed to be a cause of his rage on occasions. He said: *'I remember how he smelled, the spit on his mouth, shaking with rage.'* (Participant)

79. Some participants reported that their experience of sexual abuse occurred during organised opportunities off school grounds or during school holidays, often involving nights away. Participants said that these excursions were rarely questioned by other adults.

The participant spoke of how the abuser targeted him both inside and outside of the school, even during the school holidays, and how nobody questioned why the abuser would come and get him from the swimming pool. (Participant)

The participant explained how the abuser used to take students out on nature walks, where the abuser would create excuses to separate and molest the participant. (Participant)

During the summer, to keep contact with him, the abuser introduced him to golf. There was a letter sent home to his parents to request permission for the participant to take the train to Howth to play golf. While there, the abuser would abuse him in the B&B room. (Participant)

80. Participants described how these activities, which were different from everyday school life, provided access to multiple children:

While on the trip, the abuser took the participant away from the group, then proceeded to handcuff and molest him. The abuser made a second attempt the following night, but the participant told him to "fuck off" and the abuser took someone else instead. (Participant)

(ii) Grooming by Exploiting Children's Interests

81. Some participants reported how their personal interests were used as a method of gaining access to them. Personal interests mentioned included animals, photography, swimming, sports or music.

One participant described being given responsibility for taking care of a class pet. This required him to stay back after class alone with the teacher. He described what happened during these times:

Brother [Name] attempted to fondle him, to watch him urinating and tried to forcibly kiss him on numerous occasions. *'I would feel I was being groomed.'* (Participant)

Others described their experiences:

The abuser was nine or ten years older than the participant and used his interest in photography to start a friendship with him. At night and after curfew, the abuser would enter the participant's room to share photographs, even though it was against the rules and inappropriate. (Participant)

The abuser was a music teacher at [name of school] who normalised inappropriate touching by teaching the participant how to breathe during private music lessons. (Participant)

82. One participant recalled how a Brother told him that he was a good singer, and that he wanted him to sing at a wedding. The participant was told to come to the school at midday, and that he would be driven to the church where they would be singing.

'I didn't know if I was going or what was going on. He brought me to a church and no one else was there. He got me to stand up in front of the altar. He had a suit on with his white collar. He stood halfway up the aisle and told me to sing. I thought it was something else altogether. He clapped when I finished and told me to come towards him. He was crying and he put his arms around me. He said "you are ready now". I know now that he had a plan for me obviously.' (Participant)

83. This participant went on to describe how the Brother drove them to a wooded area where the Brother exposed himself and forced the participant's head over his penis.

'I hadn't a fucking clue what was going on. I was scared, he was holding my hair firmly. He told me to kiss and suck it while praising me. I hadn't a clue about penises or ejaculation. I kept doing what he told me, he was aggressive. The next thing he ejaculated in my mouth – I nearly got sick. I looked up at his eyes and you would swear he was in heaven. You wouldn't see someone's eyes like that after taking heroin.' (Participant)

84. Some participants described the adults concerned behaving as though they were in a relationship with the participants.

The abuser adopted a friendly persona when supervising students outdoors at lunchtimes, sitting on a wall, chatting. The participant only gradually came to understand the full meaning and implications of what the abuser had done over the following one and a half years. He began to feel a *'real loathing'* towards the abuser and stopped speaking with him. The priest asked them *'Why don't you want to talk to me anymore?'*. The participant described the tone of that interaction as being like a spurned lover or boyfriend, even though he was aged 15 and the priest approximately 50 years old. *(Participant)*

The participant felt he was majorly betrayed by the abuser: *'because I thought this guy liked me [...] I thought I was special to him.'* *(Participant)*

As the abuser became friendlier with him, the abuser invited him to his flat, which was around the corner from the school. The participant was abused and raped on multiple occasions and molested on multiple occasions by the abuser at both his flat, at the school and off-site. *(Participant)*

85. A few participants described what they viewed as "very brazen" grooming behaviour; creating situations where the adult could spend an unusual amount of time with the young person, including spending nights together.

His abuser was very open with the amount of time they spent together. The relationship began out of friendship. The participant didn't understand what was happening and didn't really understand that there was anything wrong. They would go out in the car together and go to hotels; the participant had visited their abuser's house. His parents would answer the phone, it would be their abuser and the phone would be given to them. His peers were always questioning what was going on. He distanced himself from his friends and spent more and more time together. *(Participant)*

86. Some participants reported how there was a tacit understanding that they would be sexually abused if they accepted something from the person concerned, for example, borrowing money or cigarettes from them.

'He said even though we are having this chat, as regards the cigarettes, it was best if I did not tell any of the rest of the boys, because I could get into big trouble. He still took the money for the first lot of cigarettes, and he gave me some more cigarettes and sweets. It was like we had opened "the account".' *(Participant)*

It was generally viewed by the boys that a sexual relationship with a priest was *'part of the deal [of borrowing money].'* *(Participant)*

(iii) Building Trusting Relationships with Children's families to Gain Access

87. Some participants reported that the person who sexually abused them had visited the family home, had tea with their parents and built a relationship with the family. They described this as being a common practice at the time, and that priests visiting the family home would be unlikely to raise suspicion, and indeed, they may have been welcomed by the families. Participants reported situations where the person who sexually abused them befriended and socialised with parents and in some cases slept over in the family home.

The participant said the grooming behaviour continued outside of the school also. The perpetrator would drive around meeting the parents of children and call to their houses. *(Participant)*

88. Participants described their parents being flattered by the attention of members of the clergy. Participants described how priests ingratiated themselves with the family:

The participant's family thought it was great that the priest was taking him under their wing, looking after their child. *(Participant)*

The participant said that the Father groomed him before he ever touched him. The Father would drop him home, come into his house and speak with his family about how good a boy he was. His family thought that this Father was wonderful and great to be helping their son. *(Participant)*

'He drove me home after school and my now-deceased mother brought him to the front room and gave him tea. Afterwards, we went to see this place. On our way, as we walked through the fields, he dragged me into the bushes and sexually abused me. When we got to the waterfall, he sexually abused me again. The abuser let my trousers fall down and abused me with his penis.'
(Participant)

89. Participants discussed how their parents had a high degree of trust and respect for those in religious life which was used to facilitate their access to children in the home. In many cases, they described their parents and family members viewing those in religious life as occupying a moral high ground, reflecting a wider societal understanding and reverence. This view may have restricted the possibility of parents thinking that these individuals could exploit that trust.

[The person concerned] would go for dinner in the children's parents' house and get close to them, asking if he could go upstairs when the child was in bed to give them a blessing. Children were abused in their own homes in this way. *(Participant)*

The [member of a religious order] sent the boy money, and over time, befriended his parents. He lived in Dublin but visited the boy's family home regularly, would go to the pub with his parents and later that evening/night would go to the boy's room and sexually abuse him. He would praise him to his parents as being very bright and his parents were flattered and delighted to have a [member of a religious order] as a friend. *(Participant)*

'How [the abuse] started and how it continued I can't really explain it, but it just did. It was extraordinary because it was never in the boarding school. It was in my parents' house.' *(Participant)*

90. This participant added

'And when he visited my parents' house, he stayed in my room. There were two beds and he stayed there with me.' *(Participant)*

91. Some participants described that, as children, they had mixed emotions while being abused, which sometimes included positive feelings around being shown attention by an adult, or being touched in a gentle way or where there was an absence of physical violence. This was reported as a source of guilt and shame.

'At 8 or 9 years of age I didn't understand what an erection was, but this man made me feel his erection and pressed it against me. I remember the warm feeling. It intrigued me and scared me and confused me because it was not penetrative or painful and there were, at times, feelings of warmth or some sensation that I would enjoy. That made me feel very guilty at the time, and it still does now.' *(Participant)*

E. Children Disclosing Abuse

92. Participants were asked if they felt able to tell anyone about the sexual abuse they were experiencing at the time. The majority said they were not able to tell anyone, either due to shame, thinking no one would believe them or not knowing how to tell. Of those that did tell their parents, and were believed, few saw any substantial consequences for those responsible for sexually abusing them. Very few participants were aware of any criminal prosecutions at, or around, the time of the abuse. Some children who disclosed what was happening at the time were either not believed or were told not to tell anyone about the abuse.

(i) Non-Disclosure – Why Many Children Did Not Tell

93. Some participants described wanting to protect parents who had serious health issues, or who were dealing with bereavement and loss. Some described feeling that the financial commitment their parents were making by sending them to a particular school in order to maximise their career prospects meant that they couldn't speak about what was happening.

The participant deliberately didn't tell their parents, because 'I didn't want them to feel that they were neglectful in any way, because they weren't, they were two great parents.' (Participant)

The participant's feeling of guilt was intensified by his perception of having let his parents down as they were of humble backgrounds and were making sacrifices to give their son a private education. *'I saw him [the participant's father] in the evening counting the money. The more I disconnected from the school the guiltier I felt that I couldn't justify their investment in my education.'* (Participant)

94. A number of participants described how the idea that religious figures could abuse children in this way was unimaginable and this made it very difficult, leaving them feeling that there was nobody that they could tell.

'Absolutely not [didn't tell anyone]. Priests were like God's right-hand man on Earth.' (Participant)

'Who could you tell? The Church ran the country back then.' (Participant)

The participant never told anyone at the time but remarked, *'it's not what kids say, it's what kids don't say.'* Students at the school were 'brainwashed' into staying silent. The school cultivated a culture of fear. The students never had a voice and there was no one to tell. *'They knew how to show you that they had the utter power.'* (Participant)

95. Some participants described how having a religious family, and a culture of deference to representatives of the Church made it difficult or impossible to tell family members what was happening. One participant explained why he didn't tell his parents. His father was an alcoholic who died when the participant was still in his teens and his mother trusted figures of authority,

'She believed the Church, the doctors and the guards were the hierarchy. I waited until she died until I made a statement about him.' (Participant)

'I had extremely conservative Catholic parents. Looking back, I can understand that perhaps I had a fear that I wouldn't be believed.' (Participant)

96. Some participants reported that they had acknowledged what was happening to their peers at the time, but they felt that telling other adults about what was happening may not have any effect or could result in further negative consequences for them.

'You couldn't tell; that time religion was a very big thing. They had such power, they put a fear into you that you'd get another beating if you told on them.'
(Participant)

The participant recalled how they could not tell anyone given the pervading influence of the priests at the time. *'Once he got a grip of you, you were done for. I never said it to anyone. In that era, the word was the priests', and that was it.'* (Participant)

97. Other participants said that they didn't tell anyone because they felt ashamed or as though what was happening was somehow their fault.

'My father had his own problems with alcohol. He was a lovely man, and at times I did think about telling him. But then I felt a terrible sense of shame and I didn't.' (Participant)

'I did not tell anyone else because I thought this was my fault. It felt like if you did tell someone they are going to tell another person, and before you know where you are you would be in an office somewhere and your parents would be sent for.' (Participant)

(ii) Intimidation and silencing of children

98. Some participants reported that they didn't tell anyone because they had been threatened or warned not to tell and felt scared of the possible consequences if they did. They described threats such as going to hell, physical punishment, not being able to pursue a dream or profession, not being able to see their family, something bad happening to the family or being killed.

The participant spoke of his fear of consequences should he have disclosed the abuse. *'He was threatening that if you tell anyone you'll never see your parents again. The Brothers had that grip over you; you had that fear already.'*
(Participant)

'The priest told me if I told anyone my mother wouldn't go to heaven.'
(Participant)

On two other occasions, [Priest] raped the participant in [location] and would always say: *'This is our secret; you can't tell anyone.'* (Participant)

99. Participants described concealing what was happening:

'They train you to be quiet [...] people need to understand that it takes every ounce of horror in your being to go against your training and say it. The worst thing I could do in the whole world was say it.' (Participant)

Another participant described how he hid sheets under his bed:

These sheets had blood and semen stains from being raped while he was unconscious. (Participant)

100. Some participants reported being issued with death threats to not disclose what had happened before they left the school. A participant described how children were:

[...] individually threatened that if they told anyone when they left, they would be killed. (Participant)

(iii) Disclosure – When Children Told and Were Believed

101. As children, some participants did tell their parents about the abuse when it happened. In some cases, they were believed at the time and parents took action by bringing a complaint to the school, or, in some cases informing the Gardaí. In these cases, the participants said that they were not aware of any criminal justice consequences/proceedings at the time.

'The guy was forced out of the school, was anything else done? – no, but that's typical 40 years later, never mind then.' (Participant)

102. Some described how parents intervened to remove them from the school.

After the abuse was reported, the participant was moved within a day or two to the very local [school name] primary school. (Participant)

103. One participant explained how he ran away from school and called his father to pick him up:

When his father picked him up, the participant told his parents what had been happening and that he was not going back. His father drove to [school] to collect the participant's brothers, and none returned to the school. (Participant)

104. Another participant recalled feeling he had to tell after hearing about another student suffering similar abuse:

At the time, the participant did not tell anyone about this abuse. A year later, the participant learned that a school friend had attended the school trip a year later and experienced the same type of abuse. After learning that this abuse had happened to another student, the participant was prompted to tell his father and who absolutely believed the participant. (Participant)

105. Participants who told their parents were often not believed initially, but in some cases, they persisted until they were believed.

Later, when his parents finally believed him, the participant reported that his mother wrote a letter to the school, but *'nothing happened, they brushed it under the carpet.'* (Participant)

106. In some cases, following an action by the parent, the sexual abuse stopped for the participant but little else changed.

He only remembers getting on his bicycle to cycle home after the abuse, trying to understand what had happened to him. He told his mother who contacted the school. He has no memory of anything happening as a result of his mother reporting the incident. (Participant)

The participant highlighted how his parents were supportive of him when he told them about it. He left school one day after it happened and told his mother. *'I was believed by my parents. I was taken seriously. I am very lucky. A lot of former classmates didn't tell their parents, or they wouldn't have been believed.'* (Participant)

107. This participant further recounted that:

While the sexual abuse stopped for him immediately after that, the teacher continued to teach in the school and the physical abuse continued. (Participant)

108. Participants reported cases where even when parents reported the abuse to the school authorities, the school was viewed as being reluctant or slow to act.

The headmaster asked the participant's father what he would like to happen now, and the participant's father explained they wanted the abuser to be kept away from children. In reply, the headmaster explained this would take some time, but the school would move him out of school performances. The participant explained it took another year before the abuser was moved out of the school. (Participant)

109. Participants felt that in some cases action may have been taken to protect the reputation of the school, rather than to protect children from abuse.

[The participant] is not sure what her mother told the abuser, but she believes that the mother told him to stop what he was doing to her daughter. She feels they reacted quickly, because they were a fee-paying school and therefore the children that attended had somewhat influential parents. (Participant)

110. Participants reported feeling that the consequences for the child outweighed the consequences for the person who was sexually abusing them. In some cases, this involved examination by physical or mental health professionals for the participant.

After their family reported the incident to the head of the school, the participant had to undergo assessments with a psychiatrist and had to change his class, which caused him distress. *(Participant)*

111. Not all parents found out about the abuse directly from the participant. In some cases, they deduced what was happening, or were told by someone else.

When his mother learned about the practice of the boys swimming naked, she complained to the head of the primary school and the 'free swim' was then closed. *(Participant)*

There was a time when their mother spoke to the principal of the school, and the outcome was that they were not to be in locked classrooms, they were not to be alone together, and they were not to go out together. *(Participant)*

112. Some parents did not have the resources to follow through with actions after they were told:

His mother didn't believe him, but they got him checked by a doctor when his parents saw his arm bruised. His parents tried to get a solicitor but didn't have enough money. The doctor told his mother his back passage was hurt, and he had been tampered with. *(Participant)*

113. Some participants were believed by their parents but for various reasons the parents did not pursue further action.

The participant told her mother about what had happened at school when they went home that day. The participant's mother believed their story, but warned them sternly, '*Don't tell your father, or he'll kill him*'. The participant was confused. She did not understand why her mother did not want her to tell her father, but she complied with her instruction, nonetheless. *(Participant)*

The participant said they told their parents about it, and they were believed and supported, but when asked about telling anybody else what happened, they said they had not. '*You didn't report these things back then.*' *(Participant)*

114. For some participants, parents did not believe them or thought that there was exaggeration, although many subsequently believed their children at a later point.

'My mum thought he [participant's friend] was telling tall stories when he said why we didn't want to go to the pool. We told mum we didn't want to go to the pool because of the priest. It was not in her experience that a priest would abuse a minor. She dismissed it and said it was a generous offer which we would respect by joining him at the pool. So, the abuse went on longer than it should have.' (Participant)

This participant went on to explain how he told her again when he was older:

I told her again later, when I was 18, with my dad. She believed me then and was remorseful for the rest of her life that she had let me down as a parent.' (Participant)

115. Other participants had similar experiences:

He eventually told his mother and father, and they didn't believe him. The school paid for him to be examined by a doctor. When the doctor would ask him questions about what he was feeling, he didn't want to answer in front of his mother. His doctor said his issues were down to his transition between childhood and adulthood. (Participant)

Another participant explained:

When the participant informed his mother about the inappropriate behaviour, his mother did not take these incidents seriously, and explained that he was only messing around. He had a closer relationship with his mother, compared to his father. His father continued to have a close relationship with the abuser until his death. (Participant)

116. None of the participants was aware of any criminal justice processes for sexual abuse at the time, though some were charged and/or convicted later when participants or other survivors reported sexual abuse as adults. Participants described disclosures of abuse as effectively ignored or denied by schools or individual adults in those schools. One participant described telling a teacher about how another member of school staff was molesting him, and the teacher:

... beat him, as he rejected what he had said about his abuser. (Participant)

Another participant explained:

All disclosures went nowhere, and abuse was allowed to go on. The priest who he made the disclosure to avoided him after this. (Participant)

117. This participant further noted that he knew that:

... other boys' parents made complaints before, during and after the participant's abuse about their respective children. The [member of religious order] would say it was the first they had heard about it every time and would do nothing about it. *(Participant)*

Other participants described their experiences:

The participant was sent home, and he told his mother and father [about the abuse]. His father spoke to the head of school; however it was broadly denied, and the blame was put on him, rather than any responsibility taken by the school. He felt blamed by others after the experience of the abuse.

(Participant)

The participant was asked to try out for one of the school's rugby teams. On reporting to the priest in charge, he was molested/abused aggressively by him, while trying on the kit in a separate dressing room. He rebuffed the abuser and reported the matter to a priest in the college, who said not to worry, and that he would make sure it did not happen again. He was instructed to continue to go to rugby practice and when the same priest abused him again, he refused to return. *(Participant)*

F. Perceptions of a Culture of Cover-Up and Collusion

118. A majority of participants gave accounts of what they saw as various forms of cover-up by those in authority. Cover-up is generally understood to be the masking or concealing of an illegal act or situation from being made public. Collusion is understood as a secret cooperation for an illegal or dishonest purpose. It is more often used in the context of high level organised planned agreement or collusion between institutions. A small number of participants referred to incidents which they believed indicated that collusion had happened.

(i) Cover-up

119. Participants reported a range of circumstances which led them to believe that sexual abuse was covered up. These included situations where participants described how adults in schools appeared to know about, or suspect, sexual abuse and taking no action. Many participants reported that people responsible for sexually abusing children were moved to other schools or countries, or retired.

120. Many recalled the cultural factors at play at the time both within the school walls and outside. The majority of participants highlighted the influence of the Catholic church and clergy or religious orders at the time, which they described as contributing to the difficulties in reporting abuse, being believed or seeing any action taken, particularly against members of a religious order. This, for many participants, contributed to a sense of powerlessness.

121. Many participants expressed the view that other members of staff in their schools must have been aware of sexual abuse taking place, describing situations and incidents that they felt should clearly have indicated that something was wrong.

The participant did not tell anybody about what had happened to them, until a new priest in the school approached them to ask about their experience with the perpetrator, as the priest had heard about the perpetrator's actions before. They told this priest. But nothing changed for them after this talk. *(Participant)*

The participant remembers [a staff member] was standing inside the door to the left with his cap on, and that he was sniggering as the Brother led the participant inside. *(Participant)*

On one occasion, another teacher walked into the classroom while the abuse was taking place. This other teacher made no attempt to stop the abuse. *'This teacher walked into the classroom and walked back out.'* *(Participant)*

A different teacher would come out to his house to help him learn how to read and write. He was trying to help. He used to be put at the back of the class. The teacher knew what was going on. That's why he would go out to the house to help him read and write. This teacher also hit the man who abused the participant. *(Participant)*

122. Participants described in some cases, young people presenting in obvious distress but this did not appear to give rise to any questions from staff in the school.

Every Tuesday, the day of the private lessons, the participant would complain about diarrhoea to the infirmary. The staff never raised any questions about this. *(Participant)*

123. Participants reported that some staff acknowledged, albeit obliquely, that what was happening was not appropriate.

Other teachers in the school stopped speaking to the teacher in question, and another teacher pulled them both aside and said: 'Be careful'. There were many concerns in the school, the participant said that it became more about the reputation of the school than the pupil. *(Participant)*

124. Some participants described incidents where the behaviour of other members of staff made them think that they knew what was happening and were making some attempt to prevent it (although not actually addressing it):

'One evening, I was on the top floor of the primary school, waiting for a priest. A man or a woman came along and asked me what I was waiting for. When I told them, they said "Off you go". They must have known what was going on.' (Participant)

125. Some participants described what they saw as a system of sexual abuse that was facilitated by other priests in the school.

'The abuser had an office with a traffic light system on the outside, when it was locked, everyone suspected he was abusing someone.' (Participant)

One participant said that the other priests knew about [Priest] raping boys under the stage while they were preparing for school plays. The participant noted: *"I escaped that time, but the next boy didn't."* (Participant)

126. Participants described a culture of silence where sexual abuse was an "open secret" in some schools:

'The horrible thing on reflection was that it didn't stop for all my classmates even though he had been highlighted to the school. The school knew.' (Participant)

'This wasn't cloak and dagger stuff, it was done out in the open for everyone to see.' (Participant)

'I did not tell anyone what went on. I had twenty-four classmates in the class who all saw what was going on. It was part of what happened in class.' (Participant)

'He had a reputation that he liked touching boys, that he liked them sitting on his lap. It was really an open secret. That's the bizarre part. It was not even clandestine. To say the facts were hidden from the authorities that ran the school at the time beggars belief. It is not possible.' (Participant)

[I]t was so intense and very hard for anyone to understand the power wielded by the priests, and, furthermore, the fact that every one of them knew. The terror was sexual, psychological, social, emotional and mental. (Participant)

127. Participants reported that they could not understand how other staff appeared to be able to overlook what was happening, as it appeared to them as children that it would have been impossible not to suspect something. Participants reported that others may have been aware or turned a blind eye to the abuse. One participant described what happened when a fellow pupil reported abuse to a priest in the school, describing how the priest

... went ballistic and slapped him around the place, [saying] *'How dare you, that doesn't happen'*. (Participant)

Other participants reported similar inaction:

Looking back, the participant believes that other teachers knew what was going on but chose to not interfere. (Participant)

'What I found the most irritating, was that the headmaster of the college didn't do anything about this.' (Participant)

The headmaster was a priest and pretended he wasn't involved, but the participant recalls that the headmaster was caught listening at the door of a bathroom. He believed that the headmaster knew what was going on. (Participant)

The participant said that it only stopped when the nun in charge came in, but no one said anything. (Participant)

'It is impossible for me not to believe that most people working in that college were not aware that this was happening at some level. They could not have been that naïve. They could not have kept their heads in the sand. Were they complacent? Were they afraid? Were they participating in sexual abuse with no consequences? If it is the latter, then these sons of bitches need to go to jail for a long time.' (Participant)

The day the participant was abused, he also encountered his friend waiting outside the office crying, knowing what was going to happen. *'It was a well-known fact in the school that he [the principal] was an abuser. It was normal. Everyone knew this principal was abusing people. Every teacher knew what was going to happen. They were complicit as well. It was an open secret. A rite of passage. Everyone knew. At the time everything was being swept under the carpet. To this day it is still being swept under the carpet.'* (Participant)

128. Some participants reported that their school had multiple staff members involved in either carrying out or facilitating sexual abuse, and some participants expressed the view that a paedophile ring was operating. In some cases, participants described suspecting that individuals were facilitating other staff members' abuse of children.

'It was very clear there was a conspiracy going on. There were 12 priests present and nine were paedophiles. Three were involved with me together on one occasion and [also] apart.' (Participant)

The participant referred to the school being run as a paedophile ring. *'You wouldn't want to hear what else they did to me; you would wonder about the world. It was an orchestrated machine that ran for years and is still running.'* (Participant)

The participant experienced one protracted period of abuse that involved 4 separate abusers. He has recently discovered that school friends have vivid memories of him being abused in school. The participant described a system of collusion and co-operation that was orchestrated by his four abusers. (Participant)

(ii) Leadership Inaction

129. A small number of participants reported their belief that senior leadership within some religious orders who were running schools were aware of sexual abuse in their school and failed to respond appropriately. As described by participants, this included ignoring sexual abuse, facilitating abuse or participating in the abuse. Participants reported that parents or children were discouraged, dissuaded, or threatened not to take their complaints further by those in authority in the school or order:

'We were treated like sweets, handed around, that doesn't happen in an environment where they can say they knew nothing ... it's not about not being Christians, it's not that they let the side down and didn't protect children, but that they facilitated the abuse and colluded ... it's not just [name of religious order], other orders too. This was concerted, they were aware of it.' (Participant)

'I went to the principal and I told him what had happened. He asked if I was confused about the perpetrator being sympathetic to me' (Participant)

(iii) Perceptions of Collusion Relating to Sexual Abuse

130. Some participants reported that people outside the school would have been aware of sexual abuse and failed to act. This included healthcare professionals.

The Brother demanded that the participant get out of bed and strip. After being beaten, the participant had a number of marks across his body and when he went to a doctor to explain what happened, he recalled that a report was made but never followed up with by any authorities. (Participant)

131. Some participants expressed the view that there was a strong relationship between the religious orders and the Gardaí, and that some members of the force had attended the schools in question. Some said that they were aware of people being taken by the Gardaí for questioning. In these cases, participants reported that they did not think that any arrests were made. Participants reported that this made it very difficult to address what was happening.

There were women working there at the time who were suspicious of what was happening and may have called the guards. The participant asked where the priest was, and they were told by other boys that the guards took him. The priest was back the next day. *(Participant)*

He told a priest in 1978 in the school, and a detective involved with the hurling team, but nothing was done to stop the abuse. *(Participant)*

The participant recalled that people from his area knew that the teacher was a serial abuser. The abuser boarded in the same house as the local Gardaí. *'It is not clear if the local police were aware at the time, but I find it incredulous that some members of the Gardaí were unaware at the time, as very little happens in a small provincial town that they don't know.'* *(Participant)*

132. Some participants reported that they were aware of instances where a person had been caught in the act of sexual abuse by people in authority and how there were no consequences because of the influence of the Order.

He physically and sexually abused students. The participant is aware that he was caught in a hotel room by Gardaí with a ten-year-old child and was released because of where he worked. *(Participant)*

133. Other participants said they reported the abuse to the Gardaí at a later date but they had to persist before anything was done.

'Why did the Garda or DPP ignore the first information on this abuser? Why did they not prosecute?' *(Participant)*

(iv) Transfers of Staff Between Schools and Countries

134. Several of the participants reported that people were moved between schools run by the religious orders and that in many cases, this was to avoid dealing with sexual abuse. Participants reported that this was likely to have facilitated further sexual abuse, and some spoke of how, as adults, they have looked into this and discovered that people who sexually abused them as children were either moved to their school from somewhere else or were moved on to another school at a later stage.

'They just wanted to hide it away, moving priests from college to college.'
(Participant)

He said that Fr. X was moved again and again from place to place. The participant said that he made a complaint about Fr. X *'but nothing was done.'*
(Participant)

He reports how the abuser was moved around; his abuse hidden by the [name of religious order]. When he was reported for abuse by another pupil, he remained in his teaching post for the rest of the year and then sent on a sabbatical. After that he began working in [name of] hospital. (Participant)

'It's like a house of cards: they kept shuffling the decks, so you never know who was there.' (Participant)

135. Some participants reported that staff transfers sometimes occurred abruptly and without warning or explanation:

At Christmas that year the class was told Br. [Name] was sick and would not return to his post. After which it emerged, he was moved to (another town).
(Participant)

The students were not happy that the abuser just disappeared, and they were never informed. (Participant)

This participant explained that students continued to feel vulnerable as there was external access to their dormitory and they did not know where the abuser had gone.

136. Some participants reported that transfers of members of religious orders extended beyond Ireland and was therefore likely to affect children in other countries too. In some cases, participants described becoming aware after their own experience of sexual abuse that those responsible for what had happened had been moved from school to school. Participants reported their views that it was likely that other children were sexually abused in Ireland and overseas as a result.

'The fact that reports of abuse in my time were continually ignored, and the perpetrators moved away to other schools in Ireland and abroad sickens me to the core and is something the Order should never be allowed to forget, nor hide.' (Participant)

By the time [the priest] got to [name of school] it was the third time he had been abusing children, as the headmaster in [name of school] had shepherded him through three different schools. He was a serial paedophile and was still teaching and given classes to teach, despite the knowledge. (Participant)

137. In one instance the participant said they believed that a report was sent to the Department of Education, but they did not think anything was done in response:

Measann an agalláí go raibh a fhios ag an Ord é, agus sin é an fá go raibh sé ag dul ó áit go háit. Measann an agalláí comh maith go raibh tuairisc thabharte isteach ag an Roinn faoi, agus gur lig an Roinn leis an fear seo leanúint ar adhaigh ag obair, ach é ag bogadh ó áit go háit. Dhein daoine ó trí scoileanna gearrán mar gheall air, ach tá seans nár tháinig na daoine ar fad go dtí [an Ord] chun cúntas a thabhairt faoin dhrochúsáid ghnéasach a bhí deanta ag an fear seo. (*Rannpháirtí*)

The participant thinks that the Order knew, and that is why the Brother was moved from place to place. He also thinks that reports were made to the Department, and that they allowed this person to continue working in different schools. There were complaints from children at least three schools where the Brother worked; it is likely that there were more people who were affected but that they never came forward to report what had happened to them.

(*Participant*)

G. Cultural Issues and Sexual Abuse

138. Most participants describing the culture in their school as a contributing factor in the sexual abuse they experienced. Two main themes were identified: the influential position of the Catholic Church, and in some schools, a culture of ‘hyper-masculinity’ and bullying.

(i) Influential position of the Catholic Church

139. Many participants made reference to the impact of attending school at a time in Ireland’s history when the Catholic Church had a pervasive influence across all aspects of people’s lives.

‘It was at a time in the late 60s, early 70s. It was a completely different Ireland to the Ireland we live in now. I lived in a staunchly Catholic family’ (*Participant*)

140. Participants described the influence of the Church as ‘omnipresent’, influencing culture, values and social mores. Some participants reported having family members in the clergy or religious orders which was often seen as a source of pride for the family. Many described how parents adhered to Church teaching and instilled a deep fear in their children of contravening representatives of the Church.

‘You had to respect teachers, your peers, and those with responsibility. You grew up with the church.’ (*Participant*)

'I think you just accepted it (the abuse) because of the stupid Church.'
(Participant)

141. Other participants described feeling that the intertwining of the Church and State resulted in a sense that the Church controlled every aspect of their lives. This left them feeling as though there was no way that they could question the Church, or the behaviour of its representatives, and some spoke of how this influenced their parents' ability to challenge religious orders:

He noted that *'The children of the faithful were vulnerable,'* as the strong connection to religion in the family home made it inconceivable that his story could be easily heard. (Participant)

142. Participants described having a sense that representatives of the Catholic Church could act with impunity, and spoke of the impact this had on society at large:

He describes the churches' hold on Irish people as *'from the cradle to the grave'* and that this *'made slaves out of the Irish people.'* (Participant)

'There was a big sense of being at the centre of all this religious nationalism. A look outside the gates showed the clergy pretty much ran all the culture norms. It was a theocracy of sorts. Priests held a lot of power. I saw the college as an indoctrination camp.' (Participant)

143. Participants said that sin was a topic frequently talked about and confessing sins was an important ritual in people's lives, which contributed to feelings of guilt and shame. The ritual of Confession was identified by some participants as presenting particular risk for children, as it was done at that time behind closed doors and what was said was supposed to be a secret. Some participants spoke of the influence of teachings about sin on them as children:

'In holy Catholic Ireland, I didn't know the difference between a sin and a crime. He burdened me with shame, guilt and responsibility. I couldn't tell anyone.' (Participant)

144. Another participant explained his profound shock and fear on his first day at a particular school at the age of six, when a nun told him about sin:

'Venal, mortal etc. and that because I wasn't a good boy my soul would burn in hell.' (Participant)

145. Participants also commented on the influence of religion in all aspects of Irish life, including schools, hospitals, elder care, industrial schools, adoptions and mother and baby homes.

(ii) Hyper-masculinity and Bullying

146. Some participants described a school culture of exaggerated masculinity, which was characterised by frequent bullying and emotional and physical abuse between staff and students. Participants described how such behaviour was encouraged between students. Some described what they saw as a perverse adult lens applied to sexual abuse, whereby priests were suggesting that it was the young people in their care who were responsible for 'leading them astray'.

The participant recalled how, while witnessing a priest raping a friend, another priest walked in and out of the scene of the rape and proceeded to go back to the boy's classroom and referred to [the boy who was raped] as: '*A rent boy who was tempting the teachers.*' (Participant)

147. Participants described how certain traits and interests were praised and others ridiculed, with those who did not conform to exaggeratedly masculine ideals subjected to bullying. Some reported that this made them targets for physical and sexual abuse. Participants reported being pressured to participate in activities such as rugby and football, and how non-participation could result in being singled out for physical or sexual abuse by teachers or bullying by other students.
148. Some participants described being bullied by other students because they were 'favoured' or were being sexually abused by priests or other members of staff. One described how boys who were perceived to be favoured by the priests were badly bullied. He went on to describe how:

There was lots of homophobic bullying in the school and the priests encouraged it and would regularly use language calling people '*girls*' if they got answers wrong. (Participant)

149. A number of participants spoke about the compound effect of being a victim of sexual abuse and being isolated by your peers as a result.

The participant highlighted how other children in his class were similarly affected and as a group were labelled '[Name]'s benders' after the abuser. He found the abuse and bullying from his fellow classmates just as damaging as the abuse. (Participant)

One thing that is clear in the participant's mind is the ridicule from his fellow peers. He felt that everyone was laughing about what happened. (Participant)

150. Another participant spoke of the atmosphere in their school:

The participant described a highly sexualised atmosphere in the school. He lost his innocence at an early age. (Participant)

151. Many participants reported that bullying also included physical violence and social exclusion.

'I was small in school and found school quite frightening. We were always a bit on edge. I spent most of my time being nervous and afraid at school. Guys would go around thumping people in the playground.' (Participant)

'I went from being a boy with many friends to becoming a boy on the outside. I was targeted, and bullied by fellow pupils and the reality was I did not defend myself or attempt to stop it, as I did not feel pain from the bullying. I was worthless, a piece of rubbish blowing on the footpath.' (Participant)

152. Other participants described how bullying was a pervasive aspect of the culture.

'Everybody was bullied by someone: other students, teachers, priests.' (Participant)

153. Another participant described the physical impact of ongoing bullying by staff and other students.

The participant was *"in a daze"* for the first one and a half years at the school, experiencing significant physical bullying by older pupils, frequent nocturnal enuresis and an episode of encopresis. The younger priest in charge of the participant's dormitory was aware when the toileting issues began. (Participant)

H. Violence in Schools

154. Violence as a part of the culture of some schools was directly referenced by many participants and around half of all participants provided accounts of violence and sadistic behaviour by staff. These accounts of the pervasiveness of violence against children extended well beyond what might have been understood to be acceptable corporal punishment at the time. Corporal punishment was banned in schools in Ireland in 1982.³
155. Whilst the Terms of Reference for the Scoping Inquiry are confined to sexual abuse, participants noted the effect of cultures of violence on their ability to reveal what was happening to them, and adding to the stress and trauma that they experienced as a result of sexual abuse. The use of physical violence was reported by participants as further evidence of the power and control of those running the school, and these factors are important in understanding the overall picture of sexual abuse in that context.

3 Department of Education Circulars 5/82 and 9/82

(i) Violence and School Culture

156. Participants described the nature of the violence as having a specific character. Participants used language such as ‘savagery’; ‘reign of terror’; and ‘hell’ to describe the worlds they lived in at the time.

The participant stressed that himself and other children lived in a state of fear as they were exposed to physical and psychological abuse at the school daily. *(Participant)*

‘There was a terrible atmosphere of fear. If anyone stepped out of line, they were beaten.’ (Participant)

The participant used the word ‘savagery’ to describe the behaviour of the teachers. *(Participant)*

There was an overriding atmosphere of grotesque violence. Boys had their heads smashed against stone walls and granite lintels. One such boy who experienced this was dead by end of his 20s after becoming addicted to heroin. *(Participant)*

‘That school is called Hell.’ (Participant)

157. Participants described the pervasive and arbitrary nature of physical punishment and violence in some schools. Many spoke about how witnessing violence against their classmates was a daily occurrence. One spoke of how, in a dormitory with dozens of pupils:

... a priest used to come in the middle of the night, pull back the covers, and hit boys with a leather strap. *(Participant)*

158. A participant spoke of how students who came from outside Ireland responded to violence:

Discipline in the school was harsh, violent and used to coerce, control and as retribution. Students would be beaten with sticks and belts. Once there were two American students at the school and they said they wouldn’t tolerate being beaten as they didn’t have that culture in the US. They stood up to the priest and threw his beating-stick out over railings, they looked at him and said no. It was the first time the participant saw someone stand up to abuse, which was seen as only possible because they grew up outside the culture of fear and intimidation. *(Participant)*

159. Some participants described the ritual of new staff being introduced to this culture.
- 'When a new teacher came to the school, they were told to go to the store in town and buy from a selection of canes for sale. Most teachers complied and bought a cane and brought it to use in school, and by God they used it. There were only a few decent teachers who didn't use the cane. They would break the cane and then just go and get another one.'* (Participant)
160. Many participants described boarding school as a particularly dangerous place from which there was no respite or as a place where they felt trapped.
- 'If something happens at school, what use are parents in a situation like that? You don't go home at the end of the day, it's a bit like being in a prison.'* (Participant)
161. One participant described his panic when his parents considered sending him into the boarding school where he was attended as a day pupil:
- 'I knew I couldn't say why, but I could not go into the school as a boarder. I knew if that happened, I would have no escape and I'd be abused a lot more and [Name] would have free reign over me. I was very frightened of that.'* (Participant)

(ii) Punishment and Humiliation in Schools

162. Participants described being verbally shamed by teachers and reported receiving humiliating and painful punishments. They reported that there may have been many 'reasons' that might have precipitated being publicly humiliated by a teacher, for example: for asking questions, for not knowing the answer to questions, for wearing clothes that were not new, or for not excelling in sports, as well as many others.
- 'If you asked a question, you'd get ridiculed and told "You're stupid", I suffered a lot academically and psychologically.'* (Participant)
- The participant was really humiliated by a teacher on a few occasions in front of the class. His history teacher repeatedly humiliated him for not having a brand-new uniform. He would have his brother's old uniform. (Participant)
163. Some participants described being punished and humiliated for circumstances beyond their control.
- The participant described feeling dread going to school with his broken hand.
- 'Every morning, he held my hand in the air. "Did you do your homework?" Every morning, having my breakfast, I was thinking about what was ahead of me with the hand.'* (Participant)

164. Participants described being publicly humiliated by nuns or priests in primary schools. Some participants said they were made to strip naked or made to wear embarrassing underwear, whereupon other classmates were encouraged to ridicule and shame them.

One other incident that the participant recalled, was a time when he asked if he could use the bathroom. He was refused and as a result he soiled his pants. *(Participant)*

This participant went on to describe being made to stand in underwear with other pupils encouraged to ridicule and humiliate him. He added:

Furthermore, there were regular underwear checks for poo stains, standing in line. He was always treated as a 'bad' child, and was bullied by others, which was encouraged by the nuns. *(Participant)*

Another participant described how:

'I was made to sit naked in class for an entire day after wetting myself. I was frequently hit with the ruler. This started at three years old to five.' *(Participant)*

165. Participants reported cruel punishments such as being forced to eat their own vomit or being locked in enclosed spaces for long periods of time.

'If you didn't like anything they'd force feed you and make you eat it, even the sick. They used to hit us with wooden spoons.' *(Participant)*

(iii) Descriptions of Violent Assault of Children

166. Some participants reported incidents where they believed that teachers appeared to be gaining sexual gratification while beating other children in the class.

The participant recalled 'priests who were visibly erect while giving a beating to a child.' *(Participant)*

167. Many participants reported specific accounts of physical assault by teachers, heads of their schools and other members of staff. Participants described being slapped across the hands and face, being punched, kicked and beaten. They discussed their experience of serious injuries including broken bones, head injuries and damage to internal organs. They described being hit with rulers, bats, hurleys and various forms of leather straps which were often reinforced with studs or metal, including old pennies. Some participants reported being restrained, or their hands were pinned as they were hit with implements or pinned against surfaces as they were beaten.

168. Participants also described being punched with force in the stomach, or kicked by members of religious orders, spontaneously, as they walked down corridors. Other recollections included being hit or beaten for no reason and for reasons such as coming second in a competition, attempting to intervene or protect other students from punishment, incomplete homework and resisting sexual assault. Some participants referenced being beaten as a way of distracting other people's attention from sexual abuse:

'The head Brother apologised to me for having to use the strap on me in the classroom as he was concerned that the other pupils may discover our "special relationship" if he didn't use it.' (Participant)

169. Some participants reported resisting sexual or physical assaults, which they said generally resulted in an escalation of violence against them, sometimes causing serious harm.

'He beat the be-Jaysus out of me. The biffer⁴ went across my face and left a mark. I paid the price for being defiant.' (Participant)

The participant spent several years facing a rapist daily, even hourly. Eventually, the participant stood up to the abuse in class and thumped him. This resulted in [Name] bashing the participant's head off the desk to the point of concussion. (Participant)

The participant recalls being 'hammered' on several occasions and described himself as being a bit of a rebel. He was punished one night by being sent to sleep in a shed with sick calves, as it was a freezing night he moved the infra-red lamp to heat himself and was punished for this the following day. (Participant)

170. Other participants reported seeing other students being seriously harmed, concussed or sustaining broken bones while being physically abused.

'He was a man who was very, very dangerous. He beat another child to a pulp, and three of us had to carry him to a doctor.' (Participant)

171. This participant further explained:

'He absolutely annihilated me every day I walked into that school. He beat me, he fractured my skull ... He would degrade you to nothing. He would pull out your hairs. They used these rubber belts with lead inside them so it wouldn't mark you, they would get you with their knuckles in your ribs. They would get you any way they could.' (Participant)

4 A biffer is a term used for a handmade leather strap with metal inserts.

'One teacher broke a student's arm. It was a boarding school and lots of kids were abandoned there.' (Participant)

'He was a frightening, frightening man. I saw him beating, not disciplining, beating a kid around the class. He would just go nuts. We were ten, eleven-year-old kids and I was absolutely in fear of this man.' (Participant)

'I saw a young fella being kicked on the ground by a Brother; he caught him, flung him on the ground, and kicked him on the ground, raining kicks into him. The physical brutality was regular, and that scarred a lot of people too. And obviously was far more prevalent (than sexual abuse).' (Participant)

172. Some participants described the casual and spontaneous nature of violence which could erupt for no reason, and which left them feeling terrorised.

On the third day of starting at the school, a priest came out of nowhere and punched the participant in the stomach which caused an asthma attack. He collapsed to the ground and gasped for air, not knowing what he'd done wrong. He was terrified. (Participant)

173. Another participant recounted a similar experience where he was asked to stand up and was brought out of a room to a corridor outside by a staff member.

The [member of the religious order] told the participant to look up into his eyes, then hit the participant's face and smashed it into the wall. (Participant)

174. Many participants reported experiencing or witnessing sustained violence in their schools by members of staff. Participants described the details of specific individuals' particular methods.

[The Priest] used to behave like a shot-putter or a javelin thrower, taking two strides back to maximise the impact of the blows. *'Some of these beatings were so severe that they split my hands open, and I wasn't even taken to the Infirmary.'* (Participant)

175. Participants reported that even when parents complained to the school, the beatings continued or escalated.

His mother went to school to confront the perpetrator, but the abuse only got worse. *'When she left, the perpetrator said that I will never forget him. I can tell you I got some fucking beatings.'* (Participant)

176. Because of the pervasive threat of violence in some schools, participants described developing various strategies to avoid beatings when they could, such as urinating in jars at night so they wouldn't have to leave their dorm or cubicle.

You were not allowed to make any noise once you were in your dorm. If you needed to get up to go to the toilet you were beaten. What the pupils in the dorm used to do to save themselves from the beatings was they would keep a coffee jar next to their beds and use these to go to the toilet. *(Participant)*

177. Others spoke about the enduring and lasting impact it had on them.

'He was ruthless and calculated in everything he did. He was cruel and sadistic. I wasn't in the 'high end' of the abuse, but it was still horrific. It shapes you forever. From that day on, I locked it away. It hasn't been spoken about since.' *(Participant)*

I. Chapter Summary

178. This chapter outlined participants' descriptions of their experience of sexual abuse in day and boarding schools run by religious orders and the often violent cultures in which those experiences occurred. The vivid and harrowing descriptions of what participants said they experienced as children indicates the extent and nature of sexual abuse in some schools and suggests that a climate of fear prevailed in many cases.
179. Participants described sexual abuse taking place in classrooms, dormitories, offices, corridors, swimming pools, sports facilities and showers, amongst other locations. In many cases, participants described these experiences as occurring in front of other children, both overtly and in a concealed manner. Participants reported sexual abuse occurring both on and off school grounds, on school trips and sometimes in the participants' own family homes. In some cases, participants described the behaviour of those engaged in sexual abuse as 'brazen'.
180. Participants described several forms of abuse, including groping, digital penetration, oral, anal and vaginal rape. Some participants reported incidences of multiple children being sexually abused at the same time. In many cases participants reported that they had experienced ongoing sexual abuse of different forms. Some reported being sexually abused by more than one person. Across the whole range of accounts given in the Survivor Engagement process, participants described sexual abuse occurring in all corners of some schools and in all aspects of school life. They explained that for many, as children, nowhere was safe and this was particularly the case for those in boarding schools.
181. Many participants described being weighed down by shame and guilt and the mistaken feeling that what was happening was somehow their fault. Their experience was the feeling that the burden of sexual abuse was theirs to carry. Several described feeling in some way responsible for what was done to them, a feeling which persisted for many years for some participants.

182. Many participants said that, as children, they felt they could not tell what was happening to them. Participants described multiple factors that prevented them from disclosing what was happening, including threats of, and actual, violence, fear of the power of the Church and its representatives, coercion and a feeling that they would not be believed, whether by parents or others. Participants spoke of the influence of religion in society and their feeling that there was no way to break free from sexual abuse in a situation where those responsible had power and control, directly in their lives and in society more generally.
183. Participants described many strategies used to gain access to children, and how they felt that in some instances, the individual circumstances of a particular child resulted in their being singled out. Grooming of children was reported by many participants. They spoke of teachers and staff members who inveigled their way into children's lives by involving themselves in extracurricular activities, exploiting children's interests and taking them on trips and overnight excursions. Several spoke of how relationships were built with children's families to gain access to the child for the purposes of sexual abuse. Parents were often flattered and grateful for the attention their child or family was receiving, and this was described as making it even more difficult for children in those circumstances to tell anyone what was happening.
184. Many participants said that they did not tell anyone about the abuse, as they did not understand what was happening, and did not have the words with which to tell someone. Some participants said they did tell their parents and were believed. In many cases parents tried to intervene, usually through direct contact with the school authorities. However, participants were unable to identify any situation in which they were aware of any real consequences, at the time, for the person who abused them. Some referred to convictions in later years.
185. Participants described their view that the existence of sexual abuse and predatory behaviour was common knowledge among students and by at least some of the staff in particular schools. Participants described a general lack of response from school leaders to reports of sexual abuse except for the movement of those responsible from one school or institution to another.
186. Participants described a culture of exaggerated masculinity, physical violence and bullying in some schools. Participants spoke of being afraid every day that they went to school and of how physical and sexual abuse often coincided.
187. This chapter has provided an overview of the main themes arising directly from participants' accounts of what happened to them as children in day and boarding schools run by religious orders. Participants described appalling sexual abuse of children in their schools and the profound fear that they experienced. The next chapter reports what participants said about the impact of these devastating experiences on their childhood and adolescence.

Chapter 5:

Participant Accounts of the Impact of Sexual Abuse on their Childhood and Adolescence

Content Warning: This chapter contains details of participants' descriptions of sexual abuse, physical violence and reference to suicide. It may be distressing to read.

A. Introduction

- (i) Specific Effects on Survivors of Child Sexual Abuse

B. Loss of Childhood and Impact on Sense of Self

- (i) An Abrupt End to Childhood
- (ii) The Sense of Self

C. The Impact of Shame on Childhood and Adolescence

- (i) Self-Esteem/Confidence
- (ii) Social Interaction
- (iii) Social Withdrawal and Isolation
- (iv) Loss of Trust in Others
- (v) Relationships with Parents
- (vi) Sexual Development

D. Impact on School Life

- (i) Learning and Educational Outcomes
- (ii) Strategies to Avoid Sexual Abuse

E. Impact on Mental and Physical Health

- (i) Significant and Lasting Effect on Mental Health
- (ii) Suicidal Ideation and Suicide Attempts
- (iii) Physical Health Impacts

F. Chapter Summary

A. Introduction

1. This chapter of the report outlines how participants described the impact of sexual abuse on their childhood up to the age of 18, in how they felt about themselves; how they engaged with school and extracurricular activities; their relationships with family and friends; and their mental health.
2. In this chapter, the Scoping Inquiry is reporting the information provided by 149 participants during the course of their interviews with trauma-informed facilitators or in written submissions.

(i) Specific Effects on Survivors of Child Sexual Abuse

3. Participants described a range of impacts including many symptoms of stress and trauma commonly seen in people who have experienced child sexual abuse (CSA), and which bring particular difficulties for survivors. One established framework for examining impact of CSA, the Traumagenic Dynamics Model¹, explains the various ways in which children can be affected. This framework suggests four specific dynamics that contribute to the damaging effects of child sexual abuse:
 - **Traumatic Sexualization:** This refers to the distortion of the child's sexual development as a result of the abuse. It involves premature or inappropriate exposure to sexual behaviours, knowledge, or experiences which can confuse and disrupt the child's understanding of healthy sexuality.
 - **Stigmatisation:** Stigmatisation occurs when the child feels shame, guilt, or self-blame as a result of sexual abuse. The child may internalize negative beliefs about themselves, feeling responsible for the abuse or believe they are somehow flawed or unworthy, sometimes called 'damaged goods' syndrome.
 - **Betrayal:** Betrayal refers to the violation of trust that occurs when someone in a position of authority, or a trusted caregiver, abuses a child. The child may have relied on the abuser for care, protection, and guidance, and the betrayal of that trust can have profound psychological effects.
 - **Powerlessness:** Powerlessness refers to the child's sense of helplessness and lack of control during the abuse. The child is often unable to stop or escape the abusive situation, leading to feelings of powerlessness, fear, and vulnerability.

1 Finkelhor, D., & Browne, A, The Traumatic Impact of Child Sexual Abuse: A Conceptualization. *American Journal of Orthopsychiatry*, 1985, 55(4), 530-541.

4. These four traumatic dynamics interact and reinforce each other, creating a cumulative or 'snowball' effect of psychological and emotional harm. These kinds of effects were described by participants who spoke to the Survivor Engagement team, where one problematic impact would lead to another, which in turn set off further problems, all of which were described as causing ongoing distress. For example: fear of going to class affected school performance, which in turn affected relationships with parents, who had often made sacrifices to send them to particular schools. This in turn caused a sense of shame and guilt, which then caused isolation and loneliness, damaging identity of self and impacting relationships with peers.
5. Both male and female survivors of child sexual abuse described their experiences during the Survivor Engagement process, with the overwhelming majority being male. Research indicates that the impact of child sexual abuse on boys and girls differs in some ways. For many boys and men, their self-identity and concept of masculinity can be challenged by sexual abuse, and this can lead to self-doubts about many issues, including sexuality. The effects described by participants in this chapter are perfectly in keeping with the normal reactions that children have to abnormal and traumatic experiences.
6. One of the most common impacts of sexual abuse described by participants was the premature end of their childhood. Many said that their sense of safety, happiness and trust in the world was replaced by chronic fear and sadness. Participants spoke of adverse effects on their identity and development at a formative age, describing how shock and fear led to hypervigilance. Participants described deep feelings of shame, decimated self-esteem and a sense that they were somehow responsible for what was happening.
7. Secrecy and shame were described as having a significant impact on their relationships with their friends, parents and others. Many participants said they hid their abuse from their parents. Others described feeling abandoned and angry if they did say something, but parents were unable to protect them. Participants reported difficulties in their relationship with their parents, as reduced academic attainment and school avoidance was, in some cases, perceived as laziness or rebellious behaviour. Many participants said that their experience of sexual abuse affected how they related to others, and they spoke of isolating themselves or avoiding friendships or close relationships. Participants noted that trusting other adults became very difficult.
8. Some participants recounted how their own developing sexuality was damaged, because they associated sex with disgust, discomfort and guilt, and how in their teens and early adulthood this often resulted in the avoidance of age-appropriate relationships.

9. A majority of participants reported that their experience of sexual abuse had an immediate, adverse impact on their interest and engagement in school, on their ability to learn, and consequently on their overall academic performance. They described how school changed, for many overnight, from being a place they looked forward to and enjoyed, to one where they felt trapped and terrified.
10. Most participants described significant impacts on their mental health in their childhood and youth, beginning immediately or shortly after experiencing sexual abuse. In most cases, these mental health issues followed participants into adulthood. Use of alcohol or drugs to numb painful feelings was cited by many participants as a coping strategy. Many spoke of their own suicidal ideation or attempts at suicide, and referred to friends or peers whom they suspected had died by suicide as a result of sexual abuse.
11. Several participants described experiencing physical health difficulties that were direct physical consequences of the abuse, including physical damage, vascular damage and deafness or tinnitus due to being beaten.
12. It is important to note that not all participants chose or were able to speak to us about the impact of sexual abuse on their childhood. In keeping with the Survivor Engagement process's trauma-informed approach, facilitators may have gently prompted on some overall themes, but participants were not asked specific questions about the impact of sexual abuse on their childhood. Not all participants spoke of the issues outlined below, but the accounts documented here reflect the most common effects experienced and shared by participants.
13. The sections which follow prioritise the voices of participants and their descriptions of the impact of sexual abuse on their lives, reflecting what participants said to the team. As outlined elsewhere, both direct verbatim quotes (in italics) and summary information from participants' interview notes (indented) are used. The quotes and extracts from interview notes are anonymised and care has been taken to ensure that, whilst individual participants may recognise their own voices, we have not included names or details that could potentially identify the participant or any other person.

B. Loss of Childhood and Impact on Sense of Self

14. Almost all participants shared their experience of two far-reaching effects of sexual abuse – the loss of their childhood, almost overnight, and the damage done to their personal development.

(i) An Abrupt End to Childhood

15. Most participants reported a negative impact on their sense of self, with an adverse effect on their developing identity during childhood and early youth. Participants explained how the disruption hindered their emotional development, and, for many, led to insecurity, low self-esteem and lack of self-confidence.
16. Participants described how their experience of abuse abruptly destroyed their perception of the world as a relatively safe place. Some recalled an immediate end to their unselfconscious experience of childhood, which can otherwise be understood as a time of relatively carefree innocence, optimism, and curiosity. Participants described experiencing a drastic change in their life:

'We were singing and laughing little kids, then that's the day my childhood ended.' (Participant)

'It robbed me of my childhood, the joy of things was taken. It was taken twice: when my mother died and then by him. It was taken off me completely, there was no way back. I used to enjoy kicking around a ball and messing about.' (Participant 78)

'At 12 years of age, my childhood was gone out the door.' (Participant)

'My childhood ended as fast as it began. The physical, but emotional, mental pain of the first rape is as real today as then. I withdrew into myself, I became emotionally empty. I was screaming on the inside with anger and fear, but no one could hear or see me.' (Participant)

17. Participants recounted a shift in understanding of the world, from feeling it to be a safe place to one where they felt afraid and unsafe, and this impacted how participants navigated their daily life.

'I lost my naïve view of the world; it became a lot greyer – the world became a dangerous place to be.' (Participant)

'I was one minute living a great childhood then this was snatched from me. My days became, what I can say, a dark cloudy grey place with no colour, life or growth.' (Participant)

(ii) The Sense of Self

18. Some participants described how their experience of sexual abuse impacted their concept of self and obstructed development of their identity during the formative years of childhood and early puberty. Participants described how this often left them feeling that they did not know who they were; or that they were pretending to be someone they were not. One man said that he reinvented a new version of himself after each incident of abuse.

'I invented a persona when I was a child and I still use this persona. I don't show that I am fragile.' (Participant)

'I changed my whole personality at the time to deal and cope with it. You become hard. You become a different person to deal with it. Otherwise, it subsumes you. You're not yourself.' (Participant)

19. Participants described negative impacts on self-confidence, self-esteem and ability to engage with friends throughout their youth. Additionally, many reported that their perception of normal and healthy boundaries was disturbed.

'I don't think I was free to make friends because I was so focused on needing to survive, and the best way to do this was to keep to myself.' (Participant)

20. Other participants explained how their experience of sexual abuse stopped their emotional development entirely. They discussed how this kept them locked into childlike ways of relating, unable to mature appropriately. One participant said that it had ruined his whole life and he had never progressed past childhood. Another explained that her emotional development was stopped at a very young age, and she experienced the emotional responses of a young child when encountering challenging situations later in life.

C. The Impact of Shame on Childhood and Adolescence

21. Reports of feelings of shame formed a consistent theme in participants' descriptions of the emotional impact of sexual abuse. Many reported feeling disgusted by what happened and, in many cases, felt in some way responsible for the sexual abuse they suffered. For many, this led to a significant level of self-blame, self-loathing and deep feelings of worthlessness.

(i) Self-Esteem/Confidence

22. Intense shame was described by many participants as an emotional experience which was closely connected to a fear of being exposed as 'worthless' or inherently 'bad', and to feelings of self-disgust. Many participants explained that they were made to feel responsible for what happened:

'I didn't know how I got myself into this mess and I didn't know how I could get out of it.' (Participant).

'I didn't know what to do. I was afraid because he told me this was our secret.' (Participant)

'I was angry at him for what he was doing and for making me feel so small and vulnerable. But I was angry with myself for allowing it to happen.' (Participant)

23. Other participants said that they had believed as children that they were somehow responsible for what happened because they had dressed in a certain way or done something to attract attention.

As a child and throughout the abuse, the participant didn't understand what sexual abuse was and felt as if it was his own fault for wearing short trousers.
(Participant)

24. Others described feeling shame about what had happened, feeling as though they were in some way guilty. Participants described feelings of helplessness and hopelessness, as well as impaired trust, self-blame, self-loathing and a deep belief that there was something innately wrong with them. A participant described the sense of shame:

'The next morning, I woke up totally ashamed of myself. I could no longer trust myself to do the right thing.' (Participant)

25. He went on to explain.

'It takes very little to shame a child for the rest of its life. I had to wait 52 years to finally be able to forgive and love myself.' (Participant)

26. Other participants expressed similar feelings:

'You believe that there's something wrong with you, something dirty about you.' (Participant)

'You didn't develop with any sort of confidence [...] You were made to feel useless all the time.' (Participant)

(ii) Social Interaction

27. Many participants described how their relationships with others were significantly negatively impacted due to insecurity, lack of trust in others and withdrawing from social life in order to hide what was happening.

'I was still very separate from my peers. I never went to a disco. I didn't have any friends.' (Participant)

28. Some said that, in order to feel liked and accepted, they developed a habit of people-pleasing.

'I've never had good friends. I was a yes person; I spent 44 years doing whatever people wanted.' (Participant)

'I would be a people-pleaser in that I would find that I would try to let people hear what they want to hear as opposed to what I might wish to express myself.' (Participant)

29. Others spoke about how this method of coping meant they saw it as their role to bear maltreatment from others.

'The whole thing was I just wanted to be loved and I would do anything to be loved and would allow people to treat me horrendously because I didn't know any better. I was like a narcissist's dream because all I wanted to do is fix things and make people love me because I felt so low, I felt so shit, I felt so worthless.' (Participant)

'It left me damaged psychologically in terms of my self-esteem. And that's something that I have never got over, even to this day' (Participant)

30. A number of participants described how their destroyed self-esteem and self-confidence impacted on how they behaved in groups, where they tended to avoid conflicts, neglecting their own needs and opinions.

'One of the negatives for me from this was that I tended to overemphasise/overinvest in someone else's point of view and place myself far down in the pecking order.' (Participant)

(iii) Social Withdrawal and Isolation

31. Many participants described how shame led to them withdrawing from the world in general, and from other people in particular. Often this meant withdrawing from friends and ceasing to socialise, preferring to stay at home by themselves as much as possible. One man described how, on Sundays, he would stay at home when the family went for a drive and ice-cream. Another said he became increasingly introverted and found it hard to deal with reality.

'... went from a person who was outgoing to a person who wouldn't go out the door. It was literally, lock yourself into the living room and stay in front of the TV for the evening.' (Participant)

'I just wanted to stay in my room away from all humans.' (Participant)

The participant grew much more introverted as a result of the abuse: *'I found it hard to meet and greet people ... I'd back away'*. (Participant)

32. Participants described feeling increasingly separate and different from their peers, and how self-isolation became a means of protecting themselves. Participants spoke of how the determination to hide what was happening made close relationships difficult.

33. One account described how the participant found it difficult to be in any kind of one-to-one situation with people and found it difficult to talk about himself:

'I became very secretive. I was concealing so much through that time.' (Participant)

34. Another said that as a young person, he struggled to maintain friendships, during and after his experience of sexual abuse:

'I found it difficult to make friends because I did not want anyone else to find out my shameful secret.' (Participant)

Another participant described how:

As a young person he struggled to maintain friendships, during and after the abuse. He spoke of feeling lonely, isolated, and confused. (Participant)

(iv) Loss of Trust in Others

35. Participants said that their reduced trust impacted them in relationships and in social situations. This was described as particularly acute in relation to adults, who no longer represented consistency, reliability or safety. Participants said they became afraid to make themselves vulnerable to the power and influence of other people, when this could be used so harmfully. Many shied away from relationships in order to keep themselves safe.

'You didn't make friends at boarding school because that might make you vulnerable.' (Participant)

36. One participant spoke of difficulty connecting with other students and the extreme loneliness that he experienced as he disconnected from what was happening around him, describing how he frequently:

'Just sat gazing into the abyss.' (Participant).

37. Another spoke of isolation:

The participant explained how he kept a distance from other students and was nervous around other people, because he preferred to remain isolated from others and he was trying to keep himself safe and protected. (Participant)

38. Another participant echoed the feeling of needing to stay away from people and described how he was:

'... living in fear the whole time.' (Participant)

39. Participants reported that the desire to keep a safe distance was particularly focused on non-parental adults, such as teachers and priests, and others in positions of authority in school, as participants felt they could no longer be trusted.

40. Another participant described a continual fear of being abused and a deep suspicion of adults, as he was continually wondering if they were sexual abusers. As such he found it very difficult to trust adults:

'Maybe they are not all they appear to be on the surface.' (Participant)

(v) Relationships with Parents

41. Some participants spoke about the adverse impact of sexual abuse on their relationship with their parents throughout their childhood. In some cases, they described the relationship fracturing as parents perceived the child's altered behaviour as carelessness or rebellion. School avoidance or academic failure caused upset for parents and in many cases, this further damaged the relationship.

The participant was being punished at home by his father and also in school by the Brothers for not doing well in his grades. This had a huge impact on his relationship with his father. No one asked what had happened to the bright, enthusiastic learner who had done so well the year before. (Participant)

The participant felt that he had disappointed his mother by leaving school early and regretted this. *'My mother was so disappointed, really disappointed.'* (Participant)

The participant dropped out of [name of school], this had an impact on his relationship with his mother as she felt he had failed and walked away. (Participant)

42. Some participants described how they did not want to attend their parents' choice of school, but were sent anyway and this impacted on their relationships:

'I became estranged from my mother because I blamed her for sending me to that school. I didn't want to go there.' (Participant)

43. In other cases, the parent/child relationship was described as being impacted by the child blaming the parents for not protecting them from the abuse. Participants described how in some cases, this was because parents did not see the signs of sexual abuse:

He called him 'lazy', and 'a liar' and was very violent towards him and their relationship changed dramatically [after he disclosed the abuse to his father]. (Participant)

44. Some participants described a sense of disconnection or estrangement from parents and families. This was described as being a result of the enforced secrecy about what was happening.

'After [the abuse], I was disconnected from family, and I still am today.' (Participant)

45. One participant described how:

The impact of being warned not to tell his parents changed the participant's relationship with them, especially his father. From that point onwards, there was a line drawn between the participant and his parents in terms of secrecy around his life at boarding school. *(Participant)*

46. Another participant described how he worked from an early age and tried to avoid his parents and other people. He described acting in ways to try to get expelled from school and to create distance from his parents, and how, when dealing with his parents he would think:

'Will you please stop loving me. Hate me. Send me off.' *(Participant)*

(vi) Sexual Development

47. Participants discussed how their perceptions of their sexuality as adolescents and young people were impacted by sexual abuse, describing how some had limited capacity to fully understand sexual feelings and thoughts. This led to confusion about the difference between consensual and non-consensual sexual activity. One participant spoke about how he was confused about whether what was happening was right or wrong.

48. Participants described how they experienced negative feelings about their sexuality and sexual development, which manifested in various ways, including a sensation of being robbed of their sexuality, a disinterest in dating or age-appropriate romantic relationships, and for a smaller group, overly sexualised behaviours. Participants were clear that difficulties coping with their own developing sexuality were due to associating sex with disgust, discomfort and guilt.

49. Some participants described the impact on their sexual development:

'The experience twisted my perception of normal sexuality. It made me feel that sex is a bad thing.' *(Participant)*

'My virginity was taken from me, the exploration of sex for a young adolescent boy – my sexual life was taken from me.' *(Participant)*

The participant described his exploration of his sexuality at that time as all the more difficult because of the abuse that he had experienced. He found it uncomfortable spending time in dressing rooms with other boys undressing as he was becoming aware of his sexuality. *(Participant)*

50. For many, challenges in relation to sexual identity were described, and the impact of this on their ability to form romantic and sexual connections lasted well into adulthood, affecting their relationships and family life throughout their lives. This is discussed in more detail in the next chapter.

D. Impact on School Life

51. The majority of participants reported how the sexual abuse had an immediate adverse impact on their interest and engagement in school, their ability to learn, and consequently their overall academic performance. Participants who described themselves as bright and enthusiastic students told how their grades and exam results spiralled downward following the first instance of abuse, and how dreams and ambitions to pursue further education and careers gradually faded or were impeded as academic performance declined.
52. Many explained how a prevailing sense of fear and anxiety at school blocked their ability to concentrate on learning or engage in extracurricular activities. Participants described how their attempts to avoid particular teachers or adults impacted on their schoolwork including skipping after-school homework, escaping school as fast as possible or avoiding going to school at all. Some also reported that they deliberately dropped their grades in order to avoid attention in situations where they felt that academically successful students were targeted for sexual abuse.

(i) Learning and Educational Outcomes

53. The majority of participants described the detrimental impact of sexual abuse on their education:

'You're in fear of your life, you couldn't study properly. You were waiting for him to call you at night.' (Participant)

'My whole experience of primary education was of utter fear from the time I entered first class to sixth class.' (Participant)

54. Participants who described themselves as promising, bright students saw very significant deterioration in their grades and educational outcomes. As participants described, the abuse rapidly destroyed the self-confidence that was needed to do well in school.

'I can't read and write. They knocked the confidence out of me.' (Participant)

55. One participant described how, prior to their experience of sexual abuse, a teacher said of them that:

'Anything I did, I always did well.' (Participant)

56. However, after the abuse their academic work suffered:

'I had no confidence. I had tons of ability, but never got anywhere.'
(Participant)

57. One participant described how his self-confidence was impacted before a major examination when he was told by a teacher that he should not bother sitting the exams. He described how the teacher said:
'You're worth nothing.' (Participant)
58. One participant spoke of the person he was before the abuse took place:
He described himself as joyful, religious, and enjoyed school. He was academic and innocent and had great trust in priests. After the abuse, the participant felt a darkness enter his world. He was on edge, anxious, fearful and was on guard. He lived in a heightened state of fear, within the atmosphere of the school and this impacted his ability to study and concentrate. (Participant)
59. Another described how his interest in studying or further education was impacted:
The participant explained that this molestation became the overriding feature of his experience in class, as opposed to education. (Participant)
60. Others described being aware that abuse was happening to fellow pupils in the classroom during class time and living in fear of being next. Some participants spoke about a constant state of alertness, scanning rooms for potential exits. Another participant felt being on-guard all the time was an:
'Incredibly unsettling process.' (Participant)
61. Many participants reported that their experience of sexual abuse reduced their opportunities to attend further education and then to progress into a career of their choice. Participants explained that poor exam results, low confidence, or complete dislike of anything school-related, limited their opportunities. Some reported that a drastic negative impact on their academic performance and grades meant that they were not able to continue with their education at all.
62. One participant described how he was high-achieving academically and in sports but the impact of sexual abuse as a young teenager impacted dramatically on school performance:
His ability to engage academically declined to the point that the participant failed seven leaving certificate subjects, passing only two. He left school with no qualifications. (Participant)

63. Sexual abuse was described as having had a significant impact on the ability of participants to succeed academically. One participant described how he had done well academically up until the abuse and had come from a high-achieving family. This participant went to describe how his potential was impacted by the abuse and how he could not pursue some of his interests as a result. He added that he did not pass the leaving certificate exams.

Another participant described the detrimental impact of abuse on their education:

Because of the abuse, the participant's interest in school waned, he fell behind and he finally dropped out of school at the age of 12 or 13. *(Participant)*

64. Some participants noted how suffering from mental health issues, such as trauma and post-traumatic stress disorder ('PTSD'), made it impossible for them to follow their initial academic interests and goals.

'Everything from being a top student and athlete; all that became unsustainable with PTSD. My aspiration to be a doctor and top-level rugby player was all gone.' *(Participant)*

65. Several participants spoke about how sexual abuse made them despise school and lose any interest in continuing their education.

'I couldn't get out of school quick enough every day. I adored school and then I hated it. When I transitioned into [name of school] I switched off completely. That day academia left my body forever. Further education was a no-no. Third level was never an option for me.' *(Participant)*

66. Most of the participants who spoke about the impact on education and development did so with significant sadness and regret. Some emphasised a feeling of having been robbed of an opportunity to flourish academically and personally.

'I feel that what happened to me has resulted in lost potential.' *(Participant)*

'I have regrets, I'm not a judge or a barrister, there could be so much more that I could have done. It destroyed my life and the direction I was going in.' *(Participant)*

67. One participant spoke of how he had planned to become an architect but was never able to progress his academic career. The participant stated:

'I was denied an education.' *(Participant)*

(ii) Strategies to Avoid Sexual Abuse

68. Participants explained how they developed strategies to avoid sexual abuse such as avoiding particular areas of the school where they felt vulnerable, getting together with the “tougher” children in the school, or by disengaging from academic work or sports if they thought that this would allow them to avoid particular people or situations. Participants described their feelings that these strategies had a detrimental impact on their engagement with school activities, academic performance and grades.
69. Participants described trying to avoid attracting attention as far as possible:
‘I was quiet, and I kept in the shadows, in class I put my head down.’
(Participant)
‘I did my best from the day I went to the school to keep my head under the parapet as much as possible and blend in. I didn’t participate in anything I didn’t have to. I was forced to participate in rugby, which I loathed. I had a very, very small group of good friends who are still good friends. But I did my best to be in the school as little as possible.’ (Participant)
70. Another account explained that the participant was an academic child who enjoyed learning, but all that fell away in the early years of secondary school.
The participant began to spend time with the ‘tougher’ kids at the school in order to keep the teacher away from him. Spending time with ‘tougher kids’ had a negative impact on the participant’s studies and resulted in him being exposed to illegal activities from a young age, such as alcohol and drugs.
(Participant)
71. Some participants described an awareness amongst pupils that certain people or places were unsafe, and so they organised their school day to avoid those individuals or spaces which consumed much of their energy and focus.
‘I would have never gone in the showers, I felt unsafe.’ (Participant)
‘As children we were aware, you wouldn’t want to be here and there with certain priests.’ (Participant)
‘I decided to keep a wide berth from him.’ (Participant)
72. Participants gave up activities such as sports or swimming as the sexual abuse took place around changing rooms or other such areas. Others stayed away from school whenever possible:

'My reaction to it was to avoid hanging around school, but there was also no one at home in the afternoons. There was a lot of trying to find out how I could make sure I was not alone at any time and how I could avoid getting into trouble. This threat of getting into trouble was pervasive. They knew my family situation. It was an unspoken rule at the time that you didn't say anything to a priest. We were afraid of teachers, priests and other authority figures. You might get into trouble.' (Participant)

'He never touched me again after that because I never let him. I avoided him like the plague.' (Participant)

73. Participants described how their purpose in school gradually shifted from learning and growing into purely surviving, and how school became a place associated with fear. These participants also described how they carried the emotional weight of sexual abuse when they were not in the school; weekends and holidays became a temporary safe space, and they spoke of dreading the day they had to return.

The participant said that the holidays felt like a safe haven. When it was time to go back to school after the holidays, in the two weeks before he would break out in hives and sweats, all at the thought of having to go back to what he called a prison. (Participant)

74. Others explained how they would make attempts to avoid going to school at all by pretending to be sick or, in some cases, hurting themselves to avoid having to go back. One participant described how they started missing from school, until eventually he had to leave the school.

'The things built up in me.' (Participant)

'I would pretend I was sick so as not to be sent to school, any excuse to stay home.' (Participant)

'I didn't go to school half the time.' (Participant)

'My learning ended as it was not a school but a place of living hell, abuse, rape, pain, fear.' (Participant)

75. Some participants recounted attempts to avoid school resulting in serious consequences – one described how, at home for the summer holidays:

He had thrown himself in front of a car in the hope that he would be sufficiently injured to prevent his return to school. He spent months planning the spot where he would do this to be sure that he would be hit. (Participant)

76. Another spoke of how he ran away from boarding school one night and arrived home to discover that his parents were away. Within an hour of his arrival at the family home, a relative arrived and drove him back to the school that he had run away from.

Another participant described their experience of trying to avoid abuse by not going to school:

A participant recounted that the School Attendance Officer came out a few times and said that they would send him to a reform school if he didn't come to school. When back in school he would be locked in the classroom during break times, with the Brother who had abused him. He remembers looking out towards the door praying that somebody would come in to rescue him.

(Participant)

77. Some participants described how as they grew older and stronger, they were less likely to be targeted. One participant explained how being slightly older helped him to deal with the situation:

'I was probably 15 at the time so I could, relatively speaking, deal with it appropriately and pretty much everyone knew what type of man he was, so I avoided further contact alone with him.' *(Participant)*

78. Some participants spoke of how children tried to warn each other or protect each other from sexual abuse, although some referenced not fully understanding what was happening.

'Later, I was told by other boys to make sure I did not go to this priest's room. I sensed they meant it was dangerous but did not have any real idea of what they were talking about.' *(Participant)*

79. The participant said he knew there was something not quite right at the time but was not sure what that was:

'I had a sense from the other boys they knew not to go to his room. I had missed out on that knowledge.' *(Participant)*

Others described similar experiences:

'It is amazing how some children will try to protect other children.' *(Participant)*

He was told to watch out for certain staff by other boys, and to avoid getting trapped in a room with them. Boys would say 'watch him, don't get trapped'. *(Participant)*

The boys told each other not end up in an office on your own with a particular priest because of how handsy he was in the open. *(Participant)*

80. Participants explained how students would have collective strategies to avoid being alone with particular teachers or staff members. These included making sure all teachers' cars had gone before leaving the school, agreeing to meet prior to going to class or not going into the class until a group had gathered.

If the abuser ever tried to stop the participant and ask for a private word, his friends would say *'Let's go.'* (Participant)

'We were young, we would meet at the corner to go in together to protect ourselves. I was afraid of my fucking life.' (Participant)

81. Participants described how the time and energy invested in avoiding dangerous situations at school, or the outright avoidance of school altogether, impacted negatively on educational attainment for many.

E. Impact on Mental and Physical Health

(i) Significant and Lasting Effect on Mental Health

82. The majority of participants described significant adverse impact on their mental health in their childhood and youth. Many spoke of how the impact of mental illness and ongoing mental health issues stayed with them into adulthood and in some cases, persist to this day. A wide range of effects were reported, including anger, loneliness, isolation, insecurity, inability to sleep, bedwetting, anxiety, panic attacks, eating disorders, depression, self-harm, suicidal ideation and suicide attempts.

'The effects of the abuse were lifelong, including frequent flashbacks, nightmares, loss of sleep, ongoing embarrassment, shame, questioning what if, and psychological and emotional hurt and damage.' (Participant)

'Fear has been with me for a lifetime.' (Participant)

83. While some long-term clinical psychiatric conditions such as PTSD were typically not diagnosed until adulthood, participants spoke about a range of mental health problems that began immediately or shortly after the abuse. In many cases, participants said they turned from being a happy young person into an extremely unhappy one and the impact on their mental health was described as profound. In most cases, the mental health problems described in childhood followed them into adulthood.

The abuse destroyed the participant's self-esteem and confidence, and he suffered from depression as a result. (Participant)

84. Many participants who reported poor mental health shared accounts of how their constant state of fear led to ongoing severe anxiety and/or constant hypervigilance.

'I was very nervous. I was always afraid to be on my own, to sleep on my own. I think maybe that [the abuse] was a part of it. I didn't like to be in the dark.'

(Participant)

A participant further explained how he grew hypervigilant and would always look for exits and escape plans upon entering a room. This has persisted till today. *(Participant)*

85. Some participants described being prescribed medication for depression at very young ages. One participant detailed how he experienced debilitating panic attacks and became bedridden, before being sent to a psychiatric hospital in his teens where he was locked in a ward with adults, and described how he:

'Just had unmitigated fear and anxiety over almost everything.' *(Participant)*

(ii) Suicidal Ideation and Suicide Attempts

86. Participants reported how, for many, the experience of sexual abuse eventually led to depression and in some cases, to suicidal thoughts and actions. One explained that his mental health continued to deteriorate at a young age, and he attempted suicide at the age of 17 years old:

'I cut my wrist, and the scar is still there.' *(Participant)*

Another participant described attempting suicide a number of years ago. This participant explained that:

He was diagnosed with severe depression at age 17 and he still suffers with depression to this time. *(Participant)*

Another participant explained that he became suicidal when he was of primary school age and this was so severe that he:

... tried to get hit by a bus by running out in front of it beside the school. The bus stopped quickly so missed him. He felt trapped because he could not run away from incidents of abuse or tell his mother. He couldn't see another way out. *(Participant)*

Several participants described similar experiences:

The participant attempted suicide after an evening of drinking. *(Participant)*

'I often wondered why I was unable in my suicide attempts. I witnessed the abuse, and rape of two fellow students that in their teens committed suicide as a result of their pain.' *(Participant)*

The participant attempted suicide on multiple occasions and was never able to speak to anyone about what was going on for him inside. *(Participant)*

As a young person, the participant attempted suicide numerous times.
(Participant)

87. Several participants spoke of former classmates who had died by suicide or high-risk behaviour and expressed the belief that those early deaths were related to sexual abuse at school.

88. While the majority of participants reported suffering in silence and isolation, a number of participants spoke of trying to manage emotional pain. The most common coping strategy described was use of alcohol and drugs.

'I started drinking when I was 13.' *(Participant)*

It was around the age of 16 that he started to drink a lot and didn't do very well in school. *(Participant)*

89. For several participants this started at a young age. At 11 or 12 years old one participant discovered alcohol and used this as a means of coping as it brought relief from the fear and trauma. At 13 another participant began self-medicating with solvents, painkillers and drinking alcohol. One participant began smoking at the age of seven and drinking at the age of 13.

(iii) Physical Health Impacts

90. A number of participants reported experiencing health conditions that they described as direct consequences of physical and sexual abuse. In some cases, these included direct injuries such as internal injuries and deafness/tinnitus due to beatings.

91. In other cases, participants reported health problems related to their stomach and digestion, which they viewed as a physical response to being sexually abused, as these symptoms occurred at times they were at risk of abuse or directly after an episode of abuse. One participant suffered from ulcers and went through a period of refusing to go to school. Another participant found the only way to relieve his pain was to vomit. A third participant explained how, as a result of the abuse, they began having trouble going to the toilet as a child and starting withholding.

92. Of those participants who spoke of impacts on their mental and physical health, most reported that these issues continued into adulthood. This will be discussed further in the next chapter.

F. Chapter Summary

93. This chapter has described participants' accounts of the impact of sexual abuse on them as children and young adolescents. Participants told the Scoping Inquiry about the effects on their sense of self, their experience of childhood, mental and physical health, relationships, their experience of school and their understanding of the world around them at key formative stages of development.
94. Participants explained how childhoods were shattered by the experience of sexual abuse and how the loss of innocence had deep and long-lasting effects. This was the case for those who experienced abuse as an isolated incident and for those who experienced repeated abuse.
95. A sense of shame, and difficulties with self-esteem and confidence were reported by many participants, leading to relationship and other difficulties. Participants explained that relationships with parents suffered for many reasons. In some cases, participants felt a sense of anger with parents that they had not been protected; in others, participants' behaviours such as disengagement, academic difficulties, social withdrawal or experimentation with alcohol or drugs were seen as acts of rebellion, creating challenging family dynamics.
96. Participants described how fear, dread and a constant watchfulness impacted on them as children. Many spoke of being unable to be fully present at school, and the hugely detrimental effect that this had on their ability to concentrate, to pay attention in school or to study effectively.
97. The effect of sexual abuse on childhood mental health was described by participants as devastating. Participants described how, as children, they experienced stress, anxiety, depression and PTSD, with some relating how they were prescribed medication or hospitalised because of these conditions at very young ages. Negative coping mechanisms including use of alcohol, drugs, disordered eating, and self-harm were described, and some participants explained that they experienced suicidal ideation. In some instances, as children or teenagers, participants attempted suicide. Some also spoke of schoolmates whom they believed to have died by suicide as teenagers or young adults, and whom participants believe were sexually abused.
98. The impact of sexual abuse on participants in childhood and adolescents was described as profoundly damaging. In some cases, the effects described in this chapter continued into adulthood for many years, and many participants told the Survivor Engagement team that impacts rooted in childhood were exacerbated in later years. The next chapter describes what participants told us about the effects of abuse on their lives as adults.

Chapter 6:

Participant Accounts of the Impact of Childhood Sexual Abuse in Adulthood

Content Warning: This chapter contains details of participants' descriptions of sexual abuse, physical violence and reference to suicide. It may be distressing to read.

- A. Introduction
- B. Impact on Health: Mental and Physical
 - (i) Sense of Self in Adulthood
 - (ii) Mental Health
 - (iii) Mental Illness, Breakdowns and Suicidal Ideation/Suicide Attempts
 - (iv) Substance Abuse as a Coping Mechanism
 - (v) Physical Health Issues
- C. Relationships
 - (i) General Relationships
 - (ii) Relationships with Spouses and Partners
 - (iii) Relationship with Children
 - (iv) Relationships with Parents and Extended Family
- D. Employment and Career
 - (i) Difficulties with People in Authority
- E. Loss of Community, Emigration and Loss of Faith
 - (i) Emigration
 - (ii) Loss of Faith
- F. Experience of Engagement with Religious Orders as Adults
 - (i) Challenging Experiences
 - (ii) Impact of Receiving a Formal Apology from Religious Orders
 - (iii) Peer Support
 - (iv) Restorative Justice

G. Issues for the Legal System and the State

- (i) Participant Experiences of the Justice System
- (ii) Experiences with An Garda Síochána and the Director of Public Prosecutions
- (iii) Issues for the State

H. What Helped Over the Years

- (i) Realising the Full Impact of Abuse
- (ii) Knowing That There Were Other Survivors
- (iii) Finding Strength in Shared Experiences
- (iv) Disclosing Childhood Sexual Abuse as an Adult
- (v) Supportive Relationships
- (vi) Counselling and Therapeutic Support
- (vii) Finding Peace
- (viii) Helping Others

I. Chapter Summary

A. Introduction

1. Exposure to adverse events in childhood are strong predictors of problems in later life. A variety of physical and mental health-related consequences affecting children well into their adult years, including cognitive delays, impaired development, poor academic achievement, mental illness, substance abuse, disease and more have been linked to adverse experiences such as childhood sexual abuse.
2. This chapter outlines how participants described the impact of child sexual abuse on their adult life up to the present day. The majority of participants provided information on some or all of the topics within this chapter. In keeping with the Survivor Engagement process's trauma-informed approach, not all participants elected to talk in detail about the impact of sexual abuse on their adulthood. While facilitators may have gently prompted on some overall themes, participants were not asked specific questions about the impact on their adulthood. Therefore, this chapter does not represent a survey of every participant but the perspectives of those who chose to discuss these issues.
3. In interviews and written submissions, participants described how the ongoing impact of childhood sexual abuse has had a profoundly negative and cumulative effect on many aspects of their adult lives. Most told the Survivor Engagement team that sexual abuse seriously impaired one or more of the following: sense of self and self-esteem; mental and/or physical health; educational attainment; career and professional opportunities; relationships with family and friends. Many of these impacts represent a continuation of issues described in the previous chapter which reported on participants' descriptions of the impact of sexual abuse on their childhood.
4. The impacts described by some participants included severe and complex mental health problems, including severe anxiety, Post Traumatic Stress Disorder (PTSD), flashbacks of sexual assault, intrusive thoughts, suicidal ideation and attempts. For many, these impacts were described as causing almost unbearable emotional pain. Several participants reported experiencing multiple breakdowns. Mental health challenges had an impact on some survivors' ability to form lasting connections with others, as well as significantly reducing their wellbeing and happiness across their life.
5. Physical ill-health related to sexual abuse was also reported including physical health conditions, autoimmune disorders and ulcers which were attributed to stress resulting from sexual abuse. Some reported ongoing chronic health conditions that were described as a direct result of physical damage due to sexual abuse as a child.

6. Many participants spoke about problematic use of drugs and alcohol as coping mechanisms, and for some these issues were only addressed following a crisis point that often arrived later in life. When accessing rehabilitation supports, some participants said the therapeutic process brought them to acknowledge their sexual abuse as a part of the healing process. Some discussed how, while extremely painful, this began a slow and difficult pathway away from some of the worst impacts of the abuse.
7. Participants also described their experiences of engaging with religious orders later in life, seeking an apology or facts relating to their sexual abuse. Some participants spoke of their experiences with the legal system, whether in criminal proceedings or civil actions, and the difficulties that many experienced in this regard. Participants also spoke of the support provided by spouses and partners, and counselling and therapeutic relationships. Sadly, not all were able to report that partners or families were understanding and compassionate, and some said that they did not find counselling helpful.
8. Participants spoke of the strength they found in knowing that they were not alone, and many referenced the importance of hearing the broadcast of the RTÉ Documentary on One: Blackrock Boys (7 November 2022), which told the story of Mark and David Ryan and the sexual abuse they experienced. For many participants, this was the moment where they found the strength to speak about their own experiences.
9. The many and complex issues described by participants regarding the impact of childhood sexual abuse on their adult lives are set out under the following broad headings. As the reader will appreciate, there is connectivity and overlap between the sections.
 - Impact on health: mental and physical
 - Relationships
 - Employment and career
 - Loss of community, emigration and loss of faith
 - Engagement with religious orders as adults
 - Issues for the legal system and the state
 - What helped over the years

B. Impact on Health: Mental and Physical

(i) Sense of Self in Adulthood

10. A feeling of being a spectator rather than a participant in life was often discussed in the course of the participants' interviews. Many said that their sense of self, and self-esteem had been irreparably harmed. A few participants said they had suppressed the memories of the abuse until recently or had not connected the abuse with how they felt in adulthood. Throughout their earlier life they described experiencing emotions and reactions, such as ongoing sadness, that they could not understand, and felt that they were somehow 'bad' or 'wrong'.

11. Participants described the experience of sexual abuse, and its consequences, as fundamentally life changing. Participants spoke about how they kept searching for answers to 'why' questions, for which they could not find explanations:

'It throws up so many questions. Why me? What have I done? Why didn't I do anything? Why was I not able to? So many whys; that creates a problem.'
(Participant)

'I'd like to understand a bit more. Of what happened, how it happened, and why it happened? The "who" doesn't matter, they are dead.' (Participant)

12. Some participants explained that they felt that the sexual abuse had destroyed their life entirely.

'I've never been okay. I can honestly say there's not one single day I have been okay.' (Participant)

13. Many participants said they continue to feel sadness and/or anger thinking of how their life could have been, describing how sexual abuse altered their formation of self-identity at a young age. Many described a sense of loss related to their identity and their opportunities and place in the world. Some explained that this meant they did not know themselves, and often did not like themselves:

The hardest part of all is that you lose that person you were meant to be, as you never meet that person again and fulfil your potential. (Participant)

'Am I the person that should have evolved, or am I a product of this abuse? I don't know who I am.' (Participant)

'What would my life be like now if that hadn't happened? I am exceptionally angry. I was at my greatest need to be protected when I was most vulnerable.'
(Participant)

'My feeling now is sadness. What would my life have been if these things didn't happen to me as a child or a young adult?' (Participant)

14. Participants explained how they kept trying to move on from the sexual abuse and enjoy life despite the past. However, they said they found this very difficult:

'I got a life sentence; we all got a life sentence.' (Participant)

15. This participant went on to say:

'It happened in the 60's, but really, it's happened every day since. You live with it every day. I try to move on, but it hits me in the face.' (Participant)

Other participants described similar impacts:

'All through my life it's been hell. It's a fight every day in my head to keep the abuse to the back and to be in the here and now. It doesn't always happen. There are times where you dwell on what happened. I do get sad. I do get angry. I'd love to say I'm happy and free but I'm not. It's with me. It's inside me.' (Participant)

A permanent scar from the fear and terror is always there. (Participant)

'I can say that on the outside I appear a functioning adult, but my inner self is still that boy living that hell.' (Participant)

'You're emotionally trapped. You're still the little boy putting his arms up asking for help, as well as the adult saying, "cop on." It's trying to find the happy balance between the child who could have been so different, and the man looking at him.' (Participant)

16. Participants reported that poor self-esteem and self-confidence followed them from childhood. As adults they said they continued to have frequent feelings of worthlessness, self-disgust and self-hatred.

'[The abuse] messed up my life, it ruined me. It ruined me as a person, it ruined my childhood. It impacted my personal life, my friendships, and my work life.' (Participant)

'What it's done to my life, it's ruined, and I'm trying to rebuild 40 years of my life.' (Participant)

17. Participants described how childhood shame continued to influence their perception of self and how they related to others, which was further linked to difficulties in building, growing and maintaining relationships. One participant described himself as still living in fear, even with participating in the Scoping Inquiry, and that being identifiable was a real concern for him. Others discussed keeping a barrier between themselves and other people as a way of avoiding having to ever share the 'secret' of their abuse.

'I think the longest lasting effect is that I still live in fear of people finding out what has happened to me in the past.' (Participant)

'I don't want to be meeting people who know my background.' (Participant)

'I never wanted anyone to know. I couldn't be myself.' (Participant)

18. Participants described how the shame they carried with them from childhood continued to build a wall of fear and isolation between them and other people.

'I am close to no living soul, even those close to me. I can't let myself be loved. I have no friends even from childhood, as being close means opening yourself up. I feel ashamed, dirty and unclean. I'm living a lie; I act all day, every day.' (Participant)

(ii) Mental Health

19. The majority of participants described significant negative impacts of sexual abuse on their mental health. Participants outlined a high prevalence of mental health conditions including anxiety, depression and PTSD as well as a range of adverse emotions and behaviours such as poor self-esteem/confidence, isolation, social withdrawal, shame, anger and hypervigilance. The various impacts were often described as interlinked and influencing all aspects of participants' lives, including their personal wellbeing, relationships, education and work life.

20. Many participants described suffering from mental health difficulties in silence for years. Some described how this resulted in a mental or physical breakdown. Many disclosed having spent time in in-patient mental health treatment and for some this experience involved a period in which suicide was contemplated or attempted.

21. Participants described how the impacts of sexual abuse were not experienced in isolation, but rather as interconnected in a vicious circle of suffering. For instance, participants described how mental illness led to harmful coping mechanisms, negative emotions and destructive behaviour, which then impacted relationships, leading to further mental health suffering and isolation. This complexity came through in different ways, with one participant describing profound effects of the abuse impacting all elements of his life from academic career to relationships, sense of self, addiction, mental wellbeing and isolation:

'The effects of the abuse were lifelong, including frequent flashbacks, nightmares, loss of sleep, ongoing embarrassment, shame, questioning "what if", and psychological and emotional hurt and damage.' (Participant)

'Everything just changed in my life after the abuse.' (Participant)

22. Participants described mental health conditions including anxiety, obsessive compulsive disorder ('OCD'), depression, PTSD, hypervigilance, phobias and suicidality.

'I was so bad with anxiety and depression that I could not swallow, and then panic attacks started. It got worse. For two years I couldn't go to the cinema or anything, because I would get panic attacks.' (Participant)

Bhí an t-agalláí an-inmníoch, dhúisíodh sé i lár na hoíche ag mothú go raibh sé faoi ghlas i spás an-bheag cosúil le cónra. Chaith an t-agalláí bliain mar sin, bhí sé an-tinn agus bhí air éirí as an obair. (Rannpháirtí)

The participant was very anxious, he would wake up in the middle of the night feeling as though he was locked inside a tiny space like a coffin. The participant spent a year like that, he was very unwell, and he had to give up work. (Participant)

'This [not being able to go to public toilets] remained with me all my adult life and I had to hide in some way when going to pee in the toilet. In public loos or restaurants or whatever. This, in turn, led to a lot of psychological and mental health problems. So much so it has curtailed me in going to, say, concerts or especially on holidays.' (Participant)

23. One participant said that protracted mental health issues over years has left a deep impact:

'I developed chronic, severe anxiety.' (Participant)

This participant described having difficulty with enclosed spaces which means that he has not been on an aeroplane in over a decade. He described panic attacks and difficulties with situations where he cannot easily exit a building.

24. Another participant noted ongoing impacts he links to his experience of abuse, including a need for order and cleanliness in his home.

25. This participant went on to say:

'I think the cleanliness came from him [the abuser] an awful lot because I felt so dirty from him.' (Participant)

26. Many participants reported having had depression and/or significant ongoing sadness, which hampered their ability to live a rewarding life. A number of participants spoke about the challenge of getting through the day:

'I can't wait till I die, I'm not suicidal, but I can't wait till this is over.' (Participant)

'I go to bed some nights and hope to fuck that I do not wake up.' (Participant)

This participant went on to describe how:

'... I pray to God that he will take me in the night.' (Participant)

Other participants explained their difficulties:

'I have suffered with depression all of my life, unbelievable anger in my head. 44 years later, it's still going on.' (Participant)

'The only time I feel safe and happy is when I am in bed.' (Participant)

27. Many participants reported suffering from PTSD and having thoughts and flashbacks to their experience of sexual abuse. These experiences frequently involved intense intrusive memories that appeared during normal daily activities, and one participant described a:

'... freight train of memories.' (Participant)

28. Participants spoke of these thoughts as being difficult to control, and of having a very imposing and negative impact on them.

29. One participant said he felt sick discussing the sexual abuse. He reports never forgetting the smell of the abuser's breath and the mucus on his lips.

'It feels like it was only yesterday. This always comes back to haunt me.'
(Participant)

30. A participant described flashbacks, night terrors and a feeling of experiencing rape over and over again as if it is being relived.

This is when she sometimes collapses and shakes and she has no control over these occurrences. (Participant)

31. Intrusive thoughts were experienced by another who believed that the abusers were following him around.

'I'd say "He's there, he's there, he's looking at me" but he wasn't, it was just my brain.' (Participant)

32. For some, these intrusive thoughts are tied to particular triggers such as people, places or things. A participant described how he experiences PTSD symptoms around churches to this day:

'I start to vomit when I smell incense or the smell of a church. Even just going for a funeral or a wedding, I'm on edge and just want to get out of there.'
(Participant)

33. For others the thoughts occur when they are not busy and occupied, leading some participants to stave off intrusive thoughts by remaining constantly busy, a strategy that led to increased life stress.

'It affects me in different ways. It pops up in my head on a very regular basis in terms of what happened. I am reliving it constantly. The thoughts come to me at strange times. I keep myself very busy'. (Participant)

(iii) Mental Illness, Breakdowns and Suicidal Ideation/Suicide Attempts

34. A number of participants described how intense depression led to a psychological breakdown. In some cases, this caused suicidal ideation or attempts, resulting in the need for in-patient mental health treatment.

'I wasn't physically able to carry the torment.' (Participant)

35. One participant said that he suffered a breakdown that lasted over two years. Another said that in later life he had a breakdown.

36. A number of participants recounted some positive impacts from in-patient psychiatric treatment, or in some cases in-patient addiction treatment, as it allowed them space to speak about their sexual abuse for the first time and begin a journey towards healing. However, this path was generally reported as slow and difficult. One participant recounted his emotional response when he recognised a former pupil from his school in a newspaper article about abuse and broke down crying:

*'I couldn't carry it anymore [...] I felt like something was going to break'.
(Participant)*

He went on to say:

'I felt a relief reading it.' (Participant)

37. Others spoke of a breakdown as a prompt for getting help:

*'In one way, [the breakdown] was the best thing that ever happened to me. It was like I started from scratch all over again, it felt like I got a second chance.'
(Participant)*

38. For some, the experience of having a breakdown was described as a repeated one that they and their family suffered through. One participant described multiple admissions to a psychiatric hospital over a period of many years.

'If you were to add up the amount of time I was in and out of there, trying to deal with those issues, it would add up to about two years.' (Participant)

39. One participant described how, for many years, he held onto the abuse as a 'pile'. Whenever anything bad happened in his life, the participant would put it into the pile alongside the abuse. Whenever this pile got too big, it would cross from his unconscious to the conscious and the participant would have a breakdown. (Participant)

40. Many participants reported having had suicidal ideation or having previously attempted suicide. One said he carried his low self-confidence and feeling like there was something wrong with him for many years and that he had attempted suicide some years ago. Another said he had tried to overdose on medication.

'I was suicidal a couple of times, very serious. I just couldn't see a way out.'
(Participant)

'I had attempts to commit suicide when I came out with all this. I had a rope in the back of my car.' (Participant)

41. These feelings were described as being frequently associated with adverse behaviour such as self-neglect, insecurity, and having difficulties establishing interpersonal boundaries.

(iv) Substance Abuse as a Coping Mechanism

42. Many participants described the problematic use of alcohol and/or drugs as a coping mechanism, in many cases starting in childhood. Several participants described trying to manage trauma with the use of substances, with drugs or alcohol as the most accessible, and in the case of alcohol, the most socially acceptable way to do this. Many explained that they only stopped when their life had reached crisis point and/or they began discussing the sexual abuse and beginning a healing process with professional assistance.
43. Those participants who reported using alcohol and/or drugs to cope spoke about how this eventually brought a range of significant challenges of its own, although it may have initially provided relief or escape. One participant said:

'Every morning I got up for 20 years, the abuse was in my head. That was haunting me every day and I became an alcoholic over that [...] I was drinking to put on a front, to numb it.' (Participant)

'Cannabis was the one thing that allowed me to feel something, to calm myself.' (Participant)

Other participants spoke of addiction. One described how he started to use heroin in his 20s, with multiple suicide attempts. He is now clean and on methodone:

'I will never stop taking methadone as it helps me not torture myself over what happened.' (Participant)

'In later life I drank alcoholically for half of my adult life. I was diagnosed as a chronic alcoholic. The alcohol was a kind of anaesthetic to numb the underlying psychological issues and pain and trauma.' (Participant)

(v) Physical Health Issues

44. A minority of participants also described an adverse impact of the abuse on their physical health. In particular, some said that there was a connection between their elevated stress levels as a result of sexual abuse, and that they had developed autoimmune conditions and ulcers as a result of this.
45. A number of participants described how they and/or their doctors suspected a link between elevated cortisol levels and a range of health conditions. Participants described ongoing stomach problems and an auto-immune disease due to constant high anxiety.

'There is widespread inflammation from overactive immune system cells in my body. The doctor attributes this to the abuse from 50 years ago.' (Participant)

'My heart, sexual and skeletal systems are seriously impaired by my constant watchfulness, producing severe anxiety, which was triggered by a real and immediate danger. I am suffering from post-traumatic stress disorder, a hypervigilant overactive stress response. This pervasive stress response as I grew had a long-term effect, and I was forever changed.' (Participant)

46. In some cases, ongoing chronic health conditions were described as a result of physical damage due to sexual abuse as a child. One participant described how medical investigation confirmed that the participant had a medical condition which was a result of extensive damage to the rectum.

C. Relationships

(i) General Relationships

47. For many participants, the impact of a lack of trust in others was described as disconnection, loneliness and isolation:

'There are days where I don't even talk to people [...] I would like a little more communication, but I've almost convinced myself that if this is the price to pay for managing my life, then that's what it has to be [...] I can't trust people now [...] I'd like to say it gets better, but it gets worse.' (Participant)

'I often said I would make the perfect soldier for war because I had no fear, no empathy. It's an awful way to be. I could go out and pretend to be social, but I wasn't. I have lost my emotions, even for my family. I did all the things as a father and as a husband, but there was one part of me that wasn't there with them.' (Participant)

'I didn't know how to have happiness.' (Participant)

48. Many described how trusting others and forming personal relationships is difficult and often unsuccessful; disclosure of personal experiences and feelings is rare and usually results in negative emotion. Another participant described himself as being self-protective and cautious around other people.

'In work, my mantra today is "trust no one." I lost all trust in humanity.'
(Participant)

49. One participant described the sexual abuse as having a major impact on his life and that he is still dealing with it. He avoids many social events and feels that he is:

'Totally an island on my own.' (Participant)

(ii) Relationships with Spouses and Partners

50. Many participants described difficulties in their intimate relationships with previous and current partners, stemming from mistrust, fear of commitment, fear of losing the person, an inability to discuss what happened and continued shame or secrecy around the abuse.

51. The most common issues described by participants with regard to intimate relationships included a lack of trust and ability to commit, fear of taking the risks that are inherent in any intimate relationship, and not being able to be fully present in the relationship.

A participant described the difficulties he experiences in his relationship with his current partner.

'I'm thinking, "What happens if she dies?". It's an inability to fully engage and take a risk with feelings. I'm protecting myself. I'm going to suffer loss if I love someone fully. I set myself up in my childhood to ensure that never happened again, which, of course, is impossible.' (Participant)

'I always felt rejected. Even on the day I got engaged I thought, "How do I get out of this?"' (Participant)

52. Another participant described how, whenever he started a relationship, he would self-sabotage as soon as his partner would want more from him. One participant described a struggle with giving and receiving affection due to the abuse:

'It was driven out of me.' (Participant)

53. Another participant described how a lack of confidence from a young age made it difficult for him to maintain relationships.

'I have missed out on marriage and on having a family.' (Participant)

54. Some participants spoke about how they had deliberately kept aspects of their history of sexual abuse from their partner due to the continued sense of shame, creating emotional distance.

'My wife didn't know the full details of this and still doesn't know everything.'
(Participant)

55. Another man explained how he has been married to his wife for many years, but has only recently been able to share his history of abuse.

56. Some described their issues with trusting others as causing a sense of isolation or detachment, as if they were merely spectators and not participants in life. One described how, prior to engaging with therapy:

'I was very stressed. I'm very impulsive alright. I never went back on the drink again. I would never get close to anybody, ... I would regard them as acquaintances rather than friends.' (Participant)

57. Even when people did communicate about their past, this did not always result in positive outcomes in the relationship. Some participants described how, after disclosing the sexual abuse to their partner, they had not received the support they needed. One participant described how his mental health difficulties had been a challenge and his marriage had ended. During the marriage he experienced daily anxiety, panic attacks and a general feeling of not being part of the world. Another explained that their partner does not fully understand what happened.

58. Many participants described having difficulties in sexual and intimate relationships. Some participants explained that the concept of sex was disrupted from an early age which continued into their relationships, both in terms of how participants felt about sex and how they assumed that others felt about it. Some participants assumed that it was only natural to feel disgusted by sex, and so saw avoiding this with their partner as a respectful approach. One participant described how he was unable to consummate his marriage for a number of years as:

He didn't think girls would want to be touched. He presumed that no one wanted people touching them. (Participant)

59. Others explained that, for them, the best way to avoid sex was to avoid all kinds of romantic relationships. For one participant:

Relationships were nearly non-existent, and he didn't know how to have them. Sex felt like a dirty thing. (Participant)

60. Another participant had a fear of having full sex and described the difficulties he experienced with lasting relationships. He described how it has been many years since he has been in a relationship:
- 12-18 months was when things would get serious, and he would end their relationship. *(Participant)*
61. Some participants who were married or in long term relationship said that where other aspects of the relationship functioned well, they were not able to experience sex as a genuinely positive experience. In some cases, this had contributed to the end of the relationship. A participant highlighted feeling happy in his life now but felt that a normal sexual life was definitely missing:
- 'Sex is an important part of a relationship but that never quite worked for me.'*
(Participant)
62. He further explained,
- 'It was summed up well in one of the interviews on RTE: "Your first sexual experience is with a 50-year-old priest". It's hard to put that back together again.'* *(Participant)*
63. One participant stated that he had struggled with relationships and sex, self-sabotaging when partners wanted more from him. He said that he had hurt people and that a significant long-term relationship had broken down, describing how he is now estranged from that part of his family.
64. Another described the impact on his marriage as significant and explained that he has a lot of empathy for his ex-wife because she had lived with him for many years when he was struggling with what had happened. He said:
- '... it must have been horrific'*. He described marital infidelity as a part of life and said that he did not know if he was gay, straight or bisexual. *(Participant)*
65. For the participants who were LGBTQIA+, the abuse for some was described as having the effect of postponing their ability to come out. They explained that the challenge lay initially with being honest with themselves about their sexuality, and secondly being able to overcome feelings of shame so as to be able to speak to others about it. Some participants also discussed feelings of confusion between their natural attraction to people of the same gender, and the feelings of disgust associated with sexual abuse by someone of the same gender.

(iii) Relationship with Children

66. A few participants explained they had made a conscious decision not to have children because of their fear that they would not be able to protect them. One participant decided he never wanted any children, because he didn't want what happened to him to happen to anyone else.

'I was never going to have children, because of this. I realised at a very early age that I could never, ever live thinking this could happen to a child of mine. I would be terrified every day of the week.' (Participant)

67. Another said:

'One of the reasons I didn't have kids is because I didn't like being one.' (Participant)

68. The decision not to have children or a family was often accompanied by a deep sense of sadness.

69. Some participants spoke of how their experiences had influenced their care of their own children and grandchildren.

She highlighted how her experience has made her very protective of her children and her grandchildren. She has a very close family now. She is careful about keeping them safe and not letting them go places on their own.
(Participant)

70. Many said that they were fearful of what could happen to their children when they were young. This led to constant worry and what they later understood to be overprotective parenting.

71. One wondered if he would know if his child was being abused as he hid his abuse from his parents. Another described himself as extremely risk averse, and, at times, preoccupied with his children's safety.

'Our kids never had a babysitter because of what happened to me, because I go into this protective mode.' (Participant)

'I've been hugely protective, kind of a helicopter parent.' (Participant)

72. On a day-to-day basis this heightened level of anxiety was described by participants as restricting what their children were able to do and limiting their experiences.

73. Participants discussed how they viewed their personal struggles as having a negative impact on family dynamics and their children's wellbeing.

'The dysregulation and anger with my kids, it had a profound impact on my family and my wife.' (Participant)

'I'm also stating that all of this crime has affected every aspect of my children's lives. Due to my post-traumatic stress responses (i.e., my constant anxiety regarding everything that might be a danger to them), my children were robbed of a happy mother.' (Participant)

74. Another participant described a decline in his mental health and explained how his child now lives with their other parent full-time. This participant described several suicide attempts. Participants detailed how their adult children were impacted by the revelations of abuse, describing profound impacts on family life.

The past few years have traumatised the participant's children too. Regarding the relationship to their family now, the participant said: *'It's like being drowned on the beach from the wave while your family is on the beach watching, they come in to try to save you and they start drowning too. There's no lifeguard.'* (Participant)

75. Another participant described estrangement from their adult child.

76. A very small number of participants spoke about the fear of becoming abusers themselves, both in relation to their own children as well as to children in general. This resulted in their maintaining an emotional distance from their own children and/or avoiding interactions with other children.

77. A participant described how this fear impacts his life:

[The participant] has done work with charities and has always felt uncomfortable and vulnerable around kids. (Participant)

78. Another recalled how he felt uncomfortable giving his children a bath or giving them hugs.

'I couldn't have close contact with my own kids. I can't hug them. Never.' (Participant)

(iv) Relationships with Parents and Extended Family

79. A number of participants said they never told their parents about the abuse as they could not bear to see their parents' pain and potential feelings of guilt. Others never got to tell their parents, as the parents had passed away by the time the participants found the strength to speak up about it.

'After that [the abuse] I was disconnected from my family, and I still am today.'
(Participant)

80. One participant never spoke to his mother about it, and she is dead now. Another participant apologised to his mother for his behaviour when growing up but didn't tell her why he acted that way because he was ashamed.

81. A number of participants who had disclosed the abuse described how their parents reacted with feelings of guilt, regret, sadness and heartbreak for not having known about, or having stopped the abuse. This added to the emotional burden for participants. One participant's mother unexpectedly brings up the participant's experience of abuse; this being on the mind of his mother at this stage in her life is very distressing for the participant, who explained that:

'... it troubles her still to this date. It's because of this that I finally decided to participate in this Scoping Inquiry.' (Participant)

82. A participant described dealing with guilt alongside his mother as she experienced intense feelings of guilt for not having been aware of the abuse during his childhood:

'I'm running out of time with my mother, and she feels guilty, and I am telling her it is not her fault, yet I have difficulty believing it wasn't my fault.'
(Participant)

83. Some participants found that their parents did not want to hear about the abuse and in some cases, participants said their parents could not believe the abuse had actually happened. Another participant told his family but found:

'They've never really been able to take on board what's happened, they've never been able to have a conversation.' (Participant)

84. One participant recalled how he told his parents about the abuse some years later:

The participant says he lost his childhood and relationships with his parents. His disruptive behaviour was never understood. In later years he told his parents about the abuse, but they did not want to hear him. They called him names and told him to leave the house. (Participant)

85. Some participants explained that they felt their parents struggled with the disclosure of abuse due to their own shame, something that many of the participants had experienced throughout their own lives. One participant described telling his parents as an adult and how he utterly regretted it as they did not believe him. He described how:

'They came back a week later and said they were prepared to believe me now. I didn't expect to not be believed. There was an element of shame in it.'
(Participant)

86. In a small number of cases participants said that their parents discouraged them even as adults from speaking about the abuse or taking a case against their abuser for fear it would bring shame to the family.

'Don't drag the family name down.' (Participant)

87. Participants also emphasised the importance of relationships with family as being important to their healing. One told how a family member seemed to recognise that the participant needed help:

'She started me seeing therapists. If that hadn't happened, something would have happened to me in any of those pillars of life which would have stopped me having a fantastic life, good career, and good marriage, which I have managed to have.' (Participant)

88. Familial relationships were strengthened in some instances and some participants spoke of the support they received from parents and others. One participant credited his mother with his ability to manage the challenges of the abuse:

He feels that she passed something to him which gives him his own faith and ability to go on. He has found his own God, his own faith, that is loving.
(Participant)

89. A few participants said they blamed their parents for the abuse taking place, as they found it hard to believe that their parents were not aware of it. A participant explained that:

He keeps his family at a distance and shut people out because they were not there for him and there is no reason for him to trust them anymore.
(Participant)

90. Another participant's adult relationship with her own parents was also negatively impacted.

'I felt hugely angry at my mother. I didn't understand why she couldn't have done more [at the time of the assault].' (Participant)

'I question why my father especially did not protect me, why he did not know what was going on?' (Participant)

D. Employment and Career

(i) Difficulties with People in Authority

91. A small number of participants described how they found it very challenging to cope with authority figures, particularly in their workplace. The most common reason was that these roles reminded them, consciously or unconsciously, of the power relations between themselves as children, and the people in authority who abused them. The result was that they sometimes reacted inappropriately in the workplace. For some, they said this meant reacting with avoidance due to feeling fear, scepticism, or distrust. Others stated that they rebelled against authority figures or showed reluctance to engage with or follow direction. In all cases, these reactions were described as having consequences for career progression, and in some cases on people's ability to maintain employment.

92. One participant described how he developed issues with figures in authority as he would view them in a similar light the person who abused him:

'I put his face onto every authority figure in my life.' (Participant)

93. Another explained that a negative impact was that he developed a scepticism around authority, which meant that he was unable to cope with some employers.

Having experienced the abuse made the participant sceptical of authority. The participant says that he was probably not an easy employee to have but was nevertheless incredibly faithful and loyal. (Participant)

94. One participant described having a complete and total distrust of authority, and it has taken him until he was much older to come to terms with it. Another said that he only managed to have a successful career because he was self-employed and did not have to deal with an employer.

95. Additionally, a few participants described how they found it difficult to remain in a job for any significant period of time. Reasons given for this included addiction to alcohol and drugs, lack of persistence in work, poor self-esteem/self-confidence, difficulties collaborating with others, "self-sabotage" and challenges dealing with conflicts and obstacles.

96. A participant said that he went on to secure high paying jobs but would always leave as an act of self-sabotage. In one notable instance, he had found a good job abroad which he did for over a year but left because:

'I didn't feel good enough, I didn't feel I deserved it.' (Participant)

97. A few participants described how they became workaholics/perfectionists as adults to help them keep the memories of the abuse at bay, and attained career success as a result. However, some said this came at a cost of personal wellbeing and functioning of family life. One participant explained how:

He felt driven by a fear of failure which motivated him into significant career and material success (Participant).

98. However, he described facing significant personal challenges despite his outward success. Other participants spoke of a feeling of emptiness despite outward success and of how an all-consuming focus on work in order to avoid other aspects of life was unhealthy.

E. Loss of Community, Emigration and Loss of Faith

99. Participants described feeling they had to move away from their localities and hometowns or to emigrate to get away from the place where sexual abuse occurred. Some described intrusive memories associated with the sexual abuse that meant they could not comfortably spend time in their childhood community. This led to a severing of social ties with home and friends from school as that might remind them of the sexual abuse.
100. One participant said he realised whilst in school, that university was a way to escape where he was living, saying that:

'The only reason I went there [university] was because it was as far away as I could get from there [hometown].' (Participant)

101. A participant described how the day he finished his Leaving Certificate exams he moved:

'Run as far away as possible ... run, run just to get away.' (Participant)

102. Others described the discomfort of visiting their childhood home:

'When I got married it helped. I moved out of that area. I don't even like going down to visit my brother who still lives in that area.' (Participant)

'Every time I return home, having emigrated from my hometown, I arrive at the bus station situated adjacent to the school, the place where the abuse took place. So, it's a constant reminder each time I return which can never be erased.' (Participant)

(i) Emigration

103. A minority of participants said that they had left Ireland specifically to get away from memories of sexual abuse. They described how the association between Ireland and the abuse meant that they lost their chance to live in the country they had grown up in. One participant describes only calming down once he had left Ireland. Another described how he eventually left Ireland.

'I couldn't go back to Ireland, because what was I going to do? I couldn't go back.' (Participant)

104. Several participants explained how emigrating had helped as they could continue their education and work in an environment free of reminders of sexual abuse.

105. Some described feeling that they were forced to leave Ireland, and they identified their emigration as another lasting and distressing consequence of the sexual abuse. One participant said:

'They took my family away from me, they took my country away from me, they took everything I had away from me.' (Participant)

(ii) Loss of Faith

106. Many participants described how their experience of sexual abuse had led them to reject the Catholic faith. For some this loss was painful for many reasons, including its impact on their ability to participate in family rituals such as weddings and funerals. Some participants described this loss as a form of spiritual abuse.

'What happened destroyed my trust in the Catholic church.' (Participant)

107. Some participants described how attending church-centred events such as weddings, first holy communions and funerals became difficult. Participants described being conflicted in not wanting to attend these events on the one hand and wanting to be part of family and community celebrations on the other. Some spoke of difficulties in attending their parents' funerals due to the presence of members of the clergy.

'I rejected religion and freed myself from its teachings. I am proud of this achievement. But it was very difficult to free myself from Church tyranny in Ireland. When my mother died, I was [age]. I never saw her in her coffin. I didn't go into the funeral home because I couldn't bear to hear priests prattling their nonsense over her. Her dead body was theirs, not mine.' (Participant)

F. Experience of Engagement with Religious Orders as Adults

(i) Challenging Experiences

108. Many participants said they had approached the religious order in charge of the school they had attended to make a formal statement or complaint about their abuse. Most of the participants who spoke about their engagement with religious orders said these interactions had been disappointing, frustrating and in some cases retraumatising.
109. Some participants said that the most challenging aspect of the meetings was the behaviour of the religious orders' representatives and in some cases, these were described as showing little empathy or compassion for survivors. Some participants described leaving these meetings with the feeling that the orders 'just wanted them to go away'. One participant described his impression that the order would prefer that the sexual abuse remained away from public attention, and he felt like it was being covered up.

'It felt like [their message was] go away and get therapy and leave us alone.' (Participant)

110. In other instances, participants felt that attempts at opening a dialogue were dismissed, leaving participants feeling ignored and disrespected. One participant carries anger about the treatment he received when he complained about the sexual abuse:

'I was treated like a piece of shit on their shoes.' (Participant)

Other participants described their experiences:

'These people don't care; they don't show respect. It's all about money.'
(Participant)

'They asked me if I feel shame and I said not at all. They are the people that should feel shame.' (Participant)

111. Participants reported that they felt they had been met with denial and obfuscation, and that representatives had attempted to confuse and belittle them. Some participants reported that the message they received was that they should drop the matter and not bother the order about the abuse.

112. Other participants recounted how they felt dismissed and disregarded by the orders.

'It took until 2009 to report it to [the religious order] but by that stage Brother X had died and all I received from the order was a one-page letter telling me that they would pray for me and giving me the contact details for [Garda Detective].' (Participant)

113. Some participants experienced these episodes as retraumatizing.

114. A small number of participants described feeling that actions taken by the religious order were intended to intimidate and dissuade them from taking their complaints further, by means of warnings over costs or references to family status. One participant described what happened when he engaged with the order in his early adulthood:

'[The religious order representative] said I should consider whether I'd be able to get employment at a good company, and if going public could impact my exam results from the stress of it. He said it would impact my father's standing in the community if it became public knowledge.' (Participant)

115. This participant went on to explain:

'So, they won. I had planned to go to the Guards after I spoke to the priest. And I didn't. I was coerced into silence. That is front and centre to me.'
(Participant)

116. Another participant contacted, and met with the order:

The [representative of the religious order] tried to convince the participant not to pursue criminal action and offered access to the benevolent fund which the participant declined. (Participant)

117. A participant recalled:

'Then when the whole thing came out, the cheek of the head of [the religious order] to come down to my mother's house and ask them not to sue them.'
(Participant)

118. Participants described religious orders telling them that they would be liable for the religious orders' legal costs in the event they should lose their case, which participants felt was an attempt to dissuade them from pursuing a case:

'I was part of the process going through the Courts [but] that got stopped when [the religious order] said we were going to have to pay all their legal fees. That was a tactic used by [name of] solicitors to discourage us from going ahead.' (Participant)

119. Another participant spoke of being advised by his legal team that:

... the prospects of winning were low as these cases are so hard to prove and that if they lost the case the [religious order] would come looking for their costs from his estate when he died. This was not acceptable to him and a risk he could not afford to take as he had made his will to leave all of his estate to charity. (Participant)

120. Similarly, a participant explained that he:

... had gone to see a solicitor a number of years ago, who said that the only recourse would be the High Court and that it would be defended by the order with all their might. It was too big a risk to take because the other side would have far greater resources. (Participant)

121. Some participants gave accounts of being told by representatives of a religious order that they had no record of the person named as the abuser ever having worked for them, or that this person had not been at the school at the same time as the participant or that records had been destroyed. One participant recalled how he had:

... phoned the [religious order] and was told that they had no record of a [member] with that name, and that they had no fund for compensation. He further recalled that the person on the phone mentioned that they heard the participant had been going to counselling. *'The [name of religious order] are known for not giving two fucks about victims'* (Participant)

122. In other instances, participants said that religious orders denied having received any previous complaints about their members, but they later heard from peers that many other survivors were told the same thing. A participant recounted how he had spoken to a religious order:

They told him they had heard rumours about what went on but never had any proof that anything happened. They said he was the first person to sit down and tell the story about being abused, and they settled there and then. They sorted out counselling for him. He found out after that [other survivors] had also been and had been told to keep their mouths shut and settled also. More people came forward and said that they had the same experience.

(Participant)

123. Participants said that some religious orders had denied that they had been contacted in the past to raise concerns about members of the order or other school staff accused of sexual abuse. Some reported that they had been told by the religious order that signed letters had been anonymous complaints, or that correspondence had been lost. A participant described being asked to use the personal email address of a representative of the order for correspondence. The participant interpreted this request to mean that there would be no official record of the participant's correspondence.
124. Another participant expressed deep frustration and anger about how a particular religious order have dealt with historical abuse and the obstacles for people trying to get justice.

'I would like the Government to take this on and tackle the barriers that the [religious order] are putting up.' (Participant)

They are not of the mindset to participate. (Participant)

'They put every obstacle in the way that they could.' (Participant)

'It was rotten then, and it is still rotten now because they are trying to cover it up. They have done the uttermost to stop the truth coming out. It was wrong then and it's still wrong now and the fear-factor and the intimidation that they got away with; they are still trying to do it.' (Participant)

125. One participant explained how he had written a letter to a religious order. He described his experience:

When dealing with the [religious order representative], there was chaotic paperwork and reporting following the interviewee's complaint [which] didn't show appropriate respect to the incident. There was a delayed response. When the participant requested records from his time at [school], the [religious order representative] replied that all records had been destroyed under data protection laws. The participant later discovered this was a lie. (Participant)

126. A participant said that the response of the order had made it difficult to make progress in their healing and recovery.

'I am still bitter; I think there are two nails to it for me. First there is the shit that happened, and second, [the religious orders saying] "what do you do about the shit that happened?" Nowadays the stuff that happens is worse than the stuff that happened initially to me as a child.' (Participant)

127. Some participants spoke of being angry about what they experienced as religious orders' lack of cooperation and inability to take responsibility for the actions of their members. Participants described experiences where religious orders implied they were merely seeking financial gain, and this was described as deeply hurtful and insulting. One participant described meeting a member of the relevant religious order, who told him that the order had cases taken to court and it had been found that the person who said they had been sexually abused was lying, warning him of the costs that the survivor would face in such an instance. The participant described how the religious order's representative was:

'Classifying me as part of a general cohort of people on the take.' (Participant)

128. Many reported feeling that any financial compensation they received, whether through civil settlements or redress schemes, could not compensate for the harm they suffered.

'I go to bed at night, and I do not want to wake up in the morning. No money can make up for that.' (Participant)

129. Others expressed the view that protecting the order and its reputation and assets took priority over protecting survivors. Expressing his disappointment in the lack of support and acknowledgement he received from the religious order, one participant said:

'The order acted like a company and protected their assets like a company.' (Participant)

130. Many participants said they believed that schools and religious orders took measures to prevent reports of sexual abuse becoming public.

131. Some participants expressed the view that some schools have not cooperated with their efforts, as adults, to expose what happened or to obtain some measure of justice.

132. One participant sent a statement to his old school, as he was told that the school was interested in taking care of survivors of abuse. The participant stated that his old school was not interested and even tried to cover for the perpetrator.

(ii) Impact of Receiving a Formal Apology from Religious Orders

133. A small number of participants who had received an apology said they felt that this helped them on their path to healing. These participants felt the apology they had received was genuine and that it had been useful in their healing.

'That meant a lot to me. That is a piece of paper I cherish; it was an unconditional apology. It is very important to be believed. I was also lucky I was believed by my parents.' (Participant)

134. Some participants who received an apology said they felt this was insufficient, with some saying they felt that the gesture was cynical or standardised:

'That was a load of bullshit [referring to an apology]. Even in 2023, they don't get the message. They're still covering it up.' (Participant)

'It is not sincere when they apologise. They only do it because they are expected by society to apologise.' (Participant)

'Everything had been sanitised by their attorneys and that took any sincerity out of it.' (Participant)

'I came in with files and said I'm just looking for an opportunity to talk. None of them would apologise. They would say a very well-trained legal sentence. I found it very insulting.' (Participant)

135. One participant described having requested that his apology be read in a particular room in the school, as it held symbolic importance as the place where he had been abused. The participant said that the behaviour of the order on this occasion failed to acknowledge the significance of this moment:

'There was no empathy, they were just blank. We were being treated like dirt.' (Participant)

136. Several participants said they had asked for an apology and had not received one. This was felt to be:

'Extremely disrespectful to a human being.' (Participant)

(iii) Peer Support

137. Several participants spoke of their feelings of isolation and vulnerability when engaging with religious orders. Some described being unaware as to whether any other survivors had come forward, and feeling as though they were the only one with these experiences. Others spoke of the experience of having found others who had been through the same things and having approached the relevant religious order collectively:

'When you're a child, all your power is taken away ... so we instinctively wanted to be worked with as a group.' (Participant)

138. Another participant said it feels unfair that the order knows of every complainant, but the survivors don't know of each other at all in many instances. He described this as:

'... a massive imbalance of power.' (Participant)

(iv) Restorative Justice

139. A minority of participants spoke of having engaged in restorative justice processes with religious orders. For those that had, feedback was mixed, with some saying it had been beneficial. One participant would like to see engagement in more restorative justice for victims. His experience is that in telling his story:

'I got my power back.' (Participant)

Other participants described their experiences:

'The restorative justice model certainly works, or at least for me it worked.' (Participant)

He has taken the route of restorative justice thus far; an outcome of which has been paid-for, specialist counselling support. (Participant)

140. Other participants noted that restorative justice processes need to be well-designed and administered carefully:

Lastly, the participant feels that there is a place for restorative justice approaches, however these need to be carefully managed. (Participant)

Any restorative justice processes need to be managed very carefully, the participant was involved in one, and the priests involved were extremely cynical. (Participant)

141. Some participants who said they were disappointed by the process explained they felt it was difficult to engage in true restorative justice as those responsible for the abuse were deceased or absent due to ill health.

The participant believes many of these restorative justice efforts are a PR move. *(Participant)*

142. One participant has been going through a restorative justice process and is availing of counselling offered by the religious order. He described how, because the individual responsible is dead, he has questions which will never be answered.

143. Another participant said the process was of limited use as he was not able to access relevant records:

The people running the process were very nice and the participant gained a little bit of closure, but the participant nevertheless felt disappointed by the process. The participant had gone in with a list of about 20 different questions beforehand and the [religious order] were unable to answer any of them, because it was reported that no records were kept. The participant doesn't feel like the [religious order's] restorative justice process is actually restorative. Additionally, the participant feels an apology is meaningless if they are unable to provide any records. The person who committed the abuse is dead and the school made no attempt to find out who had reported the abuse at the time to see if they were ok. The people apologising now were not involved at the time, so any apology is hollow and meaningless. *(Participant)*

144. Another participant said:

'I have met (representatives of the religious order) three times, over four hours and it's obvious that they don't get it and they don't care. They're never going to help and they won't help me.' *(Participant)*

145. Others explained that the process did not deliver the required accountability, by way of redress, to address the extent of the pain caused. One participant noted that:

While [the religious order] have been very open and accommodating, the redress does not come close to acknowledging the suffering involved.
(Participant)

G. Issues for the Legal System and the State

(i) Participant Experiences of the Justice System

146. The majority who spoke about their experiences of civil and criminal cases in the legal system described the process as negative. Many told how the cases took years, and this was attributed in part to what participants described as delaying tactics of the relevant religious order's legal teams.

'... when the DPP decided to prosecute, I cried at home and said at least we are going to get the bastard now. Three other days have been fixed for the trial to start, and it hasn't. From the time it was reported to now, it's been eight years waiting for the trial to be held.' (Participant)

147. A participant describes his civil action as a:

'Four-year process that nearly killed me because of the stress. I was doing it because I felt I had to do it. I achieved nothing.' (Participant)

148. Many described the adversarial legal system in court as unsuitable for survivors of childhood sexual abuse. They described experiences where cross-examination lasted for days, and was experienced as aggressive and inappropriately confrontational, with experienced legal teams attempting to discredit their testimonies.

149. Participants spoke of being portrayed as liars and unreliable witnesses in court. One participant said their experience with the Gardaí was excellent, but the court experience was very different, and he described what he experienced on the stand as

'a character assassination.' (Participant)

150. A participant shared his experience of watching his friend go through the court process:

'I watched a friend in court, what he went through; they destroyed him for three days. He never deserved what they put him through.' (Participant)

151. Some participants maintained that the current system is completely inappropriate for survivors of sexual abuse.

'I understand innocent until proven guilty, but I, the victim, felt I was guilty. The whole judicial system was very unfriendly and hard to understand and actually more lenient to the accused than the victim.' (Participant)

'I told [the defendant's barrister] "He raped me." She went red, she looked ashamed.' (Participant)

152. Participants described the challenges posed by basic logistical arrangements in attending court. They reported having to sit across from persons accused of abuse in the corridor before court and having to use the same toilet facilities.

He didn't realise that he would have to sit on a bench across from the abuser outside the courtroom until the day. One day his family couldn't accompany him, but a representative from One in Four did, that person was a great support, and he would have really found the process unbearably difficult if she had not been there. It's important to know people are on your side because it is very intimidating. *'It was really important to me that when I came down off the stand that I wasn't going to sit on my own.'* (Participant)

153. Several participants said that taking legal action had been difficult because solicitors were unwilling to take on cases against religious orders. Cost was also mentioned as a significant factor preventing survivors from securing legal representation where individuals could not afford to make large downpayments to secure legal services.

(ii) Experiences with An Garda Síochána and the Director of Public Prosecutions

154. A small number of participants described frustration with their experiences with the Gardaí. Some described a lack of action or long delays on reports that they made, and some described how their statements or complaints were lost.

In the 1970s [the participant] told the police, however there was no action.
(Participant)

155. One participant described how they reported the abuse to the Gardaí:

An officer explained that they investigated the alleged abuse, but other priests had claimed that the abuse did not occur. Moreover, the Garda explained that since the abuser was dead, there was nothing that could be done by the Gardaí. (Participant)

156. Another participant said that he went to the Gardaí for the first time in recent years and told them what had happened to him. Although the priest named by the participant is still alive, the participant said that he is unaware of any investigation by the Gardaí or the Church. The participant is very disappointed and angry about this. The participant stated that he often enquires about the status of his case, but nothing has happened since he reported it.

'I have the feeling they will just wait for my abuser to die so they don't have to take care of it. The police are a bit of a joke. I still don't know if they have contacted the priest.' (Participant)

157. Some participants had positive interactions with An Garda Síochána.

He primarily dealt with two Guards throughout the process. The Guards were a credit throughout the process. *(Participant)*

(iii) Issues for the State

158. Participants spoke of the influence that the Catholic Church has had on Irish society as a whole and expressed a view that this had a significant impact on responses to allegations of abuse in schools run by religious orders.

'I have no doubt that there was corruption to cover up and protect sexual predators. The country we were living in was controlled as much by the Church as by the Government. I know we are moving away from that, but it must be acknowledged, and we must never go near that again.' *(Participant)*

'How many Deputies came out of [religious order] schools? How many Ministers came out of [religious order] schools? How many people in positions of power in the Irish criminal justice system?' *(Participant)*

'I was and remain angry about the cover ups of sexual abuse perpetrated against minors by clergy and even more by the complicity of the state in ensuring (so far) limits on the potential financial consequences for the Church, not because I have any personal interest, but I believe accountability matters and impunity is wrong.' *(Participant)*

159. Some participants commented on the relationship between the Catholic Church and the State.

The participant noted that the government handed power to the Catholic church, and he neither has faith in government nor politics. He is of the opinion that the government now have an opportunity to hold the Catholic church and institutions to account. *(Participant)*

160. A small number of participants stated their concern over the Department of Education's role in examining sexual abuse in schools run by religious orders. Some participants pointed out that although the schools were run by religious orders, most were funded in some way by the Department of Education.

'The Department of Education should not be the people investigating themselves.' *(Participant)*

161. Some participants spoke of feeling a measure of cynicism about political will to hold people accused of sexual abuse and the associated institutions to account. One recounted how, when seeking the support of ministers in government, one response included:

'Ah sure they're old now, let them go.' (Participant)

H. What Helped Over the Years

(i) Realising the Full Impact of Abuse

162. Most participants said that realising the impact of sexual abuse, and being able to share their experiences with others took many years. Participants described the relief they felt when they were finally able to share their experience of being sexually abused. Many explained that the support of partners and family members has enabled them to live overall fulfilling lives despite childhood sexual abuse.

(ii) Knowing That There Were Other Survivors

163. Many participants described hearing other survivors' stories on the news or in documentaries over the past decades as the moment when they realised they could tell their own stories. The realisation that they were not only one who suffered sexual abuse was described as providing them with strength and resilience. Some participants spoke of their great admiration for Mark and David Ryan who told their story in the RTÉ Documentary on One: *Blackrock Boys* and subsequently appeared on RTÉ's *The Late, Late Show*. These participants believed that revelations of historical sexual abuse in day and boarding schools run by religious orders would never have reached the broader public and many participants themselves would not have had the strength to share their own stories without this documentary. The view was expressed by participants who attended a range of different schools.

'He [Mark Ryan] was a lifeline and inspiration to all of us, certainly to me, who came forward to tell our stories. He was still trying to rebuild his life when his time here with us came to an end.' (Participant)

'I thought "Wow, they actually have the courage to go on the radio and talk about that." That is the only reason why I am talking here today.' (Participant)

164. This documentary is what motivated one participant to come forward and share his experiences with the Scoping Inquiry.

'It's wrong that it's only coming out now. I don't want anything like that to ever happen to anybody ever again [...] I'd rather give someone like me the courage to not bottle it up.' (Participant)

He went on to say that:

'It's only through the braveness of those two men on television that I'm sitting here today.' (Participant)

165. Participants described how hearing about child sexual abuse impacted them:

Upon hearing the radio speaking of child abuse, *'I said to my wife, 'I'm one of them.'* That was the first time the participant spoke of it. (Participant)

166. Another participant described the impact of a television programme in the late 1990s where, for the first time, they heard someone speak about sexual abuse:

'I remember lying down in the living room having a full body experience, trembling.' (Participant)

167. One participant described a life-changing moment in 2010 when he witnessed an audience member disclose his sexual abuse on a national television show.

'I didn't tell anyone about it until 2010. I was watching Prime Time and there was a county councillor in the audience. He described the abuse that he had experienced.' (Participant)

The participant went on to explain the impact and importance that that moment had for him.

'He's my hero. If he had not had that conversation on national television, there is zero chance that I would be here now.' (Participant)

(iii) Finding Strength in Shared Experiences

168. Participants described finding relief, strength and empathy in sharing their experiences with other survivors. One participant described how being part of an online group for victims of abuse has been supportive for him:

'It's encouraging to see how many other pupils have found ways to move on. We're brothers in arms. We have had a shared bad experience, and I won't let it overwhelm me.' (Participant)

Other participants described similar experiences:

'The shared experience and the help from my friends was so powerful.' (Participant)

'Sadly, I now have met many men who have been sexually abused. I now know I am not alone, and I have a shared commonality with many others. This gives me strength.' (Participant)

'It was a relief for me, that I had lads that understood what I went through.' (Participant)

(iv) Disclosing Childhood Sexual Abuse as an Adult

169. Many participants spoke of bottling up their childhood experiences of sexual abuse for many years, often only disclosing what had happened when they reached a breaking point in their lives. One participant said it took a long time to tell his partner about what had happened. He described how he had tried to downplay the abuse as a way of coping but that it had a devastating impact across his life.

'I like to tell myself it wasn't abuse and normalise it. But it was'. (Participant)

170. Participants described the difficulties of carrying their experiences:

'You put it in the back of your head, and you accept that it happened, but you don't deal with it, and it just comes to a point where you have to deal with it.' (Participant)

'The hardest part was holding onto it for 36 years.' (Participant)

'There was a huge internal conflict within me [...] I gobbled up self-help books, not understanding why I was the way I was.' (Participant)

171. Some participants spoke about significant mental health issues which resulted in their disclosing what happened.

'I started to get depressed. I didn't understand it. I wanted to stay in bed all the time, I thought I was just tired, but it crept up on me.' (Participant)

'It didn't really start to come back into my head until I was having a difficult time at work. I was having flashbacks, but I didn't even know what was happening.' (Participant)

(v) Supportive Relationships

172. Many participants spoke of the support they received from a spouse or partner:

The participant now lives overseas and said that he does not think he has ever been happier. He has a partner who is a significant source of support, and it has been a huge benefit to him in terms of his overall health to have this relationship with a caring and understanding person. (Participant)

The participant observed that their relationship with their spouse was a key support in dealing with the abuse they experienced. (Participant)

'I've been in the process of healing myself. I was lucky that my wife managed to stay the course and support me. Without that, I might have been dead in the early 1990s'. (Participant)

[...] he told his wife, children, sister and brother-in-law about the abuse and they have all helped enormously. (Participant)

(vi) Counselling and Therapeutic Support

173. Many participants reported having engaged in counselling or psychotherapy, some for many years. Most spoke positively about their experience of counselling:

'I've been with a counsellor, and I know this isn't the case, but I had the feeling of being responsible or that I invited it.' (Participant)

'I think my life is only really just starting and it's only through the understanding that it wasn't my fault and therapy.' (Participant)

'The counsellor said to me in my 40s "it was not your fault". At that moment I felt the guilt I carried with me for so many years. I realised I was a victim in the situation. Her words freed me. Shame, guilt, fear are huge shackles on a youngster, and I experienced those things very intensely.' (Participant)

174. Participants also spoke of how counselling and psychotherapy had helped them to gain insight into how the sexual abuse had affected them. One stated that:

'The positive thing from that, because I've been doing therapy, is that I'm able to name and recognise the behaviour. I'm very lucky to have that.' (Participant)

157. Another explained that therapy has helped significantly:

'As I go on, I learn more about why I am the way I am.' (Participant)

'It helps to have an increased knowledge of trauma, and how it affects you, and how the body holds onto it in some way.' (Participant)

176. A small number of participants described the experience of counselling or therapy as negative or said that it had not helped them. Participants stressed the importance of counsellors and therapists being the right people to work with survivors of sexual abuse. One participant described a negative experience:

'The therapist said it didn't even sound like serious abuse, [...] and I don't know how someone can say that' (Participant)

177. Others discussed how, when they initially attended counselling, it felt like this was not the right time for them and the experience of recalling events from the past was simply too painful.

(vii) Finding Peace

178. A small number of participants shared their reflections on finding peace. Some participants characterised this as a kind of victory over the person who had abused them, saying that living a good life was a way to rise above the suffering caused.

'I'm okay now, I've had a good life. If I hadn't hit that rock bottom, I wouldn't be alive today. I consider myself one of the lucky ones. I'll be [age] in two months' time. I'm glad to get the weight off my shoulders now. I feel quite comfortable now. I'm the big winner here.' (Participant)

'I decided to see myself as a survivor. His power over me was only there when I was an innocent young child and not as a grown man.' (Participant)

179. In the last 12-18 months one participant has thought about the sexual abuse more but has never wanted to let it define him.

'I tried not to let it affect me much in later life, as I didn't want to give him the satisfaction.' (Participant)

180. Participants were clear that any success they had achieved in life was in spite of the sexual abuse and a testament to their own strength of character:

'To have had my formative years so utterly corrupted by such an evil man, and to have eventually lived a relatively normal life, I regard myself as an extraordinarily lucky individual.' (Participant)

'In recent years I am more relaxed and outgoing, and I wish I had always been like that. I wish Ireland hadn't been such a brutal place for children to grow up in.' (Participant)

181. One participant felt that the most healing thing that he has been able to do for himself was to forgive the man who had done these things to him. He doesn't like this person, he doesn't have any positive feelings towards him, but he forgives him nonetheless; he says this was a very difficult thing to do.

(viii) Helping Others

182. Participants described supporting others in a variety of ways, both professionally and on a voluntary basis, with particular emphasis on helping other survivors of sexual abuse.

183. One participant described how his interest and work to ensure safeguarding of children has given him a sense of purpose and helped to address feelings of anxiety.

184. Echoing this, another participant described feeling that:

His job now is to give back and to help others who are coming forward to speak about their experiences of abuse. *(Participant)*

The participant added that he finds advocating for others to be therapeutic.

185. Keeping children safe from abuse now was described as critically important to the majority of participants. Several said they had engaged in careers and voluntary activities associated with safeguarding children. Many participants spoke of their wish that no other child would ever have to go through what they did, and it was important for many participants to work proactively towards this aim.

186. One participant described how his early childhood experiences have given him a particular insight and empathy for working with vulnerable children and adults in his professional life and he has drawn on his experiences to help with educating other professionals working in this area.

Another participant described how:

He feels somewhat reassured that processes are in place now to ensure it doesn't happen again. He was actively involved with the Board of his son's primary school for years to ensure that strong processes and procedures and safeguards were in place to ensure the safety of children in the primary school. *'There should be a level of due diligence in relation to any situation.'* *(Participant)*

187. Many participants spoke of their efforts to ensure that their children and grandchildren had the confidence and safety that they lacked as children. One participant noted the priority he places on ending the cycle of abuse with his generation.

'I have always said to my children and my grandchildren, that if anyone would abuse them, they should come to me. And in a lot of ways, the abuse ends with me, and it's not passed on to another generation.' *(Participant)*

I. Chapter Summary

188. This chapter sets out the impact of child sexual abuse in adulthood, describing participants' reports of how the effects have reverberated through their lives and in some cases, through those of their families. The lasting and cumulative effect of sexual abuse was described vividly by survivors, and their accounts are in complete accordance with the impact of child sexual abuse described in the literature on this subject.

189. Many of the participants who have come forward to the Scoping Inquiry have described serious, persistent, life-changing and hugely damaging impacts of sexual abuse. The SAVI¹ report in 2002 recognised these types of impact, which persist well into adulthood and the accounts given by participants in this chapter describe such experiences.
190. In this chapter, participants described cumulative impacts on their mental and physical health, describing impacts on their relationships with families and friends, their ability to form new relationships and their sexual development. In some cases, participants spoke of their decision not to have children of their own because of the fear that they could not protect them. Others described feeling heartbroken and guilty after disclosing what happened to elderly parents.
191. Some participants described mental health problems and illness. Damaging coping strategies including problematic use of alcohol and drugs were described by many participants. Some described difficulties with people in authority, and others spoke of ongoing lack of self-esteem. Many said that these issues affected their opportunities for further and higher education, their employment prospects and ability to progress in chosen careers.
192. Participants spoke of needing to get away from places and people that reminded them of abuse and for some, this meant leaving their communities or emigrating. Many could not speak about what had happened to them for years, which compounded their difficulties.
193. Participants also spoke about their efforts to find some peace and to address what happened to them. Participants described their experiences of engaging directly with religious orders, with many reporting that these encounters caused them frustration and disappointment. Others described more positive experiences of receiving an apology or acknowledgement.
194. Some participants spoke of their experiences with the legal system, with many describing difficult processes which were often experienced as retraumatising. Other participants described their concerns about the role of the State in examining the issue of sexual abuse in schools and their lack of faith in the political system to respond.
195. Some participants spoke of finding strength in discovering that they were not alone and that support from other survivors had helped them. Others described how their own efforts to support other survivors had been a source of strength for them, and some spoke of their efforts to play an active role in safeguarding children today. For some participants, support from spouses or partners has been important.

1 Mc Gee, H.; Garavan, R.; de Barra, M.; Byrne, J.; & Conroy, R. *The SAVI report: Sexual Abuse and Violence in Ireland* (Royal College of Surgeons in Ireland, 2002).
<https://doi.org/10.25419/rcsi.10770797.v2>

196. Many participants have engaged in therapy over the years and described the relief of being able to talk about their experiences, although for some participants the process of engaging with counselling did not feel beneficial. Talking about the experience of childhood sexual abuse and seeking help is recognised in the literature on sexual abuse as being difficult for survivors, but many participants described it as helpful. However, many describe healing as an ongoing process which requires therapeutic support.
197. The following chapter sets out participants' views on their preferences for what should happen in a government response to historical sexual abuse in day and boarding schools run by religious orders.

Chapter 7:

What Participants Want to See Next

Content Warning: This chapter contains details of participants' descriptions of sexual abuse, physical violence, and reference to suicide. It may be distressing to read.

- A. Introduction
- B. General Principles Underpinning Participants' Views on Next Steps
 - (i) Early/Immediate Action
 - (ii) Accountability – Type and Scope of Inquiry
 - (iii) Accountability – Financial Redress
 - (iv) Experiences of the Legal System
 - (v) Commemoration and Memorialisation
 - (vi) Other Recommendations
- C. Accountability – A Statutory Inquiry
 - (i) Participant Preferences for a Future Inquiry
 - (a) Participating at a Statutory Inquiry
 - (b) Cross-Examination and Privacy
 - (c) Public Access and Awareness
 - (d) Transparency
 - (e) Compellability
 - (f) A Successful Outcome
 - (ii) Why Some Participants Do Not Want an Inquiry
- D. Scope and Nature of Any Future Inquiry
 - (i) Examining the Extent of Sexual Abuse and Any Possible Cover-Up or Collusion
 - (ii) Inclusion of Other Schools and Institutions
 - (iii) Other Forms of Abuse
 - (iv) A Survivor-Centred Process

- (v) Psychological and Emotional Support
- (vi) Use of Language
- (vii) Ensuring Quality and Good Practice
- (viii) Survivor Engagement

E. Accountability – Financial Redress

- (i) Redress as a Symbol of Accountability
- (ii) Practical Considerations
- (iii) Who Should Pay for Redress
- (iv) Redress as a Survivor-Focused Process

F. The Legal System

- (i) Increase the Pace of Legal Proceedings
- (ii) Age of Alleged Abusers and Decisions Around Prosecution
- (iii) Non-Disclosure Agreements and Statute of Limitations
 - (a) Non-disclosure Agreements
 - (b) Issues with Historical Cases
- (iv) Introduce Guidance for Cross-Examination

G. Commemoration and Memorialisation

- (i) A Living Archive or Museum
- (ii) Books or Documentaries
- (iii) Events and places of remembrance

H. Other Recommendations

- (i) Actions to Promote Child Safeguarding and Wellbeing
- (ii) Research into Understanding of Causes of Sexual Abuse
- (iii) Restorative Justice Practices
- (iv) Enhanced Mental Health and Social Supports
- (v) Support for Divestment of Schools

I. Chapter Summary

A. Introduction

1. Participants' views on how the State should respond to revelations of historical sexual abuse at day and boarding schools run by religious orders were described during interviews as part of the second stage of the Scoping Inquiry's Survivor Engagement process. Participants were given a booklet, '*Guide to Potential Government Responses*' in advance of their interviews which outlined approaches that have been taken in response to historical sexual abuse in the past.
2. As outlined previously, the interviews were semi-structured with open-ended questions rather than a checklist of closed yes/no questions, and not all participants selected an approach outlined in the booklet. However, the majority of participants gave their views on the options with many selecting more than one as acceptable or desirable. Participants also spoke about what mattered most to them in a general sense and this did not always align fully with the identified options. People also suggested approaches other than those outlined in the booklet.
3. This chapter of the report of the Survivor Engagement process outlines the main priorities, preferences and concerns participants outlined regarding next steps. It also includes additional suggestions for actions from smaller numbers of participants.

B. General Principles Underpinning Participants' Views on Next Steps

(i) Early/Immediate Action:

4. Concerns were raised about the length of time that a future inquiry would take, with participants highlighting the age profile of many survivors and the importance that they see and receive justice within their lifetimes. Publication of the Report of the Scoping Inquiry was seen as a first step with early action on its recommendations.
5. A number of overarching principles were identified across participants' views, which are described in this chapter under the following themes:
 - Accountability – Type and scope of a future inquiry
 - Accountability – Financial redress
 - Experiences of the Legal System
 - Commemoration and Memorialisation
 - Other Recommendations

6. The greatest single matter identified by participants in relation to recommendations to government for future action was that of accountability. Participants wanted the religious orders to publicly acknowledge historical sexual abuse. They also wanted the general public to know what had happened, and they wanted ongoing improvements to ensure such abuse would not occur again. Overall, two main recommendations to accomplish this aim were holding a statutory inquiry and financial redress.
7. A brief summary of each theme is set out below and each area is then explored in greater detail.

(ii) Accountability – Type and Scope of Inquiry

8. The majority of participants who discussed the type of response they would like from government had a preference for a statutory inquiry into the historical sexual abuse of children in day and boarding schools run by religious orders.
9. When facilitators asked those who expressed a preference for a statutory inquiry as to what was important to them about an inquiry their responses included the following:
 - For the public to know what had happened to them;
 - To be believed;
 - Compellability, including:
 - That members of religious orders would be required to appear at any inquiry
 - That documents and records would be required to be provided to any inquiry
 - The proceedings of any inquiry to be reportable in the media;
 - A published report of any findings;
 - Transparency and reducing the ability for institutions to protect individuals, abusers and organisations.
10. Of those who wanted a statutory inquiry, participants discussed the options of tribunals of inquiry and commissions of investigation. Many those who wanted a statutory or public inquiry said they would be prepared to give evidence; however, many said they did not want to be cross-examined or challenged on their evidence as generally occurs in a public process. Many said they would only give evidence in private, and some said, based on previous experience with the legal system, that they would not participate in a public inquiry. Some participants said they did not have an opinion about what type of statutory inquiry was preferable and some participants expressed support for more than one type of statutory inquiry.

11. The majority of participants agreed that any inquiry should include a focus on the following key areas:
 1. What happened and who was responsible;
 2. Whether sexual abuse was covered up;
 3. What can be learned for the future.
12. Some participants wanted any inquiry to go further than identifying those who may have been involved in a cover-up and said that it should also seek to understand the circumstances that allowed sexual abuse to occur and to be hidden. Participants said that such an analysis would be an important learning opportunity for organisations now and would assist in assessing risk to children now and in the future. Some participants want any inquiry to include other bodies such as relevant organisations and government departments and some participants requested that the inquiry be broadened, to include psychological and physical abuse and to include the experiences of children who witnessed abuse of others.

(iii) Accountability – Financial Redress

13. Most participants were in favour of redress or a scheme to administer compensation while acknowledging that no amount of money can adequately compensate for the short- and long-term impact of sexual abuse on participants' lives.
14. Many participants did not express a view on how redress should be funded. However, a view that religious orders should pay or contribute was expressed frequently and participants had a preference for this to happen voluntarily without the need for legal action. Some participants identified that the State, if necessary, would need to reinforce this but some said that they did not want any more money spent on legal support. Some identified the State as also having responsibility and therefore thought it should contribute to a redress scheme.
15. Participants had different views on how redress should be administered, with some saying that it should be broadly proportionate to the harm caused, while others saying that differential costing for types of sexual abuse would be inappropriate. A suggestion of a two-tiered system was also proposed, depending on the severity of the abuse. Some stressed that consideration be given to the timely payment of compensation given the age profile of many survivors, and that for those survivors who may prefer it, a system of instalments should be available. A small number of participants suggested that redress could take the form of infrastructure to support survivors such as therapeutic services, and others suggested funding for education or specific state payments like a type of pension or other services. However, these were in the minority.

(iv) Experiences of the Legal System

16. Many participants spoke about the need to address concerns they have with the legal system to make it more accessible and appropriate for victims of sexual crimes, and participants recommended that some specific areas be reviewed or changed. These included:
- Increasing the pace at which legal proceedings are processed through the courts;
 - Ensuring an alleged abuser's age was not used as a reason not to proceed with a legal case and greater transparency relating to decisions not to prosecute;
 - Addressing issues relating to Non-Disclosure Agreements and the Statute of Limitations for civil abuse cases;
 - Introducing guidance for cross-examination in abuse cases.
17. Some participants recommend a whole system review of how the courts manage sexual abuse cases, including historical child sexual abuse cases, in both criminal and civil proceedings.

(v) Commemoration and Memorialisation

18. Participants expressed support for some form of commemoration and/or cultural intervention that would honour the needs and legacy of victims and survivors. Examples given included independent trusts to provide free counselling and other supports for survivors and their families (which overlapped with similar suggestions for types of redress); the creation of an archive; the inclusion of the findings of any inquiry in the school curriculum; documenting the story of sexual abuse in documentaries or books; or the creation of a memorial garden or space where people could go to reflect on this part of Ireland's history.

(vi) Other Recommendations

19. A small number of participants offered many additional suggestions and initiatives for further action including enhanced child safeguarding and sex education; research funding for related projects; options of restorative justice; the divestment of schools; and supports in the courts for survivors of sexual abuse during and after a case. Some participants said there should be options for survivors to advise any further inquiry.

C. Accountability – A Statutory Inquiry

20. This section outlines the majority suggestions made by participants regarding any future inquiry. The *Guide to Potential Government Responses* booklet outlined potential next steps. These were divided into three sections in the booklet:
1. Investigating What Happened
 2. Compensation for Harm Done: Redress and Other Supports
 3. Some Potential Alternative Approaches
21. As the interviews with participants were semi-structured, meaning that they did not follow a strict yes/no question format, some participants supported several approaches. Not all participants indicated interest in, or any preference for, these potential next steps. For those who did, an overview of their recommendations is presented here along with the reasons why participants had chosen these options.

(i) Participant Preferences for a Future Inquiry

22. The majority of participants opted for some form of statutory inquiry. Many did not have a preference for any particular type of inquiry and some said they did not want an inquiry (some participants opted for more than one choice). There was much overlap and nuance in the rationales given for participants' preferences. Some participants were clear in stating their preference for a tribunal or a commission, while others were less sure about the similarities and differences between these. However, there was a clear consensus in seeking accountability.
23. A key issue of importance described by participants was that a statutory inquiry would have powers of compellability, would be open to the public and the media, would be transparent and would ultimately issue a public report. However, participants also expressed concerns about such a process, including the implications for any adversarial legal process, such as being cross-examined or not believed, and having to give evidence in public, both leading to the possibility of being retraumatised. A minority of participants said that a statutory inquiry would not change what happened and wanted to look to the future instead.
24. Both a tribunal of inquiry and a commission of investigation are established on a statutory basis and have powers of compellability of witnesses and documents. Witnesses can be cross-examined in both settings. Both are transparent in their terms of reference and actions, and both issue a published report.

25. The main differences between commissions and tribunals are that tribunals generally involve greater fair procedure rights for participants, since a tribunal's default position is to hear evidence in public where allegations can have an immediately damaging impact on a person's reputation. However, a tribunal can sit in private if it is expedient given the nature of the inquiry or evidence to be given,¹ and there are some instances where a tribunal has done so.² In contrast, a commission generally allows parties to give evidence in private, and the minimum of fair procedures required in such a context are the opportunity to read and make submissions on a draft of a commission's report prior to its finalisation.³ A tribunal generally does not circulate a draft of its final report because all of these rights, of representation in cross-examination and submission, have already been allowed in the course of its hearings. A commission can, however, hold hearings in public at the discretion of its Chairperson.⁴ While, there is no case law on these provisions of the Commissions of Investigation Act 2004, the default position that, in general, a commission sits in private, but may sit in public if it decides to accede to a request by a witness to do so or, alternatively, the commission is satisfied that sitting in public is in the interests of the investigation and procedural fairness.
26. The key rationale for those who opted for a tribunal of inquiry was public access leading to transparency and compellability of witness and documents. However, notably, a commission of investigation would also provide for public access at the discretion of the Chairperson and has powers of compellability of witnesses and documents.

1 Section 2(a) of the the Tribunals of Inquiry (Evidence) Act 1921, as amended, (**the 1921 Act**): A Tribunal to which this Act is so applied as aforesaid shall not refuse to allow the public or any portion of the public to be present at any of the proceedings of the tribunal **unless in the opinion of the tribunal it is in the public interest expedient so to do for reasons connected with the subject matter of the inquiry or the nature of the evidence to be given** and in particular where there is a risk of prejudice to criminal proceedings. (emphasis added)

2 For example, the Morris Tribunal, http://www.morristribunal.ie/sitecontent_80.pdf , the Lindsay Tribunal into infected blood products: <https://assets.gov.ie/42662/ea2b2faad3434d4fa7afed177c1bbb0f.pdf>. and the Barr Tribunal <http://www.mulley.net/BarrTribunalReport/BarrTribunalReportAppendix1.html>.

3 See comments of Charleton J in the third interim report of the Disclosures Tribunal, p. 115: <https://www.disclosuretribunal.ie/wp-content/uploads/2020/05/Third-Interim-Report.pdf>

4 Section 11(1) of the Commissions of Investigation Act 2004.

(a) Participating at a Statutory Inquiry

27. The open-ended nature of the semi-structured interview process meant that not all participants provided a view on whether they would attend to give evidence at either a commission or a tribunal. Many participants said that they would give evidence at an inquiry, but many also said they did not want to give evidence in public, with cross-examination seen as a cause for concern. For many, giving evidence was considered a duty and a public service, albeit a decision or opportunity that they would make with significant hesitation. Others gave a conditional yes to giving evidence but expressed concern about whether any inquiry was to be held in public or in private. Other responses indicated that the participant did not want to provide testimony in public or be cross-examined:

The participant would be willing to speak publicly about their story. *'I am happy to help.'* (Participant)

The participant doesn't think many will stand in court and tell their story, but if enough do it then he would be happy to stand with them – unless there is a groundswell, people won't be challenged. (Participant)

'Put me on the stand, I don't care. It has to come out.' (Participant)

He would not be comfortable with a public inquiry. Participation of orders should be compulsory. He would prefer a commission of investigation with a private hearing. (Participant)

Future inquiries should be private, as a public inquiry could be extremely challenging. The participant would participate in a future inquiry, if needed. (Participant)

(b) Cross-Examination and Privacy

28. A point raised by those favouring a commission is that it allows for parts of the investigation to be conducted in private sessions without public or media attendance. Some participants noted that it also avoided the litigious nature of a courtroom-like engagement. The *Guide to Potential Government Responses* booklet notes that a commission involves cross-examination, but that this is only permitted at the discretion of the Chairperson and can be done in a setting that excludes the public and media, but includes the necessary legal teams.
29. All witnesses at a tribunal of inquiry and a commission of investigation can be the subject of cross-examination from relevant legal teams. At a commission of investigation, at the discretion of the chair, cross-examination can be curtailed where it is deemed unnecessary or can occur in the absence of the public and media.

30. The key rationale provided by people who support a commission was that the adversarial and court-like nature of a tribunal has the potential to retraumatise survivors. It was also noted by many participants that some people will not be comfortable participating in public and so should have the option of engaging in a private session. This rationale is explained in further detail below.
31. There was a broadly even split amongst those who favour a public process between those who said they would be willing to attend or give evidence themselves and those who would not be willing to do so. Whilst those in favour of giving evidence in this way spoke of their sense of public duty, the facilitators nonetheless noted some hesitation on the part of some participants. Other participants wanted to take part in a statutory inquiry but did not feel able to speak in public:

The investigation should be taken out of the courts and conducted in a separate group/committee with stakeholders and survivors. The participant stated that it was retraumatising for him and others to be in court. *(Participant)*

32. A common reason given for uncertainty about participating in a public process was for the sake of privacy and the fear of family/friends finding out, as some participants have never told their families about what happened to them. Participants who selected a commission of investigation, rather than a tribunal of inquiry, frequently did so because they wanted the option to tell their story in a more private setting:

'I think I'd go for that option, in private. I wouldn't want that to be all out there. I think a mixture of public and private would be the best.' *(Participant)*

[The participant] recommended a commission of inquiry, because he agreed a more private and confidential inquiry into the sexual abuse experienced at boarding schools would be a good idea. The participant was uncomfortable with the idea of people knowing his business or having other people finding out about his past. *(Participant)*

33. Other participants suggested the confidential option offered by a commission, due to a fear of public speaking, a reluctance to be cross-examined or questioned publicly, and a fear of a negative impact on their own mental health:

'I would prefer a private inquiry. I wouldn't want to stand up in public, and I'd imagine many people would feel like that. I don't think I could, I wouldn't be able to deal with it. I couldn't see myself going up on a stand. I'd prefer it to be anonymous.' *(Participant)*

He was not comfortable with the idea of a public hearing because he would not be comfortable going public. A public process would be very difficult for the participant's own mental health. *(Participant)*

34. Participants who wanted a public process generally expressed the view that there needs to be a means to participate for those who are unwilling or unable to do so publicly. For the few participants who had no particular preference for a type of process, they similarly felt it should have both public and private options for participants to choose from:

They are not sure if they would be able to speak in public but would be willing to discuss in private. *(Participant)*

'I think it has to do both [public and private hearings].' *(Participant)*

(c) Public Access and Awareness

35. Participants were in favour of public awareness of a future inquiry and access was considered important. A tribunal is open to both public and media attendance. A commission of investigation can, at the discretion of the Chairperson, hold sessions in public and in private. Both types of statutory inquiry publish a full account of findings.
36. Public engagement and scrutiny were considered to be an effective way to examine the issue of historical sexual abuse in day and boarding schools run by religious orders and any subsequent cover-up.

He would like the names of abusers, religious orders and the organisations and people who were complicit in the abuse to be named publicly. *'The light needs to be shone on who turned a blind eye.'* *(Participant)*

'Too much of this has gone on in private and the public needs to know.' *(Participant)*

37. Public engagement is also a key aspect of challenging stigma and silence in relation to sexual abuse:

The participant would like to see the conversation out in the public realm, to remove the taboo; *'it's the hush – hush that caused the problems in the first place.'* *(Participant)*

(d) Transparency

38. A further rationale for participants who want a statutory process was to aid transparency, as many participants reported experiencing a lack of transparency in their engagement with religious orders to date and some expressed concerns that powerful institutions had acted to protect those responsible for sexual abuse in the past. As discussed above, commissions and tribunals both have the power to sit in private and public and both publish their reports in full.

'We need complete transparency, and we need to cover all aspects. Each person who is traumatised by this needs to feel as though they are getting all the information.' (Participant)

'Anything that facilitates transparency; that will help move things in a more positive direction in the future is what is required. Transparency is a huge help. That is in the hands of the government.' (Participant)

The participant is in favour of a public tribunal, where there is transparency and oversight of what is happening. (Participant)

39. Media engagement was seen as important in facilitating public knowledge about what happened. The media can attend public tribunal hearings and can attend any public hearings of a commission.

The participant strongly believes the hearings must be held in public, and that wide media coverage is essential over the full timeframe of the work. This will keep the topic in the public's mind and the participant hopes, over time, the coverage will reach out to all those who have been abused and may not yet have come forward or may never come forward. The participant believes there are dozens, if not hundreds more victims who have never been contacted by inquiries to date. (Participant)

'We need to pull it out of the dark ages, because there is too much happening behind closed doors. Let anyone walk in off the street, including journalists from other countries so that they can write about what is happening in Ireland.' (Participant)

(e) Compellability

40. Another rationale for a statutory inquiry described by participants was that it would ensure the co-operation of religious orders. Both a tribunal of inquiry and a commission of investigation have powers of compellability. Participants felt that there is a need for a mechanism to compel engagement and presentation of documents.

The participant wants a public inquiry where all documents are made available. The participant is concerned that the religious orders had twenty years to get rid of documentation surrounding these cases. Nevertheless, the participant would like to see the documentation brought out. (Participant)

'[I want a] full public inquiry with legal powers to summon everyone who is mentioned and named by the victims.' (Participant)

(f) A Successful Outcome

41. The publication of a full and thorough account of the findings of a statutory inquiry was important to survivors, and many expressed the hope that this would provide a definitive overview of what happened, the extent of sexual abuse and an account of any attempts to cover this up. Both a tribunal of inquiry and a commission of investigation publish a full report.

'A definitive inquiry and statement need to be there at the end. I want to be able to look at it to say this was dealt with well.' (Participant)

[The participant] would welcome a publication by the state, highlighting the abuse that occurred within day and boarding schools run by religious orders. (Participant)

42. For others, there was a desire for findings of an inquiry to result in criminal prosecution of those who they believe have committed crimes but have not yet been held to account. However, there was an understanding that this in an unlikely outcome of the process.

(ii) Why Some Participants Do Not Want an Inquiry

43. The small number of participants who did not want any type of inquiry said that it was irrelevant to them, or that it would not make a difference or result in any real outcomes for them.

The participant felt that abuse they experienced was so long ago and any options would not make a significant difference for them due to their age. (Participant)

44. For others there was a fear that engaging in any form of inquiry would be retraumatising:

The participant did not recommend a tribunal or commission of inquiry, because they felt that the legal process was not respectful or supportive around the needs of victims and survivors. (Participant)

45. Some participants wanted to avoid the time that a commission or tribunal would take, and the expense to the State, and preferred to progress immediately to the implementation of consequences for the religious orders. Participants who raised this view highlighted that one of these consequences should be the reduction in power and influence of the Church through actions such as financial consequences or divestment of education.

46. One participant questioned the value of inquiries to add to what is already known at this point. The length of time and onerous nature of such inquiries on survivors was seen as excessive and often unsatisfactory.
- 'I think we know enough; the action is just about taking their power away and handing it to people who don't have a vested interest.'* (Participant)
47. Others who did not have a clear preference expressed a lack of belief that anything could be done.
- The participant said that he had read the booklet on options for different types of response, but he feels very sceptical that anything positive will come of such things. (Participant)
48. Some participants, while stating that they did not want any inquiry, also stated that they wished to see processes and outcomes that would be similar to a commission of investigation, in the sense that participants could speak in private without public or media attendance, and witnesses and documents would be compelled.
- The participant would also like to gain access to school records and files on the abuse to see how his incidents of abuse were presented. The participant would like to hear statements from the abusers themselves as some are still alive. (Participant)
49. Overall, participants' preferences for future government action were complex and nuanced. As outlined previously, a semi-structured approach to the interviews was used as part of a trauma-informed process, using some questions as prompts but allowing the direction of the conversation to be led by the participant. This meant that responses to the matter of how government should respond were not gathered in a standardised questionnaire and hence the analysis of responses and discussion reflect this approach.
50. The majority of participants told facilitators that they would like to see some form of statutory inquiry as part of a government response. The complexity is balancing the preference for a tribunal or commission with the general principles identified as being important to participants. A tribunal and commission have much in common regarding what participants said they wanted: an inquiry established on a statutory basis with compellability of witnesses and documents and a public report. The main difference relates to the inquiry being held generally in public or allowing for some sessions without the public or media presence. It is also likely a tribunal of inquiry would take longer than a commission.

D. Scope and Nature of Any Future Inquiry

51. There was a majority view amongst participants that any future inquiry should include a focus on the following key areas:
- What happened and who was responsible;
 - Whether it was covered up;
 - What can be learned.
52. This section of the chapter outlines participants' perspectives on the scope of a future inquiry. It outlines the importance of establishing a survivor-centred process and trauma-informed approach.

(i) Examining the Extent of Sexual Abuse and Any Possible Cover-Up or Collusion

53. Cover-up is generally understood to be the masking or concealing of an illegal act or situation from being made public. Collusion is understood as a secret co-operation for an illegal or dishonest purpose and is more often used in the context of high-level organised planned agreement or collusion between institutions. Some participants recommended that, in addition to investigating the extent of abuse, any inquiry should also explore the extent to which cover-up and collusion occurred.

'The best we can look at is a commission of investigation (statutory) which would do two things: look at the level of abuse and how many priests were involved; and the handling of abuse allegations. It is clear from survivors speaking about their experiences that people took their concerns to the abuser and the head of [school name] and they both denied the allegations to the faces of the children involved. It was not that they were unaware.' (Participant)

'I am horrified by the way this has been dealt with. What Father X did to me, and to others, arose from his own personal weakness. You will always get people with personal weaknesses. It is the institutions which require adequate procedures in place to minimise the impact of those weaknesses. The problem I have is that this has been kept under wraps, concealed, and covered-up. That cover-up allowed further abuse to continue.' (Participant)

54. The scope of any future process should also seek to understand who was aware of abuse and what actions they took in response. If no action was taken, the inquiry should seek to understand why.

'If the Irish government is going to do this properly, it has to be extremely broad reaching. It has to be in-depth: this is what the cleaner knew, this is what they did, this is what they tried to do, this is what the teachers knew, this is what they did.' (Participant)

55. Other participants expressed a view that any future process should seek to understand the circumstances in a situation where child sexual abuse happened on a broad scale. This understanding can then be applied to different contemporary contexts and avoid repetition of such scenarios in the future.

'When there is a series of house fires, you don't just say that's terrible, look at the individual tragedies and empathise with those affected. Rather, we must look at the conditions under which the fires started and what prevention measures need to be taken. It is easy to overlook faulty wiring when documenting the horrors of a fire.' (Participant)

56. Some participants also suspected co-ordinated actions or the possibility of a paedophile ring operating in some schools as discussed in Chapter 4. They wanted this issue included in the scope of any inquiry.

'I find it hard to believe there was no complicity. The fetish underwear we were made to wear fitted us as 12-years-olds. You need to have access to catalogues or resources to help you buy fetish clothes to fit little boys and you don't do that on your own. There must have been complicity and enabling and turning a blind eye. And I should not have been able to walk out of that priest's bedroom without questions being asked.' (Participant)

57. Several participants had specific questions, about who knew or didn't know about the sexual abuse, and what decisions were taken based on that knowledge.

The participant wants to find out what they did with the abusers. They transferred the Brother around the place, claiming alcoholism. He would like the [religious order] to say what happened to the abuser after it happened.

'They have questions to answer: How did he get into the school? How did he get into the dormitory part? How did they confront him after? What school did he go to next?' (Participant)

58. Some participants wanted any future inquiry to engage with schools or religious orders where persons concerned were moved from one location to another to explore what happened in these schools. It was also suggested that all past students in affected schools should be contacted to support their engagement and to draw forth information.
59. A small number of participants stated that since the scale of abuse is well understood, the best use of resources is to focus on cover-up and collusion.
60. Participants were of the general view that the inquiry should examine how reports of abuse were handled by those in positions of authority, both within the schools and religious orders, but also within the wider community, including reports made to An Garda Síochána, health and social services and government departments.

The participant described how historically the board of the school was mostly made up of priests from the school or elsewhere. These people held responsibility, and in their view were trying to keep everyone else out of the management of the school. Both the orders and school management are therefore responsible. *(Participant)*

61. Participants were clear that the role of state agencies and government departments should not be absent from the inquiry.

[The best that I can ask] 'is that the Government acknowledges its failings towards me and others, that the government is as accountable as the aggressors.' *(Participant)*

62. Participants wanted any inquiry to examine communications and decision-making up through each layer of the religious hierarchies, including to head offices of religious orders and to the Vatican, where relevant. Some participants expressed concerns that full co-operation may not be forthcoming, reiterating the need for compellability.

(ii) Inclusion of Other Schools and Institutions

63. Some participants wanted the scope of a future inquiry to include other schools or institutions where child sexual abuse may have occurred. Some survivors noted that excluding certain sites or schools was potentially traumatising to those who fall outside of the remit of a future inquiry.

The participant thinks that the scope of the Scoping Inquiry should be broadened and include all schools and not just those run by religious orders. He feels survivors will be left out of the inquiry as it doesn't include diocesan schools etc. *(Participant)*

'I hope that as a result of the Scoping Inquiry the government will launch a tribunal for all institutional abuse similar to 'The Independent Inquiry into Child Sexual Abuse' that was held in England and Wales.' (Participant)

'This [Scoping Inquiry] is only looking at religious schools; it's exclusive to everybody out there who went to other schools.' (Participant)

(iii) Other Forms of Abuse

64. A small number of participants suggested that the inquiry should include abuse other than sexual abuse.

The participant felt that the scope of the inquiry should be extended to physical, emotional, and spiritual abuse. (Participant)

65. Participants noted, as discussed elsewhere in this report, an overlap between a culture of violence and sexual abuse. A view was expressed that including both within a future inquiry's scope is the best way to manage this complexity:

'I think physical abuse should be looked at too. There's no clear dividing line to me.' (Participant)

66. While corporal punishment was legal until 1982, and to some degree, socially acceptable, many participants said that the violence experienced by pupils in some schools went beyond an acceptable level. Some felt that excessive disciplinary and day-to-day violence within schools should be included in a future inquiry.

'Acknowledge that corporal punishment was wrong and used as sexual gratification by abusers. Acknowledge that corporal punishment was used in excess and that this was criminal.' (Participant)

67. Some participants suggested that the definition of sexual abuse also needs to be broad enough in any future process to include children witnessing the abuse of others.

(iv) A Survivor-Centred Process

68. Some participants spoke about the need to ensure that any future process is survivor-centred. There were a range of suggestions for how this could be achieved including:

- Providing options to give evidence that avoid cross-examination and re-traumatisation;
- Providing individual and collective psychological supports;
- Involving and engaging survivors in the inquiry;
- Engaging international experts to support the work of any future process.

69. The sentiment about how a future inquiry should be conducted, shared by the majority of participants can be summarised in the following statement:

'The process of getting there shouldn't exacerbate the damage done and should be acceptable to people. The inquiry will bring things up again, so the process needs to be as safe as possible.' (Participant)

70. Participants who had experienced criminal and civil proceedings spoke of their experience of being cross-examined, which many described as aggressive and traumatic, where legal teams set out to portray them as unreliable or dishonest. Adversarial cross-examination was viewed by participants as being re-traumatising and inappropriate for abuse survivors.

'We put ourselves up there, then we are treated in the court like we are telling lies because they have to pick us apart to see if we're telling the truth. So, we suffer again when we go to court.' (Participant)

'The adversarial court system is completely re-traumatising for anyone who has been abused; that process of questioning and cross-examination – it's absolutely re-traumatising and is absolutely not the right way to deal with the cases of abuse.' (Participant)

71. Some participants described how the prospect of cross-examination would stop them from coming forward to a future inquiry as it would echo previous experience of telling their story and not being believed. To minimise the negative aspects where cross-examination in an inquiry is required, participants suggested:
- Accepting a criminal conviction as evidence for civil cases and for any future inquiry. This would allow for survivors to avoid having to give evidence again where criminal wrongdoing has already been established.
 - Accessing records of previous trials and other records, such as the participant interview notes from the Scoping Inquiry, to reduce the need for survivors to give evidence at future processes.
 - Establishing guidelines and training for lawyers to ensure that cross-examination in criminal and civil cases, or other processes, is sensitive to the needs of survivors of sexual abuse.
72. Participants' accounts included views on cross-examination:
- Unfair and harsh cross-examination which brings up things which are untrue or unrelated should not be allowed. *(Participant)*
73. Some participants expressed the view that in a future process, there should be monitoring or oversight to ensure that lawyers are operating within agreed parameters and that support is provided to victims as and when needed.
- 'I would recommend that there is a therapist in the room so that they can watch and make sure the process is not too triggering.'* *(Participant)*
74. Participants also recommended ensuring that survivors who are invited to give evidence to an inquiry, but who do not wish to be physically in the same space as their abuser, could be facilitated to avoid this as this is not always the case in court cases.
- It is unfair to have the person taking the case sitting across from their abuser in the hallways. *(Participant)*
75. In order to avoid issues such as this, a small number of participants suggested that the judiciary and others involved in leadership or decision-making positions, receive training in trauma-informed practice. This would assist in the management of an inquiry in a victim-centred manner.
- The participant highlighted the importance of trauma training for judges, and all involved in the process. *(Participant)*

(v) Psychological and Emotional Support

76. Participants recommended that individual psychological support be available for survivors who are appearing at any future inquiry. Where survivors have had counselling support and may wish to be accompanied by these professionals this should be facilitated.

'I think it should be absolutely compulsory that anyone who attends is supported by a psychotherapist or a counsellor and can also have a support person with them as well.' (Participant)

'The criminal justice system needs to be more aware of how difficult it is for survivors to come forward. There should be a victim advocate within the judicial system who is there before, during, and after court to support the victim.' (Participant)

The participant stated that he would love to see more social and emotional support for people going through an investigation, a system of care for survivors having gone through the court process. (Participant)

77. It was also recommended that individual support extend beyond the emotional to offering survivors practical guidance and support as they engage with any future process.
78. One recommendation was that the process should facilitate the establishment of survivor peer support groups. While counselling and psychotherapy were considered as invaluable support, the healing power of shared stories was discussed by participants particularly in relation to reducing feelings of isolation and self-blame. Many participants recounted that it was only through hearing a range of others' stories that they understood that the sexual abuse they experienced was not their fault. A participant spoke of the experience of a group of survivors holding sharing circles:

'Every one of those men felt he benefited from that. In every story, you find identification for your story. He realises he is not the only one – it's not because I'm weird, or small or vulnerable. For instance, I was on the rugby team and quite big and strong but was still abused. I think it gave people the strength to realise that they were abused simply because they were children and not because of their personal traits or characteristics.' (Participant)

The participant feels peer support would be a great resource, but it would need facilitators to manage the group, and to hold what's happening. The groups would need a comprehensive management system in place to limit retraumatization as much as possible. Overall, he would like to see a normalisation of speaking about the abuse, and the opportunity to speak with other survivors in a safe space. (Participant)

79. This participant went on to say that what is of great importance to him is:

'Breaking down the stigma, silence and aloneness. I just see healing as the most important thing.' (Participant)

80. Another participant spoke of the importance of peer support:

'There were times I asked myself why I put myself through that, 14 years the court case went on for, from the start of the investigation to the verdict. The collective support was so important for me. We were lucky to have each other.' (Participant)

81. Some participants referenced the benefits of peer support groups for emotional support, practical help with navigating legal processes and potentially to identify possible witnesses. Peer communication was described as empowering for those adults who were isolated and alone in their experiences as children.

The participant would like to see that some process is set up so that individual victims could contact each other. The [name of order] have a considerable advantage in that they know the details of related cases and witnesses which are vital for the victim to succeed. Obviously, they try not to divulge this. However, the victim does not have such information and if a process were set up where witnesses could consent to information being made available to others, this could help litigants. This process could ask first preliminary questions so that victims could establish if there are any closely related witnesses. e.g., in what year and circumstances did related cases exist. (Participant)

82. Participants also noted the benefit of a statutory inquiry to allow patterns to be identified.

'I don't think the court is the place to go on your own. If we had gone as a package as six individuals, it would've had a serious impact because people would've seen a pattern.' (Participant)

83. However, some participants cautioned that any peer support processes need to be carefully considered so that lawyers acting in defence of religious orders cannot use this against victims in a legal setting.

A peer support network should be set up. It would be very helpful. However, the participant has a fear that it would be used against survivors that they are coordinating a false story. (Participant)

84. Support and peer groups also play an important role in relation to providing aftercare, following the experience of giving evidence, or in any way participating in dialogue with religious orders or their representatives.

The participant also pointed out that there should be support groups for survivors who go to court. He suggested making support groups more accessible for survivors especially after the court process. *(Participant)*

(vi) Use of Language

85. The issue of language was raised by some participants, with different views about the terms used to describe people who have experienced sexual abuse. Some participants recommended that terms that will be used in any future inquiry are discussed with survivor representatives, and that these, as far as possible, aim to represent the breadth of individual preferences.

The participant commented on the department's use of the term 'survivor' in the Scoping Inquiry and suggested that survivors should be referred to as both 'victims' and 'survivors,' because he continues to experience issues as a result of this abuse. *(Participant)*

86. Another participant did not like the term survivor as it excluded those who have died through suicide or addiction related causes, as they did not survive. However, others noted that they do not wish to be referred to as victims.
87. Those who discussed this issue felt that any agreements on language should be explained to all relevant parties in any future inquiry, including lawyers and journalists.

(vii) Ensuring Quality and Good Practice

88. Some participants expressed concern that professionals involved in a future inquiry may not be able to operate impartially due to conflicts of interest. Conflicts of interest could include being past pupils of the schools involved, having family currently attend or work in one of the schools or religious orders, or having personal or professional connections to the religious orders, or the broader Catholic Church.

'There is also a challenge in engaging with private legal systems in that many of key players have strong connections to [name of school]. There needs to be a stringent process of conflict-of-interest management, which assesses the personal and professional links to [name of school] for anyone involved in the tribunal to ensure fairness and transparency.' *(Participant)*

89. Some participants also asked if it was appropriate that any future inquiry would be established by the Department of Education, as this department should also be the subject of scrutiny, given that widespread abuse occurred in the education system.

'Why are the Department of Education handling this? Should they be? Particularly given that they have a conflict of interest and may have a case to answer for themselves?' (Participant)

90. To counter these challenges, there was a suggestion from a few participants that external or international expert advisors are engaged, which would also allow the process to draw from good practice elsewhere.

Mothaíonn an t-agalláí go láidir nár chóir go dtiocfadh na daoine atá bainteach leis an bhfiosrúchán ón gcúlra inar cruthaíodh na fadhbanna seo ar an gcéad dul síos. Mothaíonn sé go mbeidh daoine atá neamhspleách agus a thagann lasmuigh d'Éirinn in ann dearcadh níos cothroime agus níos córa a bheith acu maidir le cad a tharla, ionas gur féidir cinntí a dhéanamh atá neamhspleách. *(Rannpháirtí)*

The participant also feels strongly that the people involved in the inquiry should not be people who come from the culture that created these issues in the first place. He feels that people who are independent and come from outside of Ireland will be able to take a more balanced and fair view of what's happened, in order to make findings that are independent. *(Participant)*

'This inquiry must be conducted by a person or people who are not tainted by the moral morass which is the subject of the inquiry. No Catholic, no Irish person can be even-handed in this.' *(Participant)*

91. Additionally, the application of an interdisciplinary approach to the planning and management of a future inquiry was recommended. Inputs from qualified and experienced experts from fields including counselling and psychotherapy, social science, trauma-informed practice and academia were recommended, along with inclusion of survivor inputs.

The participant would like to see an expert panel composed of scholars, clinicians, practitioners and survivor advocates to act as a sounding board, information feed, and advisory group that all survivors can access during the future public inquiry. *(Participant)*

92. Other participants recommended a model similar to a confidential committee established as part of a statutory commission of investigation:

The participant would like a collaborative system where cases were heard by a panel of social scientists, law experts, and therapists. This would avoid the courts. It needs to be victim-led. *(Participant)*

(viii) Survivor Engagement

93. Some participants suggested the involvement of survivors in an advisory capacity in a future process, to ensure that it is sensitive to the needs of survivors.

'I think what they need to listen to is what the victims want and if it fits into one of those models, well great. But if it doesn't, then make a new process.'

(Participant)

'I would dearly like to be part of a victim/participant advisory group to any proposed inquiry.' *(Participant)*

'There needs to be a process to translate this into things for the victims. How do they get access to a recording of the data? A potential apology? Is the inquiry into information gathering? Is there an element of financial redress? All this has to be addressed with a victim-centred process.' *(Participant)*

94. Participants said that any future inquiry should seek maximum participation of survivors. The challenges of creating optimal access for participation was viewed as operating at two levels. The first challenge noted was to ensure that there is adequate awareness of any process for both survivors of abuse, and others who may have worked in schools or be party to information on abuse or the cover-up of abuse.

'... how would people who do not necessarily read the papers know about this? I think it needs to go on to social media in some way. I didn't think it was advertised well. It needs to be advertised in parishes and on local radio.'

(Participant)

Any future inquiry needs to be well advertised. *(Participant)*

95. The second challenge to accessibility for survivors was helping them feel that the process of engagement would be safe. This was considered especially important to people who haven't yet told anyone about their experiences of abuse.

'There must be people who haven't come forward. They need a safe haven where there is no judgement, and they are given advice about what they can do. They need to be told "you are now safe". That is critically important. There are people who can't come forward, because of the shame. A strategy needs to be formulated to address that.' *(Participant)*

96. To address the challenge of getting in touch with survivors who may potentially wish to participate in any future inquiry, a number of participants recommended that either schools or survivor groups be enlisted to engage with potential victims or witnesses.

The school is quick to acknowledge their achievements, but the school should find and invite past students and ask them if they were hurt. It is doable with technology today. The school is very wealthy. The school should go through databases and reach out to meet someone independent and talk about the experience. *(Participant)*

E. Accountability – Financial Redress

97. There is majority support amongst participants for financial redress. Redress was considered important in terms of accountability, both symbolically, and practically. Symbolically it was seen both as a formal acknowledgement of the sexual abuse experienced and of the responsibility of religious orders and other institutions.

The participant viewed a redress scheme as a form of recognition by society. *(Participant)*

98. The practical role of redress was to compensate for the harm done and the subsequent losses incurred by survivors resulting from the abuse. While it was widely acknowledged that financial redress could not compensate for the damage done to people's lives, it was nevertheless considered to be a vital component of any future actions. Most participants who support redress did not specify who should fund it, but many said that they wanted to see the religious orders pay for compensation, as a demonstration of accountability.

The money that survivors receive as compensation should come directly from the [name of religious order] to hold them to account for their actions. *(Participant)*

99. A smaller number of participants did not support redress or did not support it for themselves. They said that no money could make up for what had happened, while some said that although they did not want or need redress, they would support those whose lives would be improved by financial compensation. Some did not discuss the matter of redress.
100. While the overarching view was that financial redress should be put in place, challenges were noted around questions of hierarchies of payments, type of scheme, inclusion, and timeliness. Concerns also arose about access to a redress scheme where exclusion could risk retraumatizing survivors.

(i) Redress as a Symbol of Accountability

101. Some participants discussed the symbolic importance of redress as acknowledgement of abuse and a marker of accountability on the part of the religious orders or the state.

When the participant got compensation previously, it made them feel that they and their abuse were acknowledged. *(Participant)*

102. The practical issue of inclusion in a redress scheme was raised in terms of the importance, and difficulty, of acknowledging all survivors. Participants noted that while some boundaries must be set about who can engage with redress processes, this needs to be done with caution to avoid doing more harm or re-traumatising people.

Redress can cause more pain if people are left out, and this needs to be avoided. However, redress can play a role in having acknowledgement of what happened. *'It's not about the money, it's about the recognition, it's about people listening to you.'* *(Participant)*

103. Linked to this symbolic importance of acknowledgement was the belief that any process should be as accessible as possible and should have a simple process that was not overly restrictive or difficult to navigate.

'Make access to redress non-complicated.' *(Participant)*

104. A small minority of participants were not in favour of redress as a symbolic marker of acknowledgment.

The participant thought redress was of limited benefit, and that it is much more important to deal with this issue at the level of the national psyche. *(Participant)*

'What's taken is taken, and no amount of money is going to bring that back. Financial retribution is of no interest to me.' *(Participant)*

105. Others spoke about redress as not something they personally needed, either in terms of financial support or acknowledgment, but that they knew other survivors required both to have a decent quality of life.

The participant didn't feel strongly about a compensation scheme for himself but felt it would be important for others. *(Participant)*

The participant said that he wasn't interested in retribution or redress, but that if he could help others that were much worse off than him then he would help in whatever way that he could. *(Participant)*

(ii) Practical Considerations

106. Participants frequently spoke of how a sum of money could not be put on the loss of human potential, whether in career, relationships or in the ability to feel connected, self-assured or happy.

'It's hard to quantify what you lost.' (Participant)

The participant felt that no redress scheme could compensate people for the abuse experienced, and the process of trying to quantify or put a price tag on the impact of abuse is impossible. *'What can compensate for my life being taken from me? How do you quantify? Is there an algorithm?'* (Participant)

107. However, despite the fact that redress cannot equal the harm caused to people's lives, there was general support for redress as part of a suite of measures that participants want to see established. A small number of people saw redress as something that should fund support infrastructure for survivors such as therapeutic services, or dedicated payments along the lines of a pension-type scheme with other benefits for health and education, but most participants were in favour of payment of compensation. Participants were clear that the abuse and its impact had a practical and material impact on people's lives:

'I want monetary redress because what happened to me has ruined me mentally, physically and monetarily.' (Participant)

This participant added:

'I'm now left with nothing. Money won't cure me, but it will help a bit.' (Participant)

Another participant said:

'This should not be about money. You can't pay damage to hurt. If they offer something, I'll take it, but overall, it's not about money because you can't compensate.' (Participant)

The participant said that for him personally, redress is the only option in the booklet that he would see as being of interest to him at this stage of his life. *'Everything that I've had to do, I had to do it for myself.'* (Participant)

(iii) Who Should Pay for Redress

108. Many participants thought it was appropriate and important that religious orders should pay for, or substantially contribute to redress. This reflected participants' views of the need for accountability, and redress was seen as symbolic of accepting responsibility. Some survivors expressed the view that as legal accountability may be limited by the fact that many of those responsible for sexual abuse are deceased, financial accountability was important.

The religious orders should be held to account and the agreed redress amounts should be paid without hesitation by religious orders. Enforcement of payments should be implemented. *(Participant)*

'The best apology is to compensate people. Words mean nothing, people don't believe them anyway.' *(Participant)*

'[Religious orders] need to feel the pain of legal or financial consequences.' *(Participant)*

'The religious order should pay for everything. It's their fault, it's their mess.' *(Participant)*

109. Participants felt that the religious orders are concerned about wealth, and this is the only way to impact the organisation as a whole.

'I'm not interested in getting money – unless it's hurting their [religious order] pockets, they're not getting the message.' *(Participant)*

110. It was noted by some participants that the burden of redress should not fall on the taxpayer, although others felt that the State also had a duty to contribute.

'I don't see why the Government, or the taxpayer, should have to put their hands in their pockets.' *(Participant)*

111. A number of participants were clear that, ideally, religious orders should pay for redress voluntarily. In the event that this does not happen, some participants expressed the view that the State should use any legally available mechanisms to compel contributions from the religious orders to compensation. Some mentioned the assets of religious orders and how these might be used to pay for redress. Many recognised that this is a legally complex area.

The participant highlighted that the government should be encouraging [religious orders] to do the right thing and not to create more upset through the process. *(Participant)*

'It would be better for everyone if redress was voluntarily made as it would indicate that the Church has the intention of being sorry. I would not feel comfortable with the taxpayer coughing up money for redress.' *(Participant)*

112. A small number of participants considered it appropriate that the State contribute towards redress costs.

The participant strongly believed that due to state funding of schools under the patronage of the Catholic Church, there should be redress. *(Participant)*

The participant would like redress as well as recompense from the Minister for Education for letting this happen under their watch. *(Participant)*

(iv) Redress as a Survivor-Focused Process

113. A number of difficult and occasionally contradictory issues arose in relation to redress in participant interviews. These include establishing a trauma-informed process that minimises engagement in the legal system; the complexities of scales or hierarchies of payments; efforts around inclusion, as noted above in relation to acknowledgement; and timeliness.

114. A number of participants recommended that redress be established in a way that avoids, where possible, a reliance on lawyers. Some expressed the view that avoiding legal fees could result in a more cost-effective process but also one that was more acceptable to survivors.

The participant was clear that they were not in favour of a solution that involved solicitors, as they *'get more out of these processes than victim-survivors'*. The participant preferred to have a meeting with someone to work out an appropriate form of compensation. *(Participant)*

Redress should be kept out of the legal system because otherwise it's just the barristers making the money. This can also be very painful. It needs to be simple and focused on the needs of people who have been abused. *(Participant)*

115. Other participants said that there may be other ways of managing redress so that the process felt less adversarial and more empowering, allowing survivors to tell their stories and feel heard without an adversarial experience. The possibility of having decisions made by a redress board, who engaged directly with survivors, and which was made up of relevant and diverse disciplines was raised a number of times.

'You've got to find a way to make redress personal. A person needs to be able to share their history and have it acknowledged. And then have experts, a consistent body of experts, they will introduce a level of fairness and objectivity.' *(Participant)*

The participant felt strongly that there should be some kind of mediation process for awards of compensation or redress, and that it should not be a process where people seeking compensation are *'treated like criminals or subjected to gagging orders and very legalistic processes.'* *(Participant)*

116. A participant highlighted a need for any process to avoid becoming an unintended prompt that makes people feel they need to tell a worse story than the one they lived through.

His preference would be for a redress scheme that does not cause people to talk up their pain and trauma, but targets support at those who are experiencing hardship. *(Participant)*

117. Participants spoke of the difficulties of establishing levels of compensation in a redress scheme and described their views that a hierarchy of payment levels depending on type or nature of abuse is demeaning. Referring to previous redress schemes, one participant said:

The obscene tariffs of compensation that appear to have been negotiated such as X amount of euros for oral rape etc. should be scrapped and replaced with something more humane and sensitive. *(Participant)*

118. Another participant had a similar perspective:

[The participant] commented that it is not appropriate to have a 'menu of payments' as this can be insulting to people and their experience and oversimplifies the idea of abuse and its impact. *'Anal fingering is worth this much ... it's a demonic way of seeing things.'* *(Participant)*

119. Some participants expressed the view that any redress should have flat rates of compensation, or should assess the impact of sexual abuse rather than the nature of the abuse:

'Something like a basic sum of money which recognises that people who have come forward as survivors should receive a sum of money. If you've been abused, there is a sum of money there. A panel to be formed to look at particular cases to ensure fairness. The vast majority get a basic level, but then if it is more serious, the option for review to establish a different amount.' *(Participant)*

'Also, with a financial redress the problem may be that some people will get more than others and survivors will start comparing. Abuse cannot and should not be measured that way.' *(Participant)*

120. A number of participants made the point that if the amount of compensation is too low, this ceases to be a positive symbol of accountability and that the amount needs to be sizable enough to make a difference in someone's life. Others supported a redress scheme but expressed ambivalence about the potential for financial compensation to make a difference:

'If you think money is the answer, meet the people who got the money and ask them if it was the answer.' *(Participant)*

121. Other participants said that, where relevant, compensation should, at least, be equivalent to refunding fees paid for private education, adjusted for inflation.

The participant added that refunds should be issued for tuition paid to the schools where abuse happened. *(Participant)*

'I also suggested they [the religious order/school] were negligent in their care of me as their student, so they should refund my parents, and pay damages to me. That should be the minimum. They said that was completely unrealistic.'
(Participant)

122. Some participants stated that the calculations for compensation should consider lost earnings due to the impact of sexual abuse on education, career and the expense of dealing with the aftermath of abuse.

The participant felt that reparation was important but that it was nowhere near adequate in his case given that his career was destroyed. He felt that a 'just economic settlement' was needed to compensate for what had been lost. While he felt that the restorative justice model works emotionally and spiritually, financially it does not. The characteristics of each case needed to be looked at in the calculations, ensuring they were realistic, taking account of years lost and careers lost. *(Participant)*

123. Some participants highlighted their wish that any process, including redress, would be introduced in a timely manner as many are older and time is an issue for them.

124. Some participants said that one way to ensure timely action is to run an inquiry and redress concurrently.

The participant recommended a redress scheme, which would be separate and independent from the tribunal of inquiry. The participant recommended that this redress scheme should be established simultaneously and run concurrently with the tribunal of inquiry, so that survivors who are awaiting redress should not need to wait until the tribunal of inquiry has concluded or the Department has published a report on its findings, and it should not be dependent on the outcomes or determination of the tribunal of inquiry.
(Participant)

125. Other suggestions made by participants included that consideration be given to providing instalments or regular payments rather than lump sums in a redress scheme for those who choose.

126. A small number suggested that alternative compensation structures, other than lump sum payments, be considered.

Redress schemes should fund infrastructure (such as mental health supports) that support the needs of those who have suffered instead of issuing lump sums to individuals. *(Participant)*

'I don't think it's going to help me mentally either [the money]. I think we are way under-funded for mental health. There are so many people out on the streets that could be helped. Money will only satisfy some aspects of your life.'
(Participant)

127. Some participants said that consideration should also be given to the nature and impact of any payments previously made to individual survivors and that such payments should not exclude survivors from applying to any new redress scheme.

128. Finally, some participants recommended that in the instance where survivors are elderly, there should be provision for compensation to be made to their immediate family, who in many cases experienced intergenerational trauma as a result of the impact of their parents' experiences. Others said that if they passed away before any redress mechanism is established, they would want their children to be able to receive any payment that they would have been due.

The participant thinks redress should also be included, which includes provision for people to assist their children where they have been affected, saying: *'Some people who have been seriously abused should get some form of compensation for the trauma that they have experienced, and that carries on through the generations.'* *(Participant)*.

F. The Legal System

129. Many participants spoke about concerns with the legal system and recommended that efforts be made to make it more accessible and appropriate for victims of sexual crimes. Some participants recommended a whole system review of how the courts manage sexual abuse cases.

There are so many things that are wrong, the criminal side, the civil side, every part of the legal thing is wrong. If I went across the road and was hit by a car, witnesses would be called, a report written, and compensation paid. Why are we being persecuted because we were abused when we were small? I want the whole system reviewed. *(Participant)*

(i) Increase the Pace of Legal Proceedings

130. Most participants who expressed a view on legal proceedings recommended an increase in the pace at which legal proceedings are processed through the courts, particularly in civil cases.

131. A participant expressed the view that the difficulty and duration of these cases means that it can be difficult to get legal representation.

'There is something about when the legal system gets involved. Everything gets slowed down, with 1000-page reports, nothing gets done.' (Participant)

132. A number of participants shared their experiences with delays in the criminal legal system, and their sense of frustration with this. One spoke of long delays and said that they had been waiting for almost a decade for a trial.

'There needs to be more judges and more court sittings.' (Participant)

(ii) Age of Alleged Abusers and Decisions Around Prosecution

133. An issue of concern for participants was the perception that the law allows an abuser's old age to be used as a reason to not proceed with a criminal prosecution. This was particularly pertinent in the sexual abuse of children when, due to the very nature of the crime, victims may not be able to come forward for many decades. Participants expressed the view that they should not be denied justice simply because the perpetrator is elderly.

134. The question of whether a criminal trial after a long period of delay will be prohibited as a breach of the accused's constitutional rights is concerned with the loss of evidence and the fading of the memory of witnesses, and whether it will be possible for a fair trial to be held in those circumstances. The Director of Public Prosecutions ('DPP') also has a discretion whether to prosecute, and she may consider the advanced age and/or the physical or mental incapacity of an accused person in exercising that discretion.

135. Participants expressed the view that crimes of a sexual nature against a child should always be prosecuted, irrespective of age.

'They should suffer for what they have done.' (Participant)

136. Relatedly, a number of participants expressed the view that if any abuser is still alive, and civil liability has been established for abuse or any cover up, then they should be prosecuted and/or removed from their current positions where relevant, and another said that any perpetrators who are still alive should have to face criminal investigation.

137. An accused person has a constitutional right to a trial with reasonable expedition and there can be concerns about the fairness of a trial where there has been a significant passage of time since the alleged offence was committed. However, there is a growing awareness that the impact of child sexual abuse can inhibit a complaint being made and this is a factor taken into account in the context of any application to prohibit a criminal trial on the basis of delay.⁵

(iii) Non-Disclosure Agreements and Statute of Limitations

(a) Non-disclosure Agreements

138. Non-Disclosure Agreements ('NDA') are confidentiality agreements made following a settlement in a civil action. Some participants viewed these as obstacles to making criminal complaints to An Garda Síochána and some saw them as obstacles to speaking to the Scoping Inquiry. These agreements were viewed as a mechanism to silence survivors, to protect individuals who had committed criminal acts and to protect the reputation of organisations. Some participants expressed the view that the use of NDAs in child sexual abuse cases has the effect of hiding important truths from the public. Some suggested that NDAs be disallowed in civil cases or settlements concerning child sexual abuse.

'If schools or institutions have used mechanisms to restrict public access to information such as non-disclosure agreements then this should be publicised as regards past use and outlawed promptly as regards future use.'
(Participant)

139. The participant went on to add that:

'Publication of certain facts (e.g., number of complaints and number of known non-disclosure agreements) might also enhance awareness and improve behaviour. Transparency is a great help in improving behaviour.' (Participant)

140. Another participant said:

'I've seen and I've heard people who have had to sign "gagging orders." There were people who got redress but could never talk to anyone about it regarding other compensation schemes.' (Participant)

⁵ See e.g. *P.O'C. v. Director of Public Prosecutions* [2000] 3 I.R. 87; *S.H. v Director of Public Prosecutions* [2006] 3 I.R. 575.

(b) Issues with Historical Cases

141. Some participants spoke of the difficulties of prosecuting crimes of historical child sexual abuse due to the passage of time. There is no Statute of Limitations relating to criminal cases; however, there is a balance to be struck between a constitutional right to a trial to take place within a reasonable time frame and the impact of child sexual abuse on a person to make an early complaint, as outlined above.
142. Some participants expressed a view that there should be greater transparency around decisions not to prosecute in cases of child sexual abuse.

After the participant spoke to the Guards, a file was sent to the DPP, but they never pursued the case. The participant was not the only one who reported abuse, so he was surprised that the DPP didn't pursue the case. *(Participant)*

143. Some participants expressed concern about the Statute of Limitations and non-disclosure agreements relating to civil cases. The Statute of Limitations 1957 was amended in 2000,⁶ which amendment provided that the running of the limitation period is suspended in the case of a survivor of child sexual abuse where they are suffering from a psychological injury that was caused in whole or in part by abuse suffered as a minor, and that such injury constituted a 'substantial impairment' of their ability to bring proceedings or to make a reasoned decision.⁷ Nevertheless, a person who is seeking to take a case many years after the alleged offence has to establish to the satisfaction of a court, by expert evidence if necessary, that he or she has suffered from a psychological injury, and that this constituted a substantial impairment on his or her ability to make a reasoned decision or to bring proceedings. It should also be noted that where a person recovers from such a psychological injury, the limitation 'clock' will start to run again.

(iv) Introduce Guidance for Cross-Examination

144. Many participants felt strongly that cross-examination in child sexual abuse cases frequently retraumatizes victims. Defence techniques used to challenge victims were experienced as dishonest in that they seek to frame the victim's testimony of, for instance, not recalling certain details, as unreliable, when in fact this is an expected response when a significant time has elapsed. Participants recommended the development of guidance, and its enforcement for cross-examination in sexual abuse cases.

The lawyers should have stringent rules on how they cross-examine the victims, as they themselves can be the aggressor when carrying out their line of questioning. *(Participant)*

6 Statute of Limitations (Amendment) Act 2000.

7 Section 48A of the Statute of Limitations 1957, as amended by the 2000 Act.

[The participant] spoke about being cross examined and how he had to fight to be believed. Cross-examination was brutal and he was challenged by the defendant barrister that his difficulties now were not as a result of the sexual abuse he had experienced. He refuted this. *(Participant)*

145. Participants noted that prior experience of adversarial cross-examination is a major factor in considering the options presented for any future inquiry and their likely participation in such a process.

G. Commemoration and Memorialisation

146. Many participants expressed support for commemoration while a very small number said they were against it or expressed ambivalence. This section outlines a range of options for public commemoration and memorialisation proposed by a small number of participants but all with the same goal of acknowledging and remembering the experiences of children sexually abused in their school environment.
147. Those in favour viewed memorialisation as having an important purpose for survivors and the public, acting as a reminder of what had occurred, and helping to ensure that it never happens again. Memorials were also seen as providing a place where people can come, individually or together, to remember and pay their respects to victims and survivors.

Considering the number of victims, a memorial piece that is a reminder of what happened in the past could be beneficial. *(Participant)*

The participant suggested a memorial, which would serve as a reminder to future generations to remain vigilant and make sure this abuse did not happen again. *(Participant)*

Things like memorials/gardens etc. to remember what happened are very important. They are symbolic and that is all they are, but they are important. Remembrance is really important. It must be genuine. These things are cheap when they are not backed up. Survivors must also be respected in processes. *(Participant)*

(i) A Living Archive or Museum

148. A number of participants recommended assisting survivors and the public to access information through a comprehensive archive in relation to historical sexual abuse in schools.

The participant said that he thought that a “living archive” of the abuse testimonies is a good idea and said that it should be part of the school curriculum, *‘so that it doesn’t just end up on a library or government shelf.’* He said that in another 20 years, all the victims will be dead, and the story will be forgotten, unless it is taught in the schools. *(Participant)*

The participant suggests the establishment of a centralised library of records of abuse. This would involve moving all the records in institutions so that they are accessible for those who experienced abuse to be able to see them.

(Participant)

‘The establishment, with agreement, of a Public Archive of these stories and accounts. It could be anonymous, if necessary and requested, and without locations or names, if necessary, but a fully accessible public record.’

(Participant)

149. Others outlined how a museum or permanent exhibition would be an appropriate method to support public remembrance.

‘At the end of the display you would say “oh, I understand this better”. I am not sure how many parents would allow their children to see these exhibits, but it would be educational.’ (Participant)

150. A few participants spoke of the importance of survivor engagement and suggested that survivors be involved in producing artefacts or art for museum exhibits.

(ii) Books or Documentaries

151. The role of books or documentaries as a useful way to record and share the story of sexual abuse was mentioned by a number of participants.

The participant explained the importance of acknowledgement of the events through cultural expression such as books on the topic, walks or events. *‘That cultural acknowledgement, ultimately is the end line for some people.’*

(Participant)

(iii) Events and places of remembrance

152. Some participants talked about the importance of providing survivors, and those affected by sexual abuse, with an opportunity to come together to remember and to heal. The suggestion of public events was often connected to the development of accessible spaces, purposefully designed to support reflection and commemoration.

'Hold a reconciliation day of healing for abuse victims; government departments can attend if they want.' (Participant)

153. Participants recommended that a memorial be established for survivors and those that died by suicide following sexual abuse. Participants frequently spoke with great sadness of their classmates who they either strongly suspected or knew were abused, and who did not survive.

The participant felt a memorial service would be appropriate, particularly for the significant number of people who were abused who are now dead. *'They will never speak. Maybe people could remember that.'* (Participant)

154. Public sculpture as an appropriate means to remember the failings of the state in protecting young people was recommended by a small number of participants.

155. The role of having a safe space that supports people to attend and reflect was also discussed by people who recommended a garden or a forest be established in commemoration.

The participant would also like to see an oak tree planted for every child that was abused, in a forest which is accessible to the public and serves as a memorial to the survivors and victims of abuse. (Participant)

'Just a nice, quiet place for victims and their family members to sit and feel that Ireland recognises the wrongs that were done and is sorry.' (Participant)

'[I would like to see] some sort of commemorative garden or park or space that has annual events, funded by religious orders. There is something about beautiful spaces and peaceful spaces where people can go on their own or can gather to meet, it somehow connects people with the grief and the loss. There is a huge amount of grieving needed here.' (Participant)

156. The location of memorials was mentioned by many as being key to their wider meaning. A number of participants stated that memorials should be placed on the site of the schools where sexual abuse occurred or their sports fields being named for victims of sexual abuse as a way to highlight their accountability, as well as the intent of these schools to safeguard children into the future.

157. A participant suggested that some sort of memorial in the grounds of the Department of Education would be important.
- 'A constant reminder to those that supervise that they have a duty of care to the children of Ireland.'* (Participant)
158. Others said that schools and other institutions need, where relevant, to remove plaques or rename halls or buildings where there is any association with sexual abuse.
159. Another participant spoke about the treatment of buildings where a significant amount of sexual abuse was perpetrated and that it would be appropriate to knock these buildings down entirely.
- The participant would like to see the cloakroom of the old school knocked down. (Participant)
160. There were a small number of participants who expressed ambivalence about memorialisation. The general perspective within this group was that it was not a priority, and that other actions focused on an inquiry or redress would have more meaning.
- The participant is not opposed to a memorial garden or statue honouring the victims, but this was not considered to be a high priority. (Participant)
161. Another group of participants expressed the view that memorialisation was insignificant or held no meaning for them; nor would it achieve the practical outcomes that they hoped for from other processes.
- The inquiry should be meaningful, and a memorial wouldn't achieve anything. (Participant)
- 'I think a national day of remembrance is nonsense.'* (Participant)

H. Other Recommendations

162. A number of participants expressed support for a trust or fund to be established to provide resources for a range of supports for survivors, and to fund actions and research in relation to child safeguarding.

(i) Actions to Promote Child Safeguarding and Wellbeing

163. Whilst child protection and safeguarding legislation and processes have improved significantly in recent decades, participants nonetheless spoke of the need to protect children now.

Greater preventative measures in schools, including auditing of safeguarding practices in schools to ensure that they are followed. *(Participant)*

164. Some participants recommended increased vetting measures for people who work with children, as current measures were seen as insufficient.

The participant is keen to see stricter vetting of the people that have access to children through education. *(Participant)*

165. Participants also felt that there needs to be an increased awareness of child sexual abuse in order to prevent it.

It is also very important for them to raise awareness about child abuse and about the perpetrators. [The participant] made it clear that they believe real safeguarding is mandatory for anyone who comes near children. *(Participant)*

The participant feels that the Government should make every effort to educate children about disclosing abuse and how to protect children from predators. *(Participant)*

166. In addition to increasing safeguarding protections within schools, some participants said sex education in schools needed to be improved so that children can better distinguish between problematic and healthy behaviour.

The participant would like to see children receiving education on appropriate and inappropriate behaviour as a standard part of the school curriculum. *(Participant)*

167. Speaking on this topic, another participant recommended that this kind of education begins in primary school.

'People say children shouldn't be exposed to that [sexual education in school]. But if you talk to them about it maturely, they are resilient. If those conversations take away fear and empower them to recognise signs of damaging sexual behaviour. It should happen at primary school.' *(Participant)*

(ii) Research into Understanding of Causes of Sexual Abuse

168. Participants also referenced the role of research to increase knowledge on risks and how safeguarding can mitigate such risks. Some said that research should focus on the causes and enablers of sexual abuse to better support the recognition of potentially dangerous situations, cultures or practices in the future.

'I want to see an analysis of where power disparities were exploited, and vulnerable children and adults suffered needlessly, and programmes in education to address this.' (Participant)

The participant called for a sociological understanding of its [child sexual abuse] prevalence in Ireland, to understand why it occurred among religious orders. (Participant)

The participant would like to see a wide-scale study conducted on the abuse that took place in Irish institutions generally, to glean an understanding of why this happened. (Participant)

The participant suggested an ongoing research award around drivers, prevention and impacts of child abuse, along with an annual lecture to keep the issue on the agenda. (Participant)

Firstly, running a learning conference about risks and future prevention with international experts in institutional abuse, and engaging the orders, policy makers, experts by experience and leaders in government and civil society. Secondly, a trust fund or memorial fund for academic research about risks of abuse in institutions and future prevention, which provides scholarships / academic awards for individuals conducting research on abuse risk and prevention. Thirdly, the establishment of annual awards for journalists doing deep dives on the issue of risk prevention and institutional abuse. Fourth, a whole population mixed method study (qualitative and quantitative) that explores the broad impact of experiences of humiliation, harassment and abuse in relation to the church, its rituals and power structures. Fifth, the initiation of an ecumenical process, where churches are brought together and supported to learn about risk reduction approaches. Sixth, the organisation of learning orientation future focused events, where the “methods” or “rituals” of abuse are named and focus group discussions with witnesses take place. (Participant)

(iii) Restorative Justice Practices

169. A small number of participants commented on restorative justice (RJ) in general, and some who had direct experience recommended the process. The reasons suggested by participants as to why restorative justice could be a positive experience included the following:

- It could be useful in relation to assisting survivors to speak about and feel heard in relation to their experiences;
- It could help survivors attain compensation without an adversarial legal process.

170. Conversely, others said that restorative justice should not be progressed as an option, as their experiences of it had been negative, and they did not believe that it could be a genuine or meaningful process. Participants without direct experience of the restorative justice process also expressed both positive and negative attitudes towards it as an approach.

171. For participants who had direct experience of restorative justice, some felt that it was positive and had facilitated survivors to tell their story and to feel heard, which was considered useful to their healing process.

'Sitting with the perpetrators' representatives and acknowledging the failures of the perpetrator and providing a personal apology has been helpful. [But] all of us need further therapeutic counselling.' (Participant)

The participant doesn't want to take legal action and feels the restorative justice experience he had with the school was satisfactory. (Participant)

172. Other participants said that they did not have a positive experience. In some cases, this was due to the impression that the process lacked real care or concern from the religious orders. Participants recommended that significant care be taken in establishing any future form of restorative justice where survivors and members of a religious order are engaging, to ensure that the process supports healing rather than causing another instance of harm.

There was no real apology or learning. This could be harmful to others if not managed very carefully. (Participant)

The participant would like a sincere apology from the religious orders. To date, their apologies haven't been sincere. *'They've just got no feeling, they don't understand what we survivors have gone through, the pain, the anguish, the torture. When they hear us, they brush us under the carpet ... they need to sit down and think and really pour their hearts out'*. (Participant)

173. Some participants who had not had direct experience of restorative justice expressed support for the process and a belief that it would be beneficial for them. Others discussed how they had sought to directly engage with abusers via restorative justice or mediation but had been denied this option.

The participant reported a strong desire for mediation or restorative justice processes. He explained that real healing could happen in restorative conversations with the parties involved, where they would acknowledge their responsibility for the abuse that took place. The participant noted that he would like mediation both with the abuser and with the institutions. He explained that he sought mediation or a restorative meeting with the abuser throughout the legal process, but that the abuser refused to engage in a meeting of this sort. The participant expressed his disappointment, as this would have had a greater impact on him in seeking justice. *(Participant)*

174. For others, restorative justice offered potential for the religious orders to offer genuine contrition outside formal and impersonal structures of court systems. However, for this to be achieved, it was noted by one participant that significant effort would be required.

'The Church/clergy need to step up the pace with the restorative justice process. Money alone cannot fix this problem, no matter how big the monetary fine is.' *(Participant)*

175. A small number of participants who did not have direct experience of restorative justice discussed how the idea of this approach to seeking justice was unappealing to them.

He does not wish to have anything to do with the [order, as] no meetings, apologies or other processes dealing directly with them would be helpful to him as a survivor. *(Participant)*

Reflecting on an offer from [name of school] to participate in a conversation with priests, which appeared to be part of a restorative justice process, the participant felt that this would not be something they wanted. *'If they are looking for forgiveness, they will have to go somewhere else.'* *(Participant)*

The participant is not in favour of restorative justice: *'That's all rubbish. It'd be like sitting down with Putin.'* *(Participant)*

(iv) Enhanced Mental Health and Social Supports

176. Many participants described how they have suffered with mental health issues, substance use issues, and some have experienced homelessness (see Chapter 5 and 6). To respond to the needs of the most vulnerable survivors, participants would like to see a greater number of mental health and social supports made available.

The participant recommended a helpline for people who have been abused, which can ensure fast-tracked support for their mental health, housing, drug and alcohol use or any other issues, without having to explain their abuse again. *'You don't have to say you were sexually abused; you don't have to tell your story again.'* (Participant)

177. In order to cope with the trauma from sexual abuse that survivors have experienced, participants recommended that counselling be made freely available for survivors and their families and resourced sufficiently to ensure availability without long waiting lists. Numerous participants expressed their desire to receive mental health counselling, but cited waitlists and cost as barriers to accessibility. The Health Service Executive ('HSE') currently funds the National Counselling Service for those who have been sexually abused, and some participants said that they have encountered significant waiting lists in some areas of the country. The religious orders fund a counselling service called Towards Healing.

Counselling when needed in the years to come should be made available within days and not have to wait months and therefore may have to be sought privately, this also should be allowed for in redress. (Participant)

'Without a shadow of a doubt, there should be some scheme or an ability for survivors to get proper therapy. That would be certainly something that I didn't see there that would actually have practical benefit. That's more important than anything else, to try to help people who got hurt.' (Participant)

The participant's only recommendation to the government was that they would fully fund counselling services for all people who were abused. (Participant)

178. While a number of participants provided positive feedback about counselling they had received from Towards Healing, an independent counselling service funded by the religious orders, some participants felt that any involvement from the religious orders was inappropriate. Some participants who had availed of this service said that their experience was that the religious order could limit the number of sessions, whereas others said that they had open access to the therapist.⁸

8 Towards Healing's current policy is that clients have access to as many sessions as they need and no information about clients is shared with the religious order, who pay for the service. Towards Healing is putting in place policies to reflect a recent court ruling on mandatory reporting of historical abuse.

179. Some participants also expressed their appreciation of services already in existence. It was also noted, however, that these services should be better advertised:

'I would like to ensure that Towards Healing continues. However, this needs to be much more widely advertised so people know about it.' (Participant)

Overall, mental healthcare should be easier to access: 'There should be 10 charities like One in Four.' (Participant)

(v) Support for Divestment of Schools

180. Some participants recommended the divestment of schools from religious orders. It was recognised that this would be a complex issue to address.

The participant would like to see a separation between the Church and our education system. (Participant)

The Catholic Church should be removed from running any education in Ireland. *'They are the wolf in sheep's clothing.'* (Participant)

H. Chapter Summary

181. This chapter has outlined the broad range of views that participants relayed in their interviews. Views and perspectives varied considerably, but some clear themes emerged.
182. The key issue for participants was accountability for those who had any role in sexual abuse, including those responsible for abuse and institutions or organisations who failed to respond to such abuse if it was known to them. There is support for a statutory inquiry whose findings will be public, and there is also a recognition that confidentiality and privacy is important for some survivors and would be required for those survivors to be able to be included in any future process.
183. A majority of survivors see redress as an important element of accountability, and whilst they are clear that it cannot compensate for the harm that was done, most survivors who engaged in this process viewed it as a means to achieve some symbolic accountability, particularly if it were to be funded by the religious orders.
184. Survivors have also made a range of recommendations on how the legal system should be reviewed and changed to alleviate the difficulties they described experiencing when engaging in criminal or civil proceedings. Participants sought more transparency in decisions not to prosecute alleged abusers; more expeditious processing of cases where historical sexual abuse is alleged; and providing better support for those giving evidence, including guidelines and parameters for lawyers and the justice system when dealing with survivors of sexual abuse.

185. As the age profile of survivors of sexual abuse in day and boarding schools advances, participants were in agreement that any response needs to happen as quickly as possible.
186. It is of great importance to some participants that what happened is not forgotten, and a range of important recommendations for ways and means to acknowledge the legacy of historical child sexual abuse were made. Of particular importance was the need to commemorate those who did not survive their experience of child sexual abuse and who died by suicide.
187. Participants also offered recommendations on supporting survivors, including provision of better mental health services. Some advocated for restorative justice practices involving the religious orders.
188. Of paramount importance to participants was the need to be assured that children are safe in schools today and that the systems and frameworks in place to provide this assurance are implemented effectively. For some survivors, this also means removing religious patronage from schools altogether.
189. The summary of the Survivor Engagement report in the next chapter reflects the range of views described by participants presented in this chapter in the context of their descriptions of experiences of child sexual abuse, the impact on their childhood and the effects that persisted into adulthood.

Chapter 8:

Summary of the Survivor Engagement Process

1. The report of the Survivor Engagement process is an account of what participants described happened to them. It outlines individual accounts of sexual abuse, assault and violence that are vivid, devastating, and harrowing to read. Participants said that, as children, the immediate impact of the abuse led to isolation, shame and feelings of culpability. Many participants spoke of a culture of fear and violence in their schools which they said facilitated sexual abuse and a prevailing silence. Others described being groomed, leaving them with complex and damaged internalised feelings. Participants said that the powerful position of the Catholic Church in school and family life meant that many could not tell anyone, including parents, about what was happening.
2. The testimony of survivors who participated in the process describes how the effects of childhood sexual abuse have had a profound impact on their childhood, adolescence and adult lives. In recognising the damaging long-term effects of child sexual abuse and that the sense of powerlessness experienced by a child who has been sexually abused can last well into adulthood, the experience has been described as a 'continuum of oppression'.¹ The vast majority of survivors felt unable to tell anyone about the abuse for many years which exacerbated their difficulties, as those who can tell and get support may recover more quickly.
3. Individual participants described the differing impacts of abuse on them and how they dealt with these. Some participants described how they were outwardly successful in their careers and relationships but suffered emotional and psychological pain. Others' lives bear long scars of breakdowns, breakups and disrupted employment and careers. Participants were nearly universal in outlining personal suffering, self-doubt and psychological isolation. The accounts outlined similarities of difficult relationships, opportunities lost, and ongoing mental health challenges, counterbalanced for many by a remarkable resilience in wanting the secrets of the past to be known and a wish that children now and in the future would be safe.

1 For example, *Walsh v Byrne* [2015] IEHC 414.

4. Several participants spoke of the limitations of the legal system in dealing with cases of historical child sexual abuse, both in criminal and civil proceedings. Whilst some achieved a measure of satisfaction, most participants who had travelled this road spoke of frustration, delay, and unfortunately for many, retraumatisation due the adversarial nature of such proceedings. Those who had undertaken civil proceedings referenced the considerable financial costs involved. Other participants described efforts to engage with religious orders or schools, attempting to seek a measure of resolution through non-formal or restorative justice practices, with mixed results.
5. While participants had varied views on what should happen next, the need for accountability was a strongly recurring theme. Participants felt this could be achieved via a statutory inquiry and financial redress. They were clear that they want the religious orders to be accountable and many thought that this should include them financing a non-adversarial redress process. The transparency of a statutory inquiry that can compel witnesses and documents is important, but it was also evident that participants want any process to be as survivor-centred as possible with due regard to the necessary supports for those participating. This includes the need for some survivors to be assured that their privacy can be maintained. Whilst many survivors would be willing to give evidence in public, many others felt that they could not. Despite the passage of time and professional support, some participants who spoke to the Scoping Inquiry have not revealed what happened to them, even to their own families and who, devastatingly, spoke of the burden of shame that they still carry.
6. A common wish among participants was that they wanted the public to know what happened in their schools and for their accounts to be believed. It was also important to many participants that what happened to them be recorded and remembered and there were different views on how this should happen. Many participants felt that learning from the past to protect children now and in future would be an apt way to honour their experiences, while some considered that research into a broader sociological understanding of the issue of child sexual abuse in Ireland was required.
7. It is important to say that many of the participants who engaged in the Survivor Engagement process spoke eloquently about how they managed the impact of their childhood trauma. In doing so they credited support from spouses and partners, other family members, friends, other survivors and professionals. Others said the impact of their childhood trauma remains with them and continues to shadow their lives.

8. The Survivor Engagement team would like to express our deepest appreciation to all of those who brought their stories and experiences to the Scoping Inquiry. The team has worked hard to reflect their voices and views with respect and integrity. It has been a privilege to hear those stories and the team sincerely hopes to have done justice to what participants told the Scoping Inquiry.

Volume 2

Chapter 9:

Identifying the Extent of Allegations of Historical Sexual Abuse: Religious Order Records

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F. Conclusion

A. Introduction

1. The Scoping Inquiry's Terms of Reference required that it engage in an analysis of the potential scale of historical sexual abuse in schools run by religious orders in Ireland, including 'a desk-based review of the extent of complaints or allegations of historical sexual abuse made against all religious orders ... [and] a consideration, in as much as is possible, of the likelihood and possible volume of further complaints or allegations emerging.'
2. In the course of its work, it became evident to the Scoping Inquiry that engagement with religious orders¹ would likely provide the best source of data on the number of allegations of historical sexual abuse made in schools run by religious orders.²
3. This chapter sets out the process by which data was gathered from religious orders by the Scoping Inquiry before outlining the data on the extent of allegations of historical sexual abuse in schools run by religious orders.

B. Preliminary Steps

(i) Limitations of Records of Allegations of Historical Sexual Abuse

4. It became evident at an early stage in the Scoping Inquiry's work that no one body held records that were accessible or searchable in a manner that could readily identify the number of allegations of historical sexual abuse that occurred in day or boarding schools run by religious orders.
5. Having approached Tusla and An Garda Síochána, the main agencies to which allegations of historical sexual abuse are reported, it was clear that neither held records that could readily or accurately provide information on the number of allegations of historical sexual abuse that had been made in religious order run schools. The extent of the records held by these bodies is discussed in Chapter 11. In short, extensive manual searches of records would have been necessary to obtain such information.
6. However, Tusla's 'Audit of Religious Orders, Congregations, and Missionary Societies Safeguarding Arrangements and Management of Allegations of Child Sexual Abuse Report' ('**the Audit Report**'), concerning the extent of allegations of sexual abuse involving members of religious orders, discussed below, and the reports of the National Board for Safeguarding Children in the Catholic Church in Ireland ('**NBSCCCI**') were of some assistance. The data obtained from these sources is discussed in detail in the next chapter.

1 The Scoping Inquiry identified a religious order, a congregation, or missionary society as constituting a 'religious order' within its terms.

2 For the purposes of the Scoping Inquiry a religious order which ran day or boarding schools in the State includes orders which currently run or formerly ran such schools.

7. The most extensive source of information concerning the number of allegations of historical sexual abuse in schools was therefore the religious orders themselves.

(ii) Identifying Which Religious Orders Ran Schools

8. The Scoping Inquiry set its timeframe for assessing the potential number of allegations of historical sexual abuse as covering those incidents that were alleged to have occurred within living memory, taken as being a period from 1927 to 2013. This timeframe aimed to capture any living person who might come forward to an eventual inquiry or other Government response on the basis that a person born 100 years prior to 2023 would have first entered school in 1927 at the earliest. A cut-off point of 10-years prior to 2023 was intended to distinguish between historical and recent incidents of sexual abuse. Outside of requiring that an allegation fall within these parameters, no information was sought from the religious orders as to the date of the incidents of abuse complained of.
9. Identifying which religious orders ran day and boarding schools during this period was more difficult than one might expect. There is no definitive list of religious orders involved in running schools, either present or past, in Ireland. In some instances, a school or schools run by a religious order had closed down and the order had not been involved in education since that time.
10. In seeking to compile a list of religious orders coming within our Terms of Reference, the Scoping Inquiry was contacted by a number of religious orders who identified themselves as having run day or boarding schools in the State and indicated their willingness to cooperate with the Scoping Inquiry.³

(a) The Tusla Audit

11. Tusla's Audit Report was of great assistance to the Scoping Inquiry in identifying religious orders that ran schools. The Audit Report had been carried out by Tusla at the request of the Government following the publication of the Cloyne Report in 2009. It audited every religious order in the State, setting out the religious orders where there was one or more allegation of historical sexual abuse made against a member, together with the religious orders in respect of which there were no allegations of historical sexual abuse against any of their members, for the period up to and including 31 December 2013.⁴

3 The Sisters of the Christian Education, the Benedictine Nuns, the Ursuline Sisters Ireland/Wales Province, the Bridgine Sisters and Franciscan Missionaries of Mary made themselves known to the Scoping Inquiry as religious orders who ran day and boarding schools in the State.

4 The Audit, published in 2018, initially collected figures until 31 December 2013, and then collected further information up to 2015. The Scoping Inquiry took the date of 31 December 2013 as a reference point in the religious order questionnaire.

12. It was not, however, possible to identify from the Audit Report whether and how many of the allegations of sexual abuse recorded related to historical sexual abuse in schools. Moreover, the Scoping Inquiry's remit was wider in respect of the categories of alleged abusers counted, and included allegations made in a school context regarding not only members of the religious order running the school concerned, but also lay persons, other clerics (not members of the religious order running the school) and other students in the school. The information required by the Scoping Inquiry was thus more extensive than that previously furnished by the religious orders to Tusla.
13. However, given that the religious orders had already substantially compiled their numbers of allegations of sexual abuse at least up to 31 December 2013 for the purposes of the Audit report, the Scoping Inquiry's questionnaire asked for information about allegations of historic sexual abuse received in two time periods: up to the end of 2013 and since that date. This also provided useful information in terms of the numbers of allegations of historical sexual abuse in day and boarding schools reported by survivors to the religious orders or schools both pre- and post-December 2013.

(b) Engagement with religious orders through AMRI

14. The Scoping Inquiry approached the Association of Leaders of Missionaries and Religious of Ireland ('AMRI') in April 2023 in an effort to engage with the religious orders identified from the Tusla Audit and NBSCCCI reports and to identify any other relevant religious orders. AMRI were of great assistance in both respects.
15. The Scoping Inquiry ultimately identified and contacted a total of 81 religious orders believed to have run day or boarding schools in the State. Of the 81 orders contacted, 8 orders reverted to the Scoping Inquiry to say that they had never run a day or boarding school in the State.⁵ This left 73 remaining religious orders who ran day or boarding schools (including special schools) in the State.

⁵ Those orders were the Congregation of the Sacred Hearts (SSCC), the Conventual Franciscans, the Congregation of the Blessed Sacrament (Brothers), the Congregation of our Lady of Sion, the Franciscan Missionaries of the Divine Motherhood (FMDM), the Irish British Province of the Society of the Devine Word, the Sisters of Bon Saveur (Good Saviour), and the Cistercians of Mellifont.

C. The Information Sought By the Scoping Inquiry

(i) The Religious Order Questionnaire

16. A questionnaire was sent to the 73 religious orders identified seeking anonymised details of the number of allegations of historical child sexual abuse made in respect of their schools. Also sought was the number of alleged abusers and their association with the school, as well as information, where known, as to whether the alleged abuser was living or deceased.
17. The religious orders were asked to breakdown these figures on a school-by-school basis, naming the school concerned, and the number of allegations and alleged abusers referable to the school. With few exceptions, this information was provided.
18. Overall, the response rate from the religious orders was high. In respect of one order, the Norbertines, no return to the questionnaire was received because the order no longer exists in the State.⁶ The Gardaí confirmed a priest associated with the school was convicted for sexual abuse and that they had a record of 3 allegations of historical sexual abuse in respect of the school. These figures are reflected in the table set out below.
19. Some 31 of the 73 religious orders that ran day or boarding schools in the State reported that they have no record of any allegations of sexual abuse made in respect of their schools. However, during the Scoping Inquiry's work, historical sexual abuse allegations emerged against a small number of these orders. Similarly, allegations came to light in respect of a small number of schools that had not previously been reported by the relevant religious order/school as having a record of an allegation of historical sexual abuse. These orders and schools are set out elsewhere in this Report in the discussion of the Survivor Engagement process.

⁶ The Scoping Inquiry was informed that the Canonry was wound down (the canonical term is suppressed) by order of the Abbot General of the Order in 2023. The Norbertines had one school, St Norbert's College, Kilnacrott Abbey, Co Cavan.

(a) *The breadth of allegations included*

20. The Scoping Inquiry provided a 'Meaning of Terms' document with the questionnaire. The document is set out in full in Appendix 6. Without reciting its contents, it suffices to emphasise the breadth of the records of allegations requested from religious orders. Generally, the Scoping Inquiry asked that the religious orders err on the side of inclusion of all historical sexual abuse allegations received in order to capture the potential number of persons who may come forward to an eventual inquiry. Thus, in asking for records of allegations it was highlighted that this included concerns, complaints, and allegations that were withdrawn, unsubstantiated, or not pursued with the Gardaí. It was also specified that allegations of historical sexual abuse in schools where no alleged perpetrator was identified by the complainant were to be included.
21. Given the breadth of the records of allegations sought, there was some potential for duplication, particularly where allegations against an unidentified member of the religious order are referred to or where allegations were received by the school as opposed to the relevant order. The schools and religious orders generally liaised to avoid or minimise such issues. In one instance it was not possible, as a result of data protection concerns, to verify whether complaints recorded by a school were already reflected in the religious order's records.⁷ The Edmund Rice Schools Trust ('ERST'), which is now the patron of all Christian Brothers' schools, indicated that they believed that data protection concerns precluded any attempt to clarify duplication by comparing the schools' records of allegations with the records held by the Christian Brothers. The Scoping Inquiry met with both the Christian Brothers' archivist and representatives of ERST, and it was ultimately agreed that ERST would provide the schools' information separately, so that the figures from ERST and the Christian Brothers could be viewed side by side. A comparison of Christian Brothers and ERST figures is set out in Appendix 8. From a comparison of the data provided by ERST and the Christian Brothers, it is evident that the latter generally had more extensive records of allegations.

⁷ Where religious orders have brought specific concerns about the number of allegations reported, whether by reason of duplication or otherwise, we have referred to those concerns where applicable in this Report.

22. The Scoping Inquiry accepted that where a formal process occurred following which a complaint was held to be unfounded or there was a written unreserved withdrawal of the allegation on foot of legal advice, then that allegation should not be included. Similarly, allegations outside the Terms of Reference were clearly not included. In some instances the abuse alleged was physical rather than sexual, and the allegation was not included for that reason. The Scoping Inquiry accepts that there may sometimes be a fine line between physical and sexual abuse; it therefore assessed each allegation brought to its attention on the basis of the (anonymised) information available.

(b) The breadth of the category of alleged abuser included

23. The Scoping Inquiry included a broad range of persons in the category of ‘alleged abusers’ to reflect the experiences of survivors. In general, the Scoping Inquiry included allegations in relation to any persons who interacted with the pupil concerned by virtue of that person’s position in the school where the complainant was a pupil. This definition is similarly reflected in the Meaning of Terms document in Appendix 6.

24. The categories of alleged abusers specified in the questionnaire were as follows:

- (i) a member of the religious order which ran the school;
- (ii) a lay person associated with the school, such as staff members or volunteers;
- (iii) a cleric or member of clergy associated with the school, who was not a member of the religious order which ran the school;
- (iv) another pupil in the school.

25. As such, it should be borne in mind when considering the statistics set out below, and in the school-by-school breakdown in Appendix 7, that the category of ‘alleged abuser’ covers a very wide range of persons associated with the school over a considerable period of years.

26. The term ‘alleged abuser’ is used throughout, although the data inevitably encompasses convicted abusers.

(ii) The Schools Questionnaire

27. Many of the schools formerly run by religious orders are now held in educational trusts. The religious orders concerned explained that as they were no longer patrons of the schools, obtaining information from the schools could pose a difficulty.

28. It appears that, in some instances, the individual schools held the records of allegations made, while in other instances, the religious order held the records. In many instances there was a mixed picture of both schools and religious orders holding records. Moreover, schools and religious orders might both hold a record of the same allegation. Much, it seems, depended on whether the complaint had been made to the school or the order or to both. In the circumstances, the Scoping Inquiry asked religious orders and the schools to liaise with each other as far as possible when submitting records of the number of allegations to the Scoping Inquiry in order to try to avoid duplication of allegations where possible.
29. A simplified questionnaire was circulated to the relevant schools for this purpose with the assistance of the Association of Patrons and Trustees of Catholic Schools ('APTCS') and the religious orders. The Scoping Inquiry was grateful for their assistance in this regard.

(iii) The Community Schools Questionnaire

30. As discussed in Chapter 12 of this Report, after some consideration, the Scoping Inquiry decided to include community schools in the questionnaire process. Some 58 community schools in the State have religious order co-patrons. The Association of Comprehensive and Community Schools ('ACCS'), kindly agreed to assist the Scoping Inquiry by circulating a questionnaire to the relevant schools, and greatly assisted the Scoping Inquiry in this regard. The community schools and religious orders co-patrons of those schools fully cooperated with the Scoping Inquiry in returning these questionnaires. While the Sisters of Mercy did not agree to disclose the name of their community schools in respect of which there were allegations, the overall number of allegations and numbers of schools concerned were provided.
31. The community schools data is presented separately to that of other day or boarding schools since the religious orders concerned are co-patrons of such schools, with various Educational Training Boards and sometimes another religious order or a diocese as the other co-patron.

(iv) The Verification Form

32. The further information provided from schools associated with religious orders necessitated some religious orders updating previously submitted questionnaires. In August 2023, the Scoping Inquiry sent a verification form to all religious orders that had recorded allegations of abuse in their initial questionnaire to allow the religious orders to update their information.

33. The verification form ensured that there was no duplication where alleged abusers moved between schools run by the same order, or where an alleged abuser was accused of historical sexual abuse prior to December 2013, and a further allegation was made against the same person after that date. The Inquiry also asked the religious orders to confirm the numbers of alleged abusers known to be deceased.

D. Results of the Questionnaire Process

(i) The nature of the information sought

34. The overall purpose of seeking data from religious orders and their schools was to attempt to assess the likely scale and extent of allegations of historical sexual abuse in those schools.
35. Due to the short timeframe, a limited range of queries were raised in addition to the numbers of allegations and alleged abusers, primarily as to the association of the alleged abuser(s) to the school and as to whether they were still alive. No attempt was made to adopt the kind of sophisticated methodology one might associate with a national survey, such as that employed by Central Statistics Office, where a range of detailed data is sought.⁸
36. Thus, for example, in seeking the numbers of allegations reported by the orders, the Scoping Inquiry did not seek information on the overall number and size of the schools run by each religious order over the period 1927-2013. While this information would have undoubtedly added context, the time required for this level of analysis would have been disproportionate to the benefit of such data for the purposes of the Scoping Inquiry.
37. The Scoping Inquiry communicated with religious orders regarding the completed questionnaires to ensure any corrections required were accurately recorded. The data collected was checked and verified with the religious orders concerned.
38. The purpose of the information sought was to ascertain (i) the number of schools likely to be involved in any Government response, (ii) the number of allegations of historical sexual abuse reported in respect of the schools run by religious orders, and (iii) some indication of the number of alleged perpetrators involved and whether they are still living or deceased. The Scoping Inquiry has relied on the information provided to it and has not undertaken any further verification process.
39. Moreover, the figures simply reflect the records held by the schools and/or the religious orders, and should not be taken to be the entirety of the allegations that may exist in respect of an individual order or school. Thus, the figures provided in the analysis section of this chapter must be read with these caveats in mind.

⁸ Equally, the questionnaires used by the Scoping Inquiry were not intended to yield a statistically formal and complete analysis equivalent to CSO standards.

40. It should be noted that the vast majority of religious orders and schools fully cooperated with the Scoping Inquiry in providing the information sought. The Scoping Inquiry is mindful that the task of completing the questionnaire and verification form within the timeframe allowed was an onerous one for many orders. This was particularly so for the religious orders that had large numbers of schools or where the age profile of the order meant that there were few persons available to deal with the task.
41. As set out below, a small number of religious orders declined to disclose the names of their schools that had allegations of historical sexual abuse.⁹ In those instances, as a minimum, the orders provided the number of allegations and alleged abusers relating to their schools, as well as information as to whether the alleged abusers were alive or deceased, where known.
42. Finally, it must be emphasised that a religious order's inclusion of an allegation in their response to the Scoping Inquiry's questionnaire should in no way be read as an acceptance that the abuse alleged took place.

(ii) Analysis of the Figures Provided by the Religious Orders

43. In total, some 2,375 allegations of sexual abuse in schools are recorded by 42 of the 73 religious orders that currently run or previously ran day or boarding schools in the State (including special schools).¹⁰ These figures do not include the 20 allegations associated with community schools which are dealt with separately below.
44. The information provided by the 42 orders who reported having records of allegations of historical sexual abuse in respect of their schools is set out in a table below. The table sets out the following information provided from the records of the religious orders concerned:
 - The overall number of allegations of historical sexual abuse recorded as associated with a school run by those orders;
 - The total number of schools run by those orders with recorded allegations of historical sexual abuse;
 - The total number of alleged abusers in respect of the schools concerned, and;
 - A breakdown of the total number of alleged abusers reported into 4 different categories.

⁹ The Sisters of Mercy provided a total figure of allegations and alleged abusers for the congregation without providing any school-by-school breakdown. The Sisters of Mercy subsequently provided the number of schools to which these allegations related. The Patrician Brothers provided the names of their schools but did not provide a school-by-school breakdown of their figures.

¹⁰ The Norbertine order are included in the figure of 42 orders that ran schools. The order did not complete a questionnaire for the reasons set out above. The figures received from An Garda Síochána of the number of allegations received in respect of the school formerly run by the Norbertine order are set out below.

Religious Orders' Total Records of Allegations (including Special Schools)¹¹

Religious Order	Total Allegations	Number of Schools	Total Alleged Abusers	RO Member accused	Lay accused	Peer accused	Other cleric accused	Total Alleged Abusers Deceased
Christian Brothers	820	132	303	255	42	0	6	184
Spiritans	329	6	61	49	12	0	0	51
Brothers of Charity	294 ¹²	3	97 ¹³	47	18	28	4	28
Jesuits	142	9	34	27	4	3	0	23
Hospitaller Order of St John of God)	144 ¹⁴	7	36	22	10	4	0	19
Carmelite Fathers (Ocarm)	100	2	14	9	5	0	0	9
De La Salle Brothers	84	29	46	41	3	0	2	37
Congregation of Dominican Sisters Cabra	69 ¹⁵	4	50	0	19	22	9	1

- 11 This table excludes community schools with religious order co-patrons. These are separately listed below.
- 12 The Brothers of Charity indicated to the Scoping Inquiry that it was not possible for them to entirely disaggregate their records of physical abuse and sexual abuse. While the Brothers of Charity indicated that it was likely that most of the allegations reported related to sexual abuse, the total figure of allegations outlined above may include some allegations of physical, non-sexual abuse.
- 13 The Brothers of Charity indicated to the Scoping Inquiry that there were 5 allegations against unnamed members of the order in respect of Holy Family School, Renmore, Galway included in this number, but that it was likely that those allegations related to already named alleged abusers in that school.
- 14 The Hospitaller Order of St John of God stated in its questionnaire response to the Scoping Inquiry that there were a number of allegations which they were uncertain constituted sexual abuse for the purposes of this Inquiry. For the most part, it was possible for these issues to be resolved by engagement between the Inquiry and the order. However, there were 20 allegations that the order took the view did not amount to sexual abuse, but the Scoping Inquiry were of the view that the allegations, if proven, would amount to child sexual abuse. Therefore, while the total number of allegations of sexual abuse reported by the Hospitaller Order of St John of God to the Scoping Inquiry was 124 allegations, the Scoping Inquiry counted the additional 20 allegations made known by the order and has recorded a total of 144 allegations. The order reported to the Inquiry that included in the total figure reported by them were 21 allegations reported by one of their schools, but they were not able to ascertain whether any of those allegations might be duplicated in their own records. In addition, the Hospitaller Order of St John of God noted that there was a record of an allegation against an unnamed member and later an allegation against a named member by the same survivor. The order therefore indicated that there is some risk of duplication in the total figures they reported. In addition, at a late juncture the order indicated that there may be 1 less lay alleged abuser and 1 more allegation that should be counted in the figures relating to their order, but it was not practicable to amend the data in this Report at that point in time. On 6 June 2024 a school-by-school breakdown of allegations was provided by the Hospitaller Order of St John of God and, due to the late stage at which it arrived, it is set out separately in Appendix 13.
- 15 The Dominican Sisters indicated to the Scoping Inquiry that included in this total are 32 allegations against unnamed persons, and as such there is some potential for duplication of records of numbers of allegations and/or numbers of alleged abusers.

Religious Order	Total Allegations	Number of Schools	Total Alleged Abusers	RO Member accused	Lay accused	Peer accused	Other cleric accused	Total Alleged Abusers Deceased
Congregation of the Sisters of Mercy	44	18	33	10	6	7	10	10
Presentation Brothers	43	14	37	34	3	0	0	33
Missionaries of the Sacred Heart (MSC)	42	1	4	4	0	0	0	1
Marist Brothers	40	6	16	14	2	0	0	13
Dominicans	30	1	9	7	1	0	1	5
Vincentian Fathers	26	3	6	5	1	0	0	4
Marist Fathers	21	3	9	8	1	0	0	4
Patrician Brothers	21	8	18	15	2	0	1	14
Franciscan Friars	19	1	2	2	0	0	0	0
Religious Sisters of Charity	15	8	15	2	4	9	0	1
Congregation of Presentation Sisters	12	7	10	0	6	3	1	0
Rosminians	12	3	10	7	3	0	0	3
Franciscan Brothers (OSF)	11	1	7	7	0	0	0	3
Mill Hill Missionaries	7	1	3	3	0	0	0	1
Benedictines	6	1	4	3	0	1	0	2
Salesians of Don Bosco	6	2	3	2	0	1	0	2
Ursulines	4	3	5	1	0	0	4	1
Augustinians	3	2	3	0	1	2	0	0
Cistercians Mount Melleray	3	1	5	5	0	0	0	5
Sisters of St. Joseph of Cluny	3	1	1	0	0	0	1	1
Norbertines	3	1	1	1	0	0	0	0
Legionnaires of Christ	3	2	3	3	0	0	0	0
Benedictine Nuns	2	1	2	1	0	1	0	0
Cistercians Mount St. Joseph	2	1	2	2	0	0	0	2

Religious Order	Total Allegations	Number of Schools	Total Alleged Abusers	RO Member accused	Lay accused	Peer accused	Other cleric accused	Total Alleged Abusers Deceased
The Daughters of the Cross of Liege	2	1	2	0	1	1	0	0
Discalced Carmelites	2	1	2	1	0	1	0	1
Missionary Oblates of Mary Immaculate	2	1	2	2	0	0	0	1
Sisters of Charity of St. Paul the Apostle	2	1	2	1	0	0	1	2
Sisters of St. Louis	2	2	2	2	0	0	0	1
Congregation of the Sisters of Charity of Jesus and Mary	1	1	1	0	1	0	0	0
Loreto Sisters	1	1	1	0	0	0	1	0
Order of St. Camillians	1	1	1	1	0	0	0	1
Sisters of the Holy Faith	1	1	1	1	0	0	0	1
Society of African Missions	1	1	1	1	0	0	0	1
TOTAL	2,375	293	864	595	145	83	41	465

45. The following religious orders that ran or run schools recorded no allegations of sexual abuse associated with their schools when contacted:

Religious Orders with No Reported Allegations Relating to Their Schools

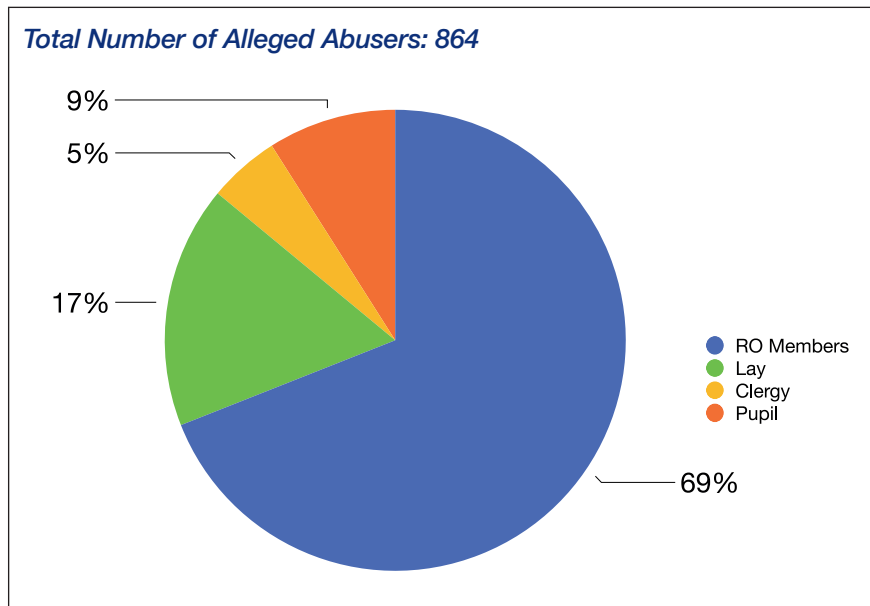
- Brigidine Sisters
- Capuchins
- Daughters of Charity St. Vincent de Paul
- Daughters of the Heart of Mary
- Daughters of Wisdom
- Faithful Companions of Jesus
- Franciscan Missionaries of Mary
- Franciscan Sisters of the Immaculate Conception
- Handmaids of the Sacred Heart of Jesus
- Infant Jesus Sisters
- La Sainte Union Sisters
- Marianist Community
- Marist Sisters
- Missionary Sisters of Our Lady of the Apostles
- Missionary Sisters of the Holy Rosary
- Poor Servants of the Mother of God (PSMG)
- Redemptorists
- Religious (Sisters) of the Sacred Heart of Mary
- Religious of Jesus and Mary
- Salesian Sisters
- Sisters of Christian Education
- Sisters of Our Lady of the Missions
- Sisters of Sacred Hearts of Jesus and Mary
- Sisters of St. Clare
- Sisters of St. John of God
- Sisters of the Christian Retreat
- Sisters of the Cross & Passion
- Sisters of the Holy Family of Bordeaux
- Society of the Holy Child Jesus
- Society of the Sacred Heart (of Jesus) (RSCJ)
- Ursulines of Jesus (UJ)

46. It should be noted that this list is based on the religious orders' records and cannot be taken as a definitive account of what allegations have been made to other bodies in relation to these schools. Three of the religious orders who recorded no allegations were named by survivors taking part in the Survivor Engagement process. These are:

- La Sainte Union Sisters;
- The Poor Servants of the Mother of God (PSMG);
- The Daughters of Charity of St. Vincent de Paul.

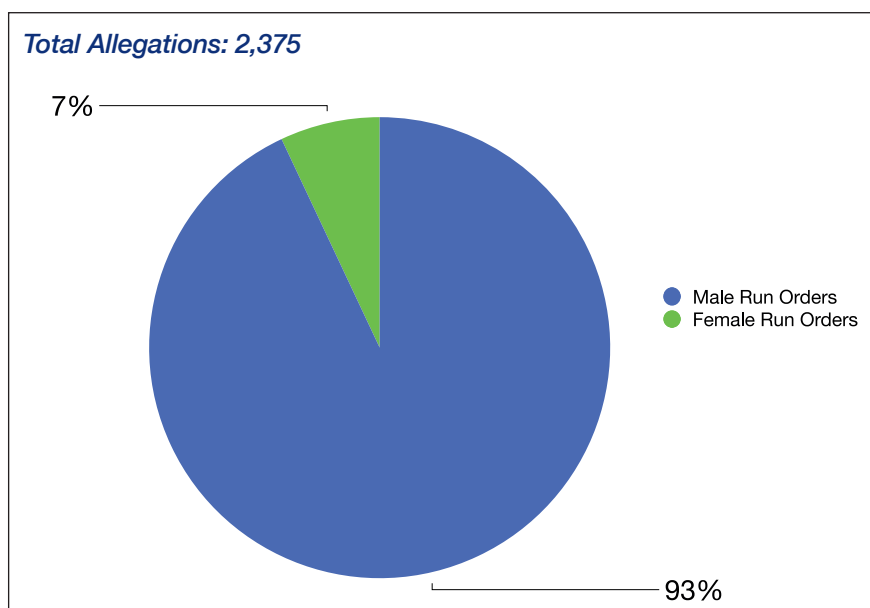
47. In terms of the figures provided by the religious orders, the following analysis can be made. Across all religious order-run schools, the allegations primarily related to members of the religious order (69%), with the next biggest categories of alleged abusers being lay staff (17%), pupils (9%), and clergy (5%):

All Allegations Recorded by Religious Orders: Categories of Alleged Abusers

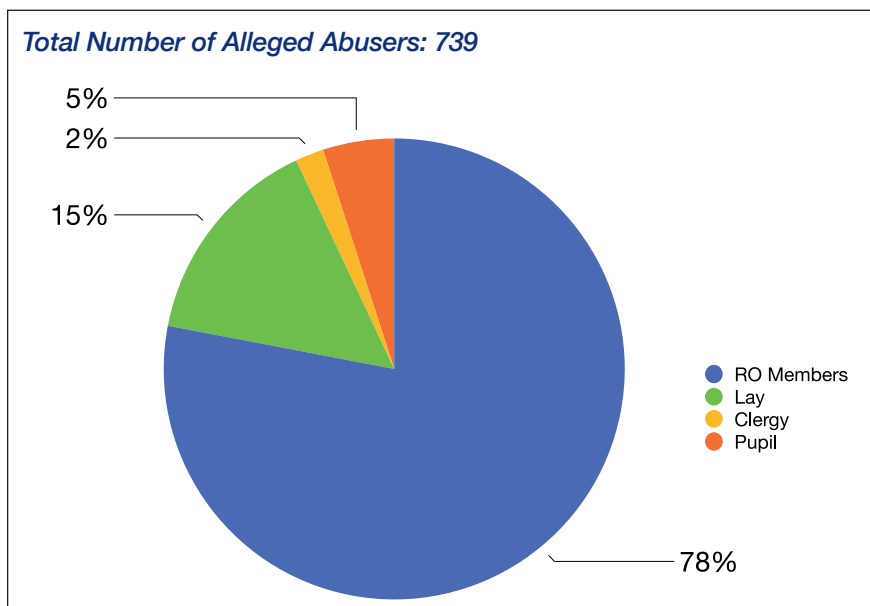


(a) Differences Between Male Order and Female Order Run Schools

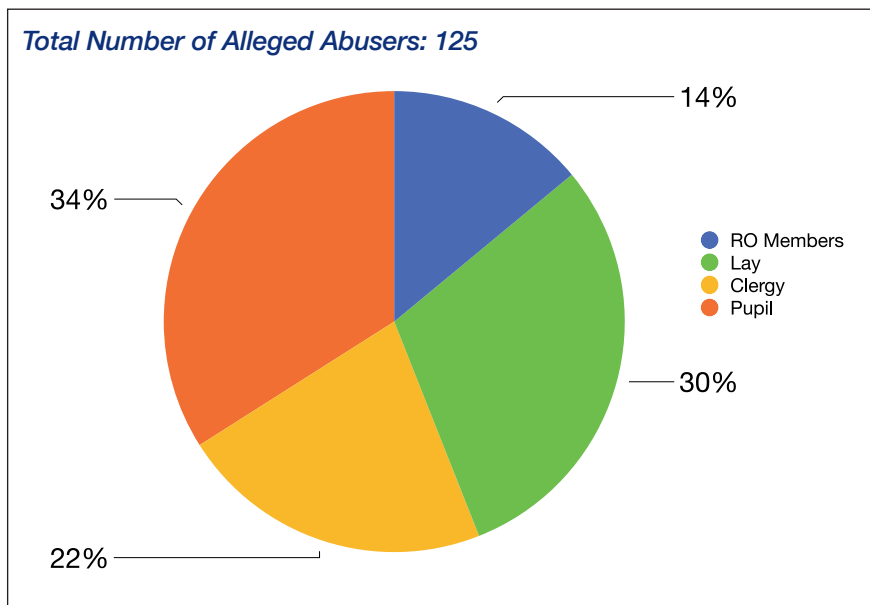
48. Both the number of allegations of historical sexual abuse in female religious order-run schools and the categories of alleged abusers recorded by female religious order-run schools are notably different to that of male religious order run schools.
49. Overall, the number of allegations reported in female religious order run schools is 158, compared to 2,217 in male religious order schools:



50. In male order run schools, the allegations primarily related to members of the religious order (78%), with the next biggest categories being lay staff (15%), pupil (5%), and other clergy (2%):

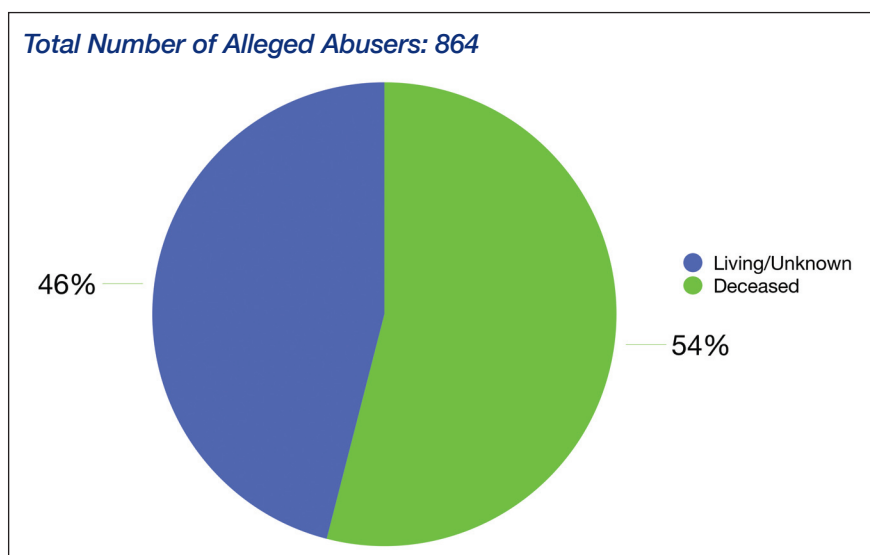


51. The categories of alleged abusers in allegations recorded by female religious order run schools are more evenly spread across all four categories: In female order run schools allegations relating to members of the religious order account for 14% of allegations, with the biggest category being pupils (34%), then lay abuse (30%) and other clergy abuse (22%):



(b) Numbers of Alleged Abusers Who Are Deceased For All Religious Orders

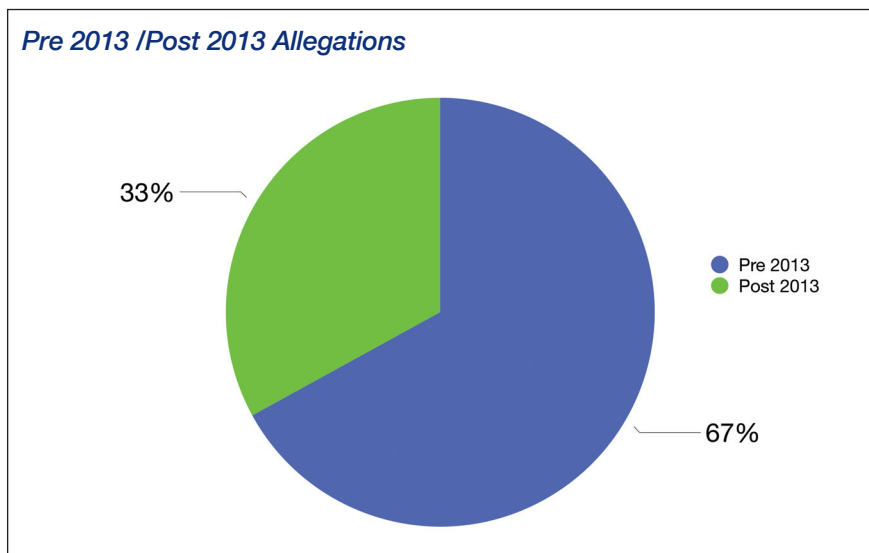
52. Of the 864 alleged abusers referred to in the religious orders' records, just over half are known to be deceased.
53. The balance are either living, or their status is unknown at this time. It seems reasonably likely that a percentage of the category of living/unknown alleged abusers may now also be deceased, but this figure cannot be quantified at this time.



54. The fact that such a large number of the alleged abusers recorded are deceased is a reflection of the fact that many of these complaints relate to incidents said to have occurred many years ago. The trend of significant delay in reporting sexual abuse experienced as a child, referenced by An Garda Síochána elsewhere in this Report,¹⁶ makes it more likely that many alleged abusers are deceased when the report is made.

(c) *Breakdown of pre-2013 and post-2013 allegations*

55. The religious orders were asked to identify which allegations were in addition to those recorded in the Tusla audit, and on this basis it is possible to identify that just over two-thirds of the allegations recorded were made prior to 2013, with the remaining third made since that date:



(iii) **Religious Orders with the Highest Allegations Excluding Special Schools**

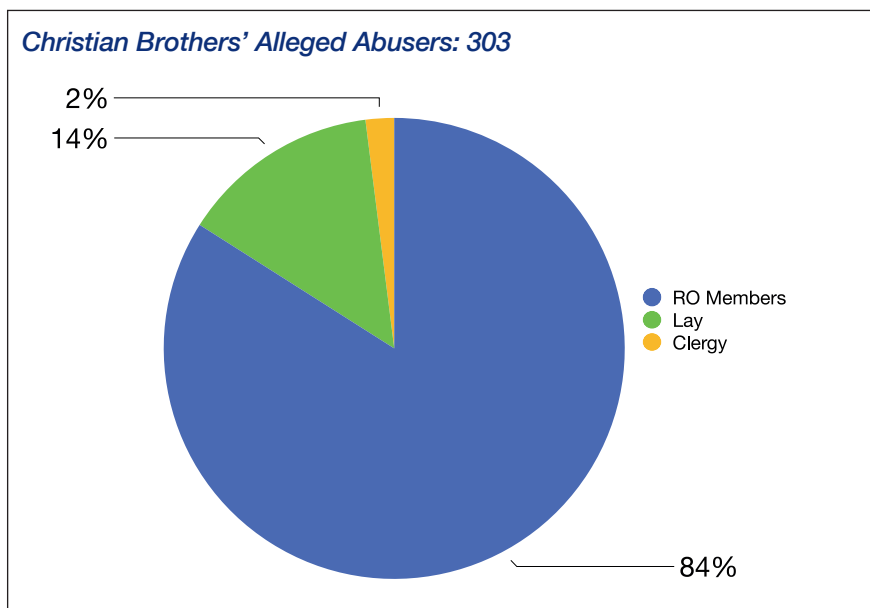
56. This section considers the data received from the 5 religious orders recording the highest numbers of allegations in their schools, excluding those orders that ran special schools. The Jesuits are the only religious order among the 5 orders listed below that ran a special school. The figures for the special schools, including the Jesuit special school, are set out separately below.

57. Appendix 7 sets out a school-by-school breakdown of the recorded allegations of historical sexual abuse provided to the Scoping Inquiry. This breakdown provides, where available, the name of the school concerned, the number of allegations of historical sexual abuse reported in respect of the school, and the number of alleged abusers referred to in these records.

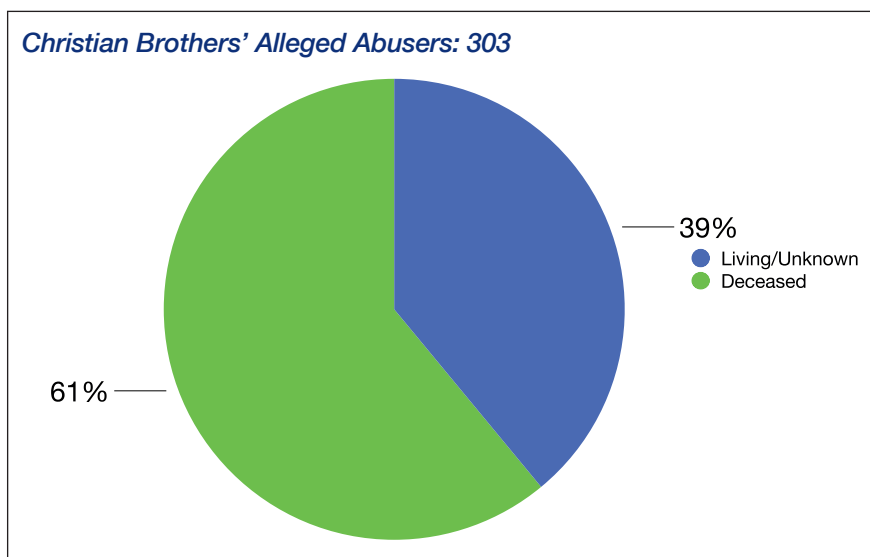
58. Two orders, the Patrician Brothers and the Sisters of Mercy did not provide all the information sought by the Inquiry:
- (i) The Sisters of Mercy provided the total number of allegations of historical sexual abuse for their schools, and the total number and category of alleged abusers associated with those allegations. They also provided the number of schools to which these allegations related. They did not provide the names of these schools or any indication of which allegations related to particular schools.
 - (ii) The Patrician Brothers provided the total numbers of allegations, alleged abusers and categories of alleged abusers, and provided the names of the relevant schools, but did not provide a school-by-school breakdown of the allegations/alleged abusers.
59. The De La Salle Order provided total numbers for allegations/alleged abusers and categories of alleged abusers, and belatedly provided the names of their schools on 4 June 2024. Because of the late nature of this information, the details of the schools listed below, and in Appendix 7, are set out in a more generic form than those of other orders because of the limited information provided and the short period of time allowed for cross-checking these details.
60. The data largely speaks for itself. It is apparent that there are cases where alleged abusers moved between schools, and because the number of alleged abusers in each school is listed separately, this means the total number of alleged abusers when the data is broken down on a school-by-school basis is greater than the 864 alleged abusers listed above on an order-by-order breakdown.
61. In some instances a large number of allegations are recorded in the context of the order having a large numbers of schools. However, in other instances religious orders with a small number of schools have recorded a very high number of allegations.

(a) *The Christian Brothers*

62. There are 132 Christian Brothers' schools included in the school-by-school breakdown in Appendix 7 of this Report. In total, 820 allegations of abuse are recorded in relation to those 132 schools.¹⁷
63. The majority of alleged abusers were members of the Christian Brothers religious order (84%), with the next biggest category being lay staff (14%), then other clergy (2%). No peer abuse is recorded:



64. Over two thirds of the persons recorded as alleged abusers associated with Christian Brothers' schools are deceased:



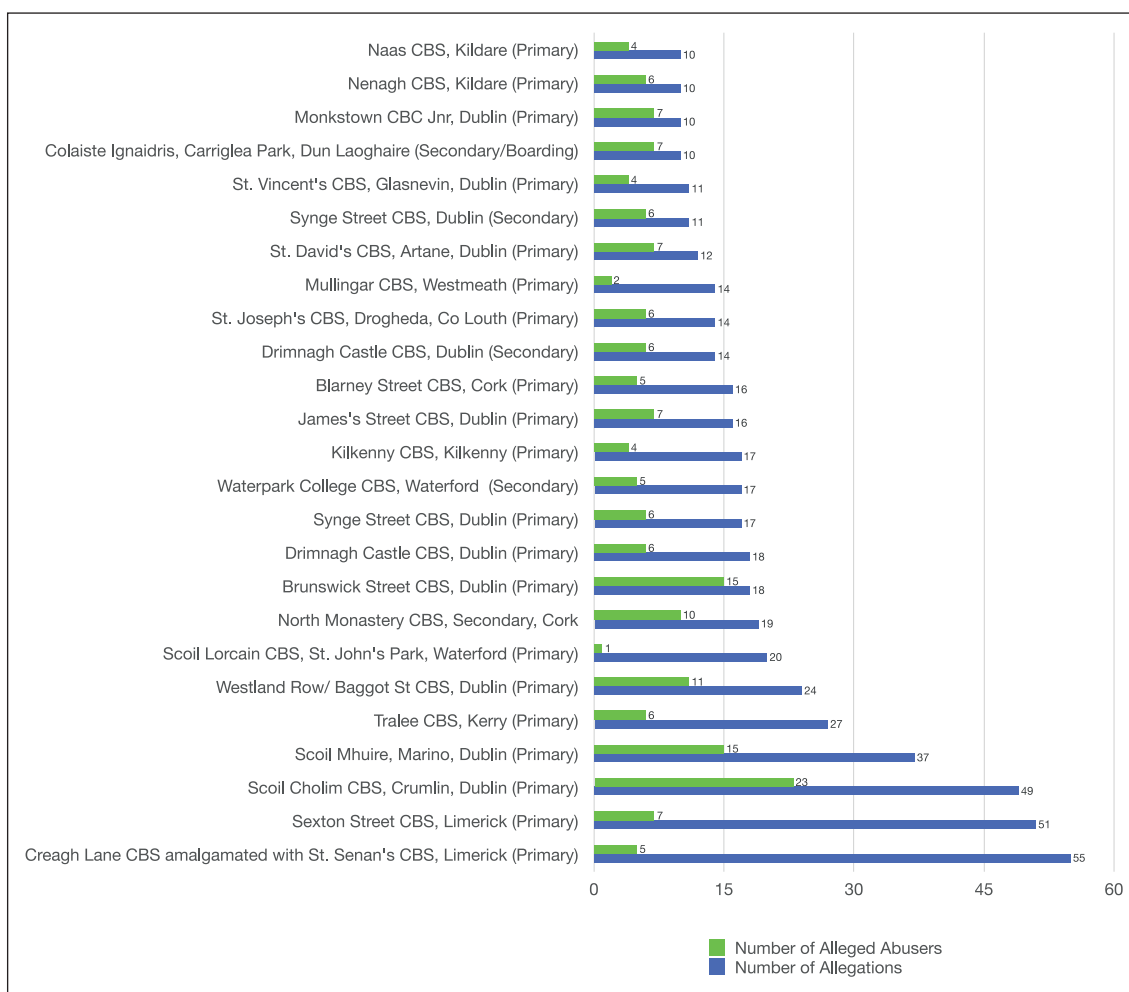
17 The number of allegations on a school-by-school breakdown may be higher than the overall total of allegations recorded, as the overall total provided in the verification form by the congregation sought to eliminate, as far as possible, any duplication between the schools' figures and the congregation's figures at the request of the Scoping Inquiry. For the purpose of this analysis, the Scoping Inquiry is using the figures provided by the congregation, whose records appear to be more complete, rather than the less extensive records held by the schools. The data protection concerns expressed by ERST are set out in paragraph 21 above. Appendix 8 shows, by way of example, the schools' figures for alleged abusers alongside the congregation's figures. These figures cannot be added to the congregation's figures because of concerns about duplication.

65. In addition, the Scoping Inquiry asked the Christian Brothers for information regarding the number of convictions for child sexual abuse associated with their schools.¹⁸ They indicated that:

- 16 members and former members of the Christian Brothers have been convicted of child sexual abuse;
- 5 lay staff have been convicted of child sexual abuse; and
- 1 member of the clergy associated with their school who was not a Christian Brother has been convicted, though the order is unsure if this conviction was for offences in one of their schools.

66. It is apparent from the schools data set out in Appendix 7 that there are a number of schools with particularly high numbers of allegations and alleged abusers.

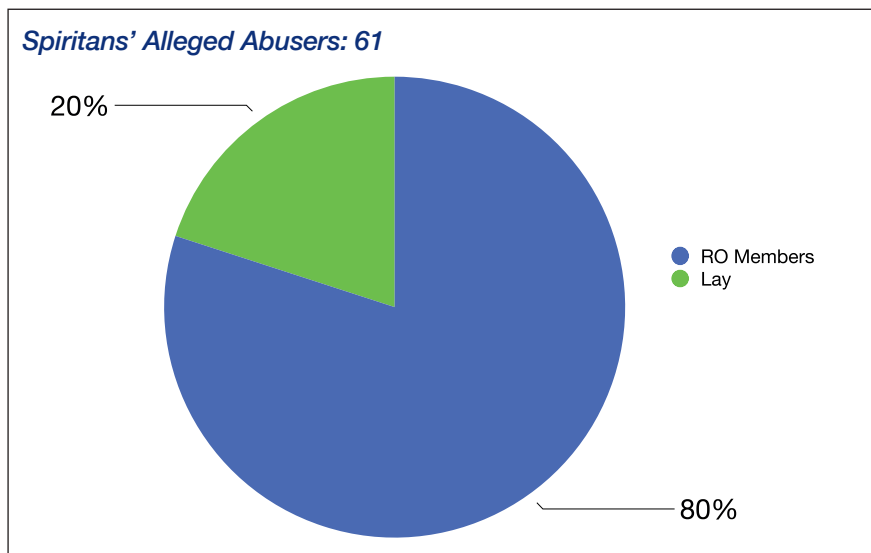
67. By way of example, 25 of the 132 Christian Brothers' schools that have recorded allegations are listed below in table form. These appear to be schools with a comparatively high number of allegations or alleged abusers associated with the school:



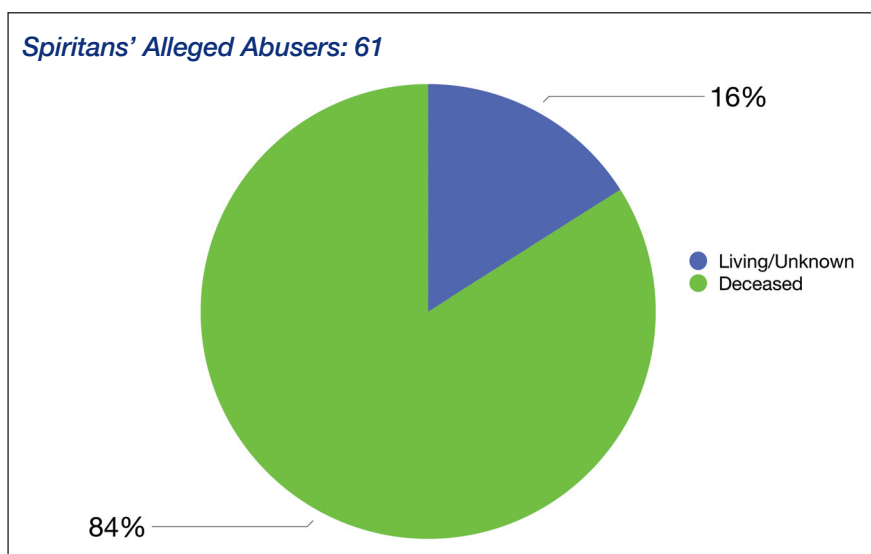
18 All figures relating to convictions set out in this Chapter are limited to those convictions where the incident of abuse falls within the Scoping Inquiry's Terms of Reference.

(b) *The Spiritans*

68. The Spiritans have provided data on 329 recorded allegations in relation to 6 schools. They have indicated that they have records of allegations in respect of 61 alleged abusers associated with those schools.¹⁹
69. Of the 61 alleged abusers identified in the Spiritans' records, 80% were members of the order and 20% were lay staff:

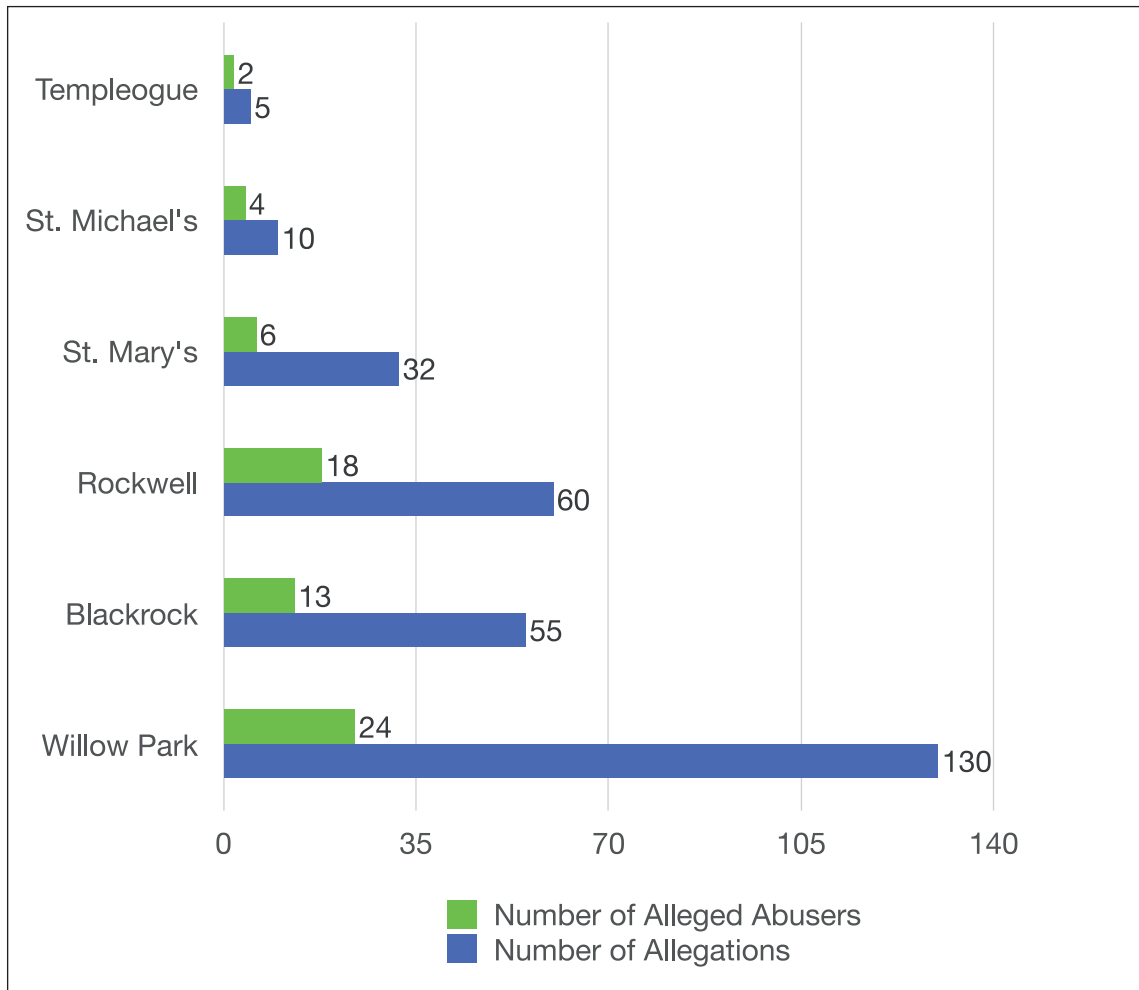


70. As with other orders, the vast majority (84%) of the alleged abusers recorded in the religious order's records are deceased:



19 A total of 329 allegations were counted on the Spiritans' Verification Form. However, the information provided on the categories of alleged abusers in the Spiritans' records is based on the 292 allegations noted on their questionnaire in circumstances where the order has said that there is insufficient information about 37 further allegations to identify the category of alleged abuser concerned.

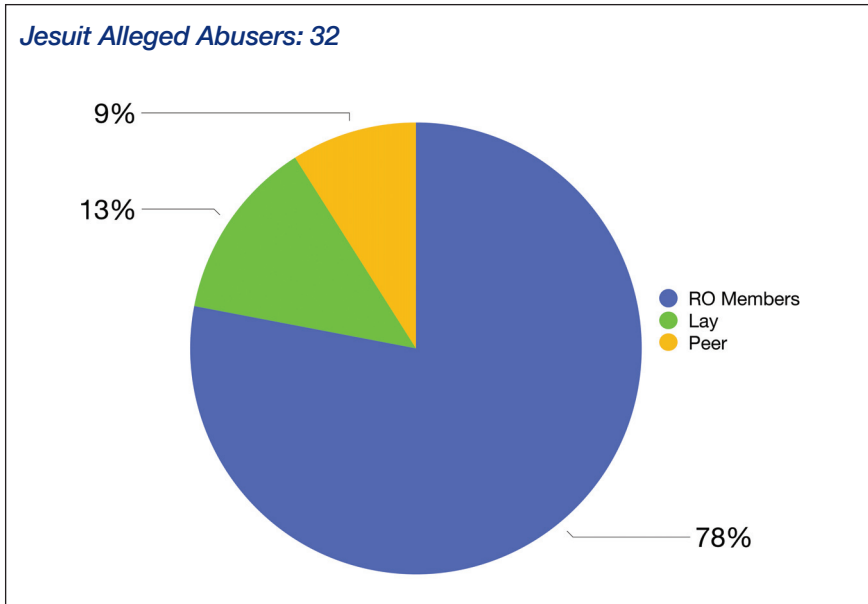
71. The Spiritans informed the Scoping Inquiry that one member of their religious order and one lay member of staff in their schools had been convicted of child sexual abuse.²⁰
72. The data provided by the Spiritans to the Inquiry recorded a particularly high number of allegations and alleged abusers in Willow Park school, the private primary school associated with Blackrock College. There was also a high number of allegations recorded in relation to Blackrock College and Rockwell College:



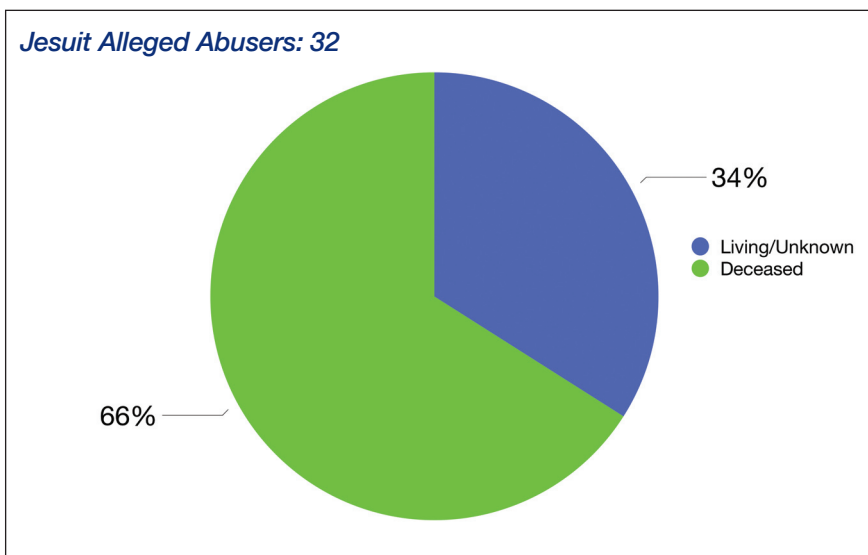
²⁰ These figures are limited to convictions within the Scoping Inquiry's remit.

(c) *The Jesuits*

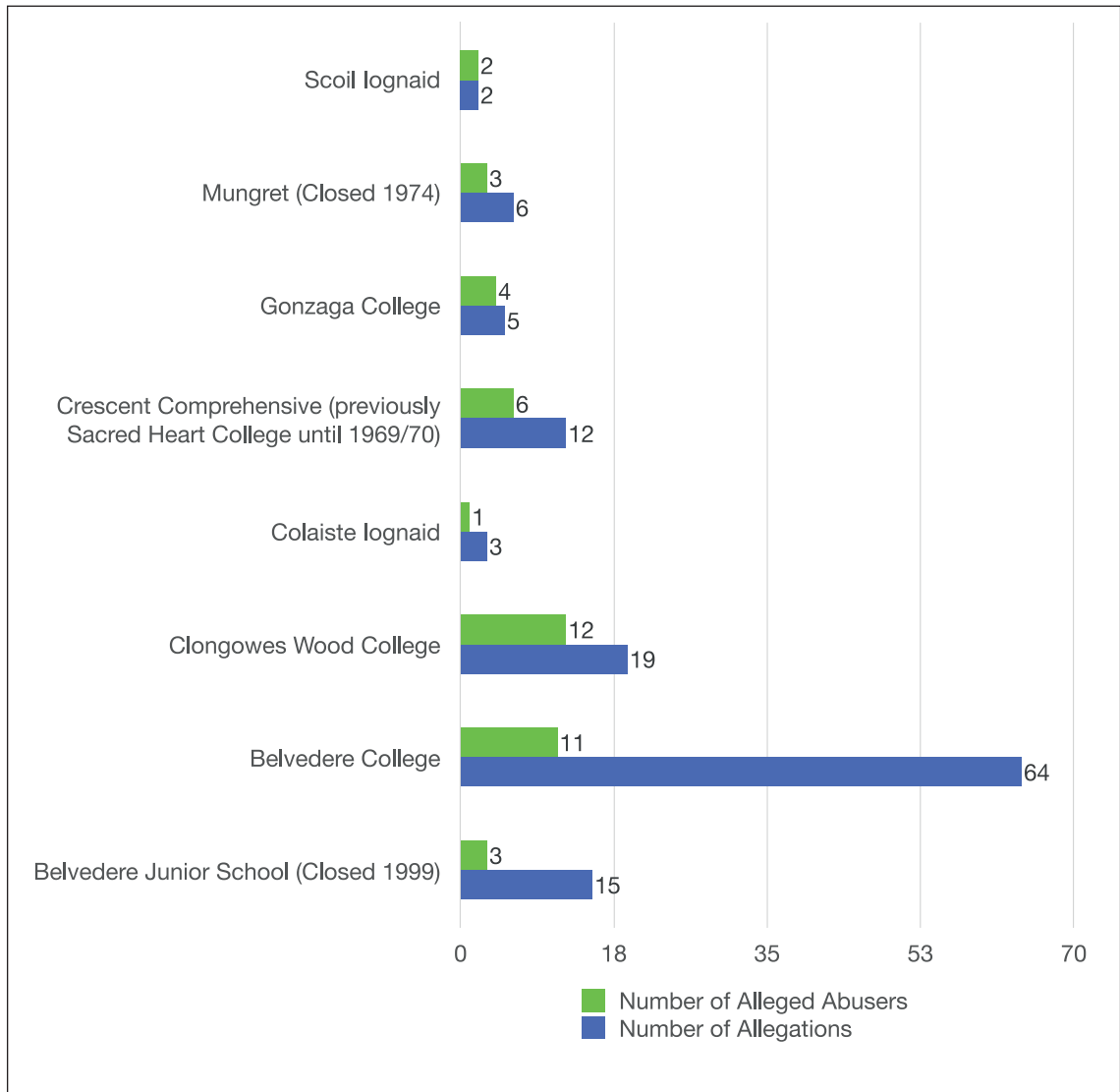
73. The Jesuits informed the Scoping Inquiry of 126 recorded allegations involving 32 alleged abusers across 8 schools. Allegations in a Jesuit special school are set out separately below.
74. Of the 32 alleged abusers identified in the Jesuits' records, the majority (78%) were members of the Jesuit order, with 13% being lay staff and some 9% being peers of the complainant:



75. A majority (66%) of those alleged abusers are deceased:



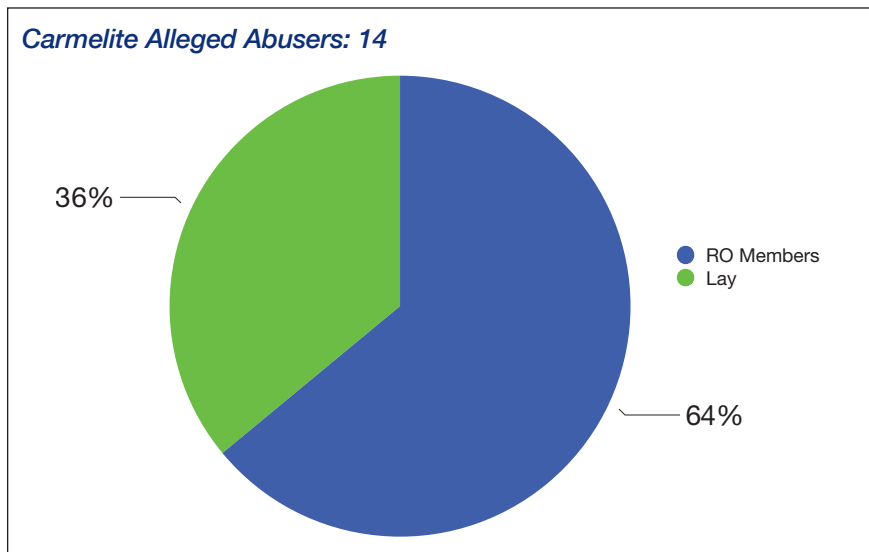
76. The Jesuit school with the highest number of allegations is Belvedere College, with 64 allegations and 11 alleged abusers, followed by Clongowes Wood College, with 19 allegations and 12 alleged abusers:



(d) *The Carmelite Fathers*

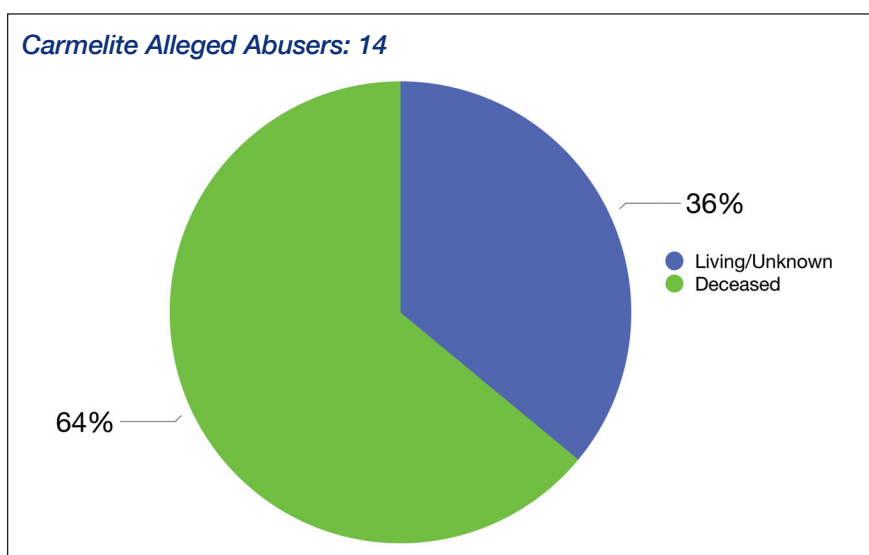
77. The Carmelite Fathers recorded 100 allegations involving 14 alleged abusers in 2 schools.

78. Of the 14 alleged abusers referred to in those 100 allegations, 64% were members of the order and 36% were lay staff:

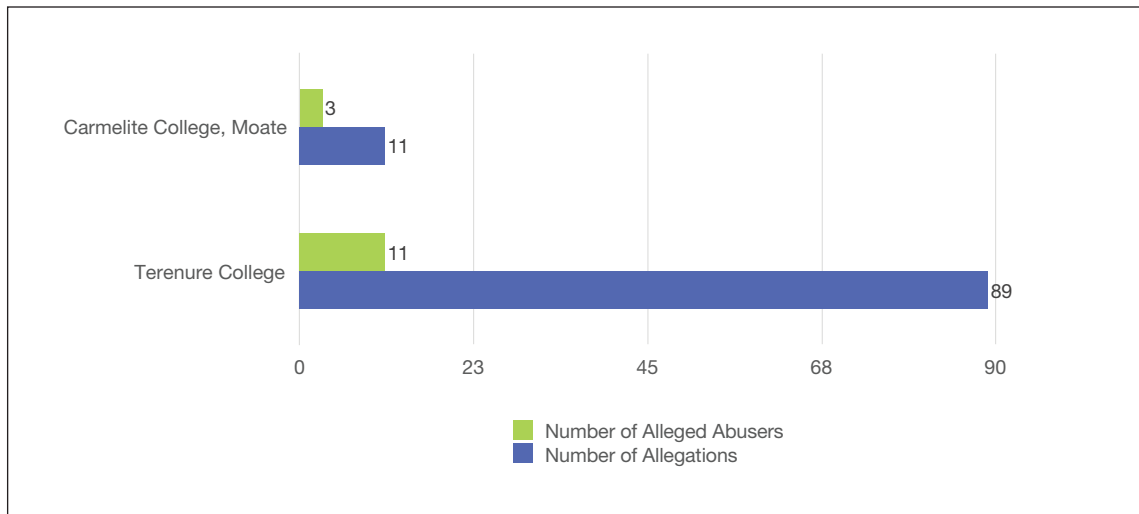


79. Two lay people associated the schools run by the Carmelite order have been convicted of child sexual abuse.

80. Again, the majority (64%) of the alleged abusers associated with allegations of historical sexual abuse in Carmelite schools are deceased:



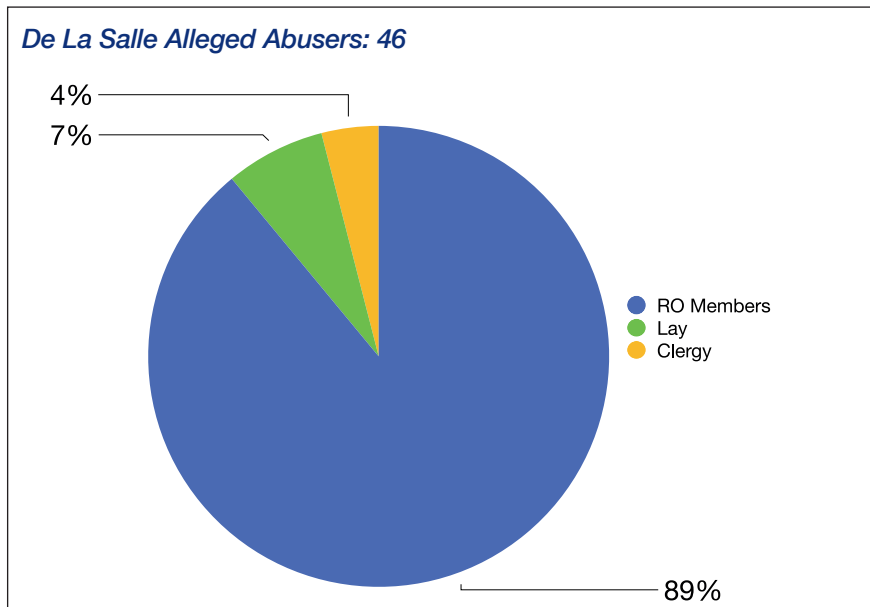
81. The allegations recorded by the Carmelites predominantly related to Terenure College, with 89 allegations in respect of 11 alleged abusers. Some 11 allegations are recorded in relation to Carmelite College Moate in respect of 3 alleged abusers:



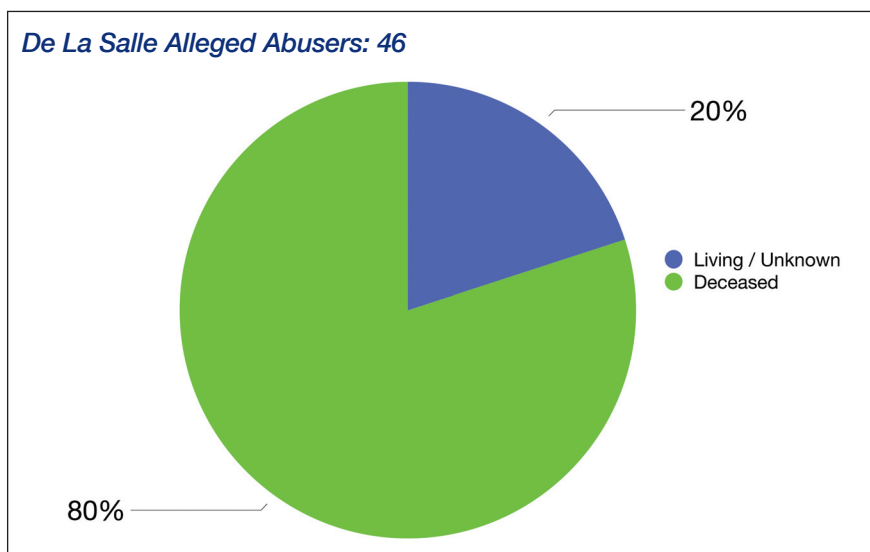
(e) *The De La Salle Brothers*

82. The De La Salle Brothers have recorded 84 allegations of historical sex abuse in relation to 29 schools.

83. Some 46 alleged abusers are named in these 84 allegations of sex abuse. In the vast majority of allegations (89%) the alleged abuser was a member of the De La Salle Brothers. In 7% of allegations the alleged abuser named was a lay member of staff and in 4% of allegations the alleged abuser named was a cleric who was not a member of the religious order.

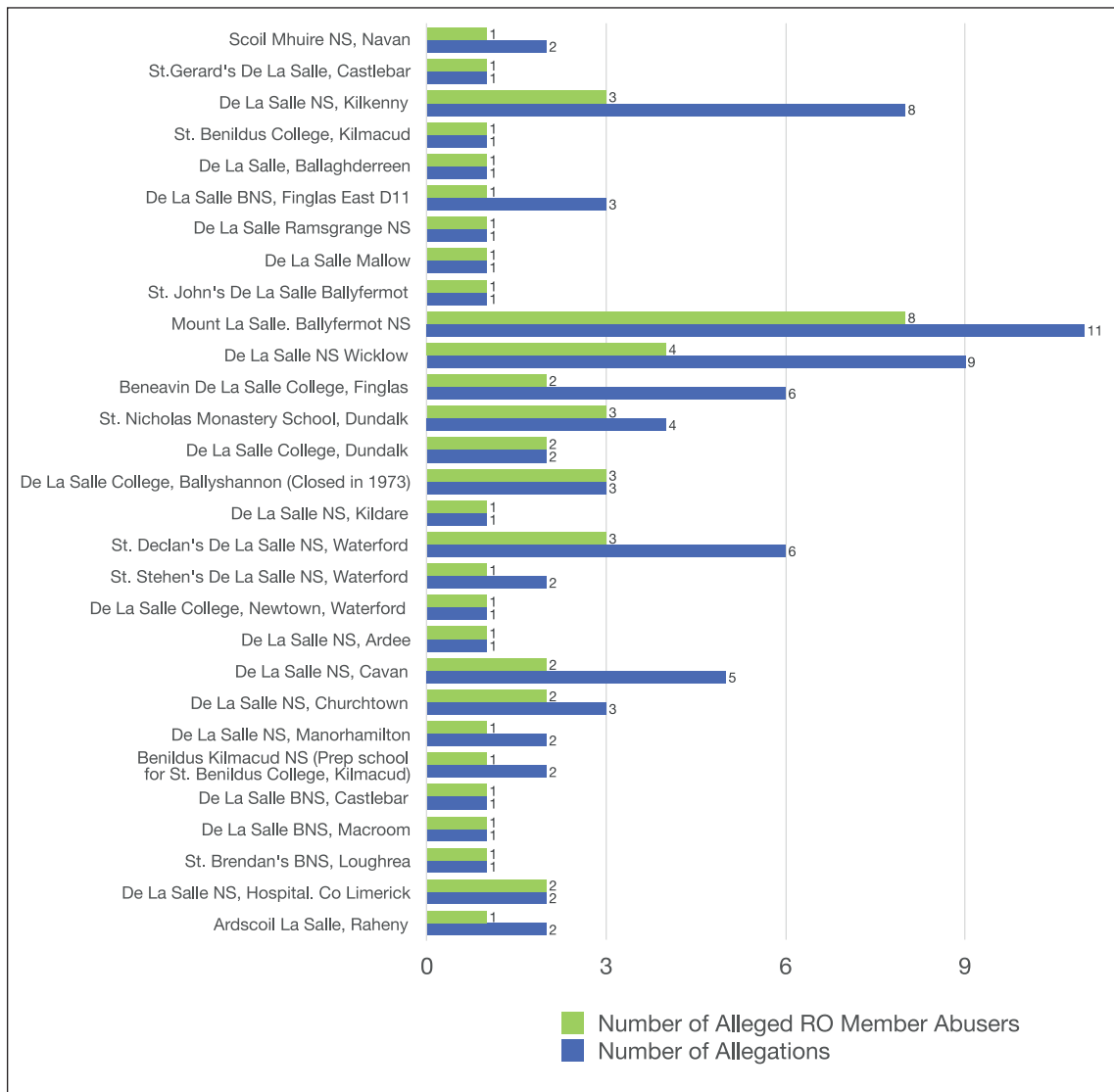


84. Some 80% of the alleged abusers named are deceased according to the De La Salle Brothers' records:



85. The following table sets out the spread of allegations and alleged abusers in the De La Salle Brothers' schools.

86. This table does not include the 5 alleged abusers falling into the category of lay staff and other clergy because the order did not specify which of the schools these alleged abusers are associated with:



87. The below table provides a short comparison of some of the data arising in relation to allegations in schools run by the 5 religious orders who submitted the largest numbers of allegations to the Scoping Inquiry:

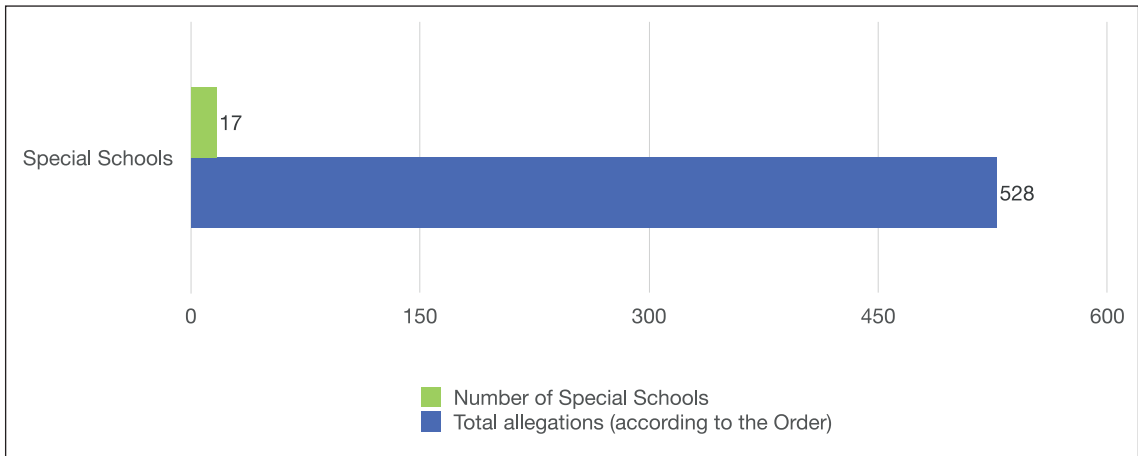
Order	Christian Brothers	Spiritans	Jesuits	Carmelite Fathers	De La Salle Brothers
Allegations	820	329	126	100	84
Number of Schools	132	6	8	2	29
Total Abusers	303	61	32	14	46
Religious Order Members	255	49	25	9	41
Lay	42	12	4	5	3
Clergy	6	0	0	0	2
Pupils	0	0	3	0	0

(iv) Special Schools

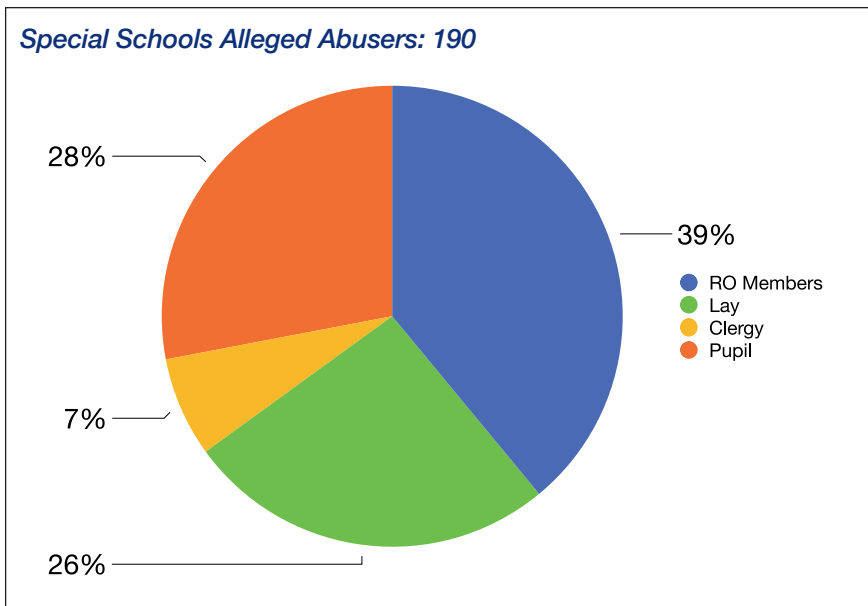
88. As discussed elsewhere in this Report, there are a higher number of allegations received in respect of special schools than mainstream schools run by religious orders. This likely reflects the fact, discussed elsewhere in this Report, that disabled children are more vulnerable to and are more likely to be sexually abused than able-bodied children.
89. Of the total number of 2,375 allegations involving 864 abusers outlined above,²¹ some 528 allegations and 190 alleged abusers relate to special schools.
90. The figures involving special schools are considered separately here in order to identify if there are any distinct features or themes that arise in relation to allegations of abuse in special schools.

21 These figures exclude community schools, which are addressed separately below.

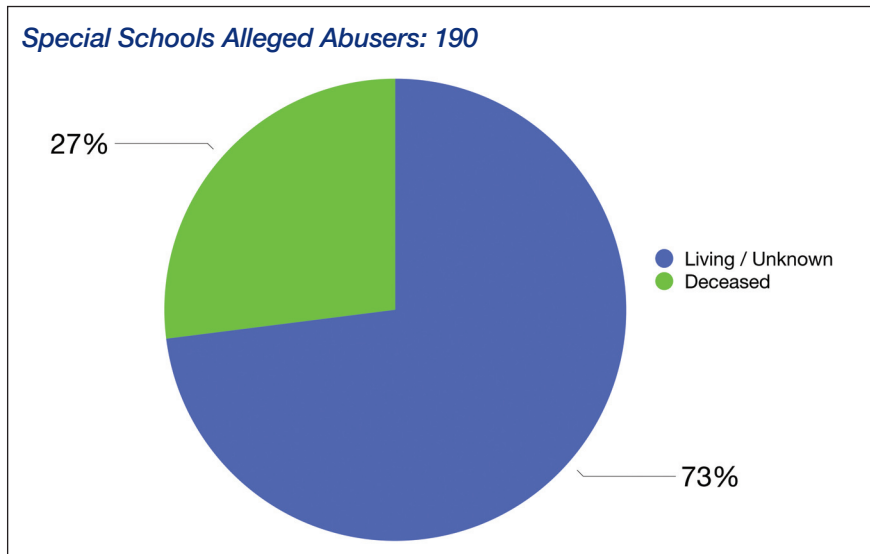
91. The numbers of allegations in 17 special schools reported by the religious orders are set out below:



92. The breakdown of alleged abusers in special schools reported by the religious orders shows that while the largest category of alleged abusers are members of a religious order (39%), there is also a large percentage of allegations involving pupils (28%) and abuse by lay staff (26%). Abuse by another cleric (not a member of the order) is alleged in 7% of allegations:



93. In contrast with the position in relation to mainstream schools, the religious orders have recorded that the vast majority of alleged abusers identified in special schools are still living or their status is not known:



94. A school-by-school breakdown of the number of allegations and alleged abusers reported as associated with each special school is set out at the bottom of the table in Appendix 7.

95. The following table sets out the numbers of allegations relating to special schools on an order-by-order basis:

Religious Order	Allegations	Number of Schools	Total Alleged Abusers	Members accused	Lay accused	Peer accused	Other cleric accused	Total Alleged Abusers Deceased
Brothers of Charity	294 ²²	3	97 ²³	47	18	28	4	28
Hospitaller Order of St John of God	144 ²⁴	7	36	22	10	4	0	19
Congregation of Dominican Sisters Cabra	64 ²⁵	2	45	0	16	20	9	1
Jesuits	16	1	2	2	0	0	0	2
Rosminians	6	1	6	3	3	0	0	2
Congregation of the Daughters of the Cross of Liege	2	1	2	0	1	1	0	0
Religious Sisters of Charity	1	1	1	0	0	1	0	0
Congregation of the Sisters of Charity of Jesus and Mary	1	1	1	0	1	0	0	0
TOTAL	528	17	190	74	49	54	13	52

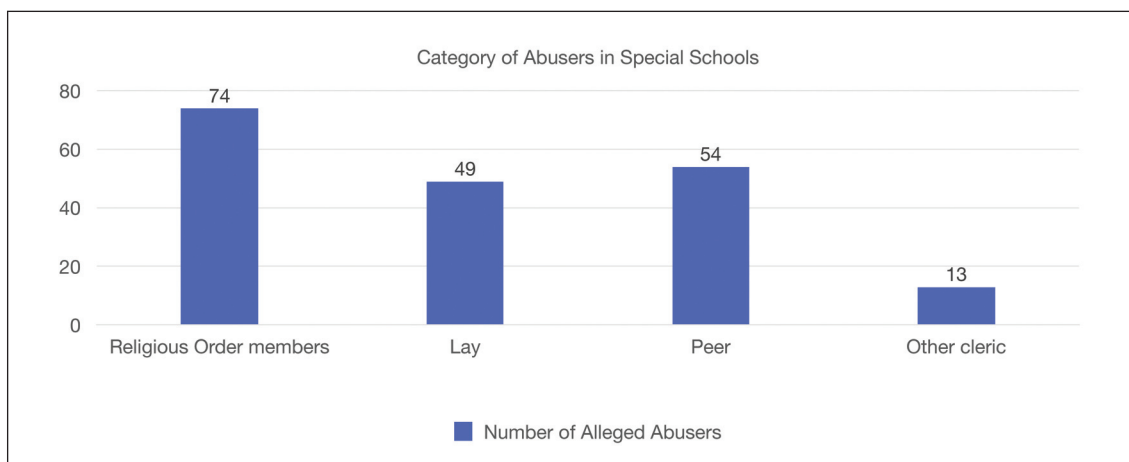
22 See footnote 12 above.

23 See footnote 13 above.

24 See footnote 14 above. The Hospitaller Order of St John of God reported 124 allegations. However, following correspondence in relation to certain other allegations noted by the order, the Scoping Inquiry took the view that there were an additional 20 allegations that constituted sexual abuse and, as such, should be included in the order's total number of allegations. In addition, at a late juncture the order indicated that there may be 1 less lay alleged abuser and 1 more allegation that should be counted in the figures relating to their order, but it was not practicable to amend the data in this Report at that point in time.

25 See footnote 15 above.

96. Special schools had a different profile of alleged abuser compared with mainstream schools. Of the total of 190 alleged abusers, 74 were members of the religious order concerned, 49 were lay staff, 54 were peers, and 13 were clerics who were not members of the religious order:



97. The following table sets out the allegations recorded in respect of the 17 special schools identified by religious orders as having allegations of historical sexual abuse. A school-by-school breakdown will reflect a higher number of total alleged abusers because alleged abusers who moved between different schools are counted twice. The Hospitaller Order of Saint John of God had not provided a school-by-school breakdown of allegations at the time of the preparation of this Report; a total figure is instead set out below followed by a list of relevant schools:

Religious Order	School	Boarding Yes/No	Total Number of Allegations	Total Alleged Abusers
Brothers of Charity	Lota, Glanmire, Cork	Boarding	166	50
Brothers of Charity	St. Mary's, Rochestown, Cork	Boarding	9	2
Brothers of Charity	Holy Family School, Renmore, Galway	Boarding	119	49
Congregation of Dominican Sisters Cabra	St. Mary's School for Deaf Girls, Cabra, Dublin 7	Mixed	63	44
Congregation of Dominican Sisters Cabra	Benin Casa Special School, Blackrock, Co. Dublin	Day	1	1
Congregation of the Daughters of the Cross of Liege	Mary Immaculate School for Deaf Children, Sillorgan (Closed 1998), Dublin	Mixed	2	2
Congregation of the Sisters of Charity of Jesus and Mary	St. Mary's Southhill, Delvin, Westmeath	Mixed	1	1
Jesuits	St. Declan's Special School, Dublin	Day	16	2

Religious Order	School	Boarding Yes/No	Total Number of Allegations	Total Alleged Abusers
Religious Sisters of Charity	St. Patrick's Special School, Kells Road, Kilkenny	Day	1	1
Rosminians	St. Joseph's (School for visually impaired boys), Drumcondra, Dublin	Boarding	6	6
Hospitaller Order of St John of God	Total for all schools below, as breakdown per school not provided		144 ²⁶	36
Hospitaller Order of St John of God	St. Augustine's School, Carysfort Avenue, Dublin	Mixed		
Hospitaller Order of St John of God	Islandbridge Day School, Dublin	Day		
Hospitaller Order of St John of God	Dunmore House Day School, Dublin	Day		
Hospitaller Order of St John of God	St. Raphael's School, Celbridge, Kildare	Mixed		
Hospitaller Order of St John of God	St. Mary's School, Drumcar, Louth	Mixed		
Hospitaller Order of St John of God	Oliver Plunket House, Classes for Children with Epilepsy	Not Specified		
Hospitaller Order of St John of God	Kilcronney Boarding School, Wicklow	Boarding		
TOTAL			528	194

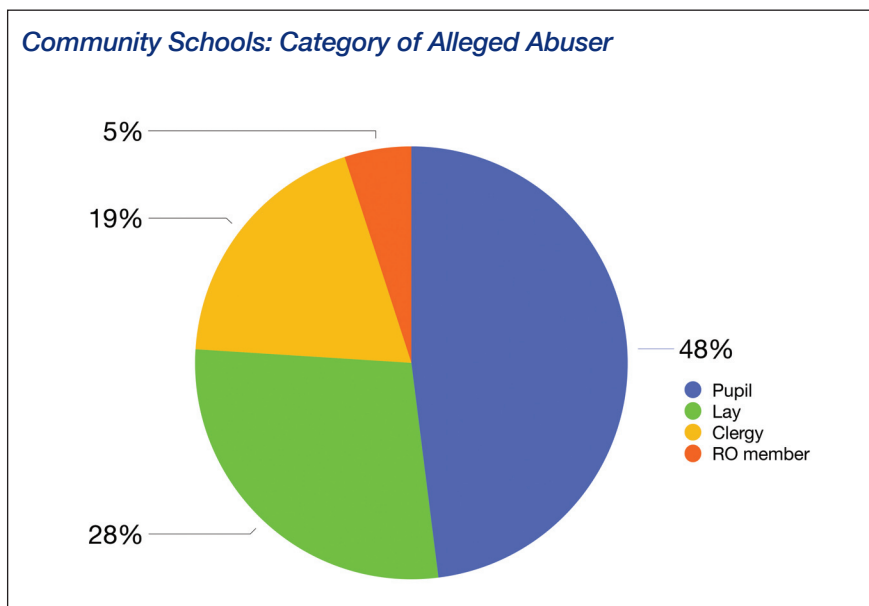
26 As noted above, while the Hospitaller Order of St John of God reported 124 allegations, the Scoping Inquiry took the view that there were an additional 20 allegations referred to by the order that should be included. See Appendix 13 for a school-by-school breakdown provided by the Hospitaller Order of St John of God on 6 June 2024.

E. Community Schools

98. For reasons already outlined in this Report, namely the status of religious orders as co-patrons, data relating to allegations in relation to community schools was collected separately. The following data regarding allegations of historical sexual abuse in community schools with religious order co-patrons was provided by to the Scoping Inquiry:

School Name	Co-patron Order(s)	Total Allegations
Mountrath Community School	Brigidine Sisters (CSB)/ Patrician Brothers	2
St. Tiernan's C.S	Carmelites (OCarm)	1
Pobalscoil Neasain, Baldoyle	Christian Brothers (CFC)/ Religious Sisters of Charity	1
Coolmine C.S.	La Sainte Union Sisters (LSU)/ Vincentian Fathers	1
Gorey Community School	Loreto Sisters (IBVM)	1
Portmarnock C.S.	Loreto Sisters (IBVM)	2
Tallaght Community School	Marist Brothers (FMS)/ Holy Faith Sisters	1
Coláiste Chiaráin Leixlip	Congregation of the Presentation Sisters (PBVM)	1
Holy Family Community School Rathcoole	Congregation of the Presentation Sisters (PBVM)	2
Castlecomer Community School	Congregation of the Presentation Sisters (PBVM)	1
Total Allegations in 5 Sisters of Mercy community schools	Sisters of Mercy (RSM)	7
TOTAL		20

99. The responses from community schools indicated that the majority of the alleged abusers in those schools were identified as pupils. The smallest percentage of allegations related to members of a religious order:



100. As is apparent from the table above, the Sisters of Mercy gave a global figure only for all of their community schools. They subsequently confirmed that allegations of historical sexual abuse arose in respect of five of the Community Schools of which they are co-patrons, but did not specify which schools. Thus, the 7 allegations referred to arise in relation to five of the community schools of which that order are a co-patron.
101. In a small number of community schools the Sisters of Mercy are one of 2 or 3 religious co-patrons. As such, there was a risk of duplication where the names of the individual schools concerned were not provided by the Sisters of Mercy. The Scoping Inquiry therefore asked all schools to liaise with all of their religious order co-patrons to ensure that only one questionnaire was submitted and no issue of duplication would arise.

F. Conclusion

102. The above data is the most complete picture of the extent of allegations of sexual abuse in schools run by religious orders that the Scoping Inquiry has been able to obtain. The figures for numbers of allegations compiled from other sources are set out in the next chapter.

Chapter 10:

Other Sources of Data on Numbers of Allegations

- A. Introduction
- B. Tusla
- C. The National Board for Safeguarding Children in the Catholic Church
 - (i) The NBSCCCI Religious Order Reviews
 - (ii) NBSCCCI Annual Reports
- D. The Department of Education
- E. Survivor Engagement Statistics
- F. An Garda Síochána
 - (i) Incident Volumes
 - (ii) Status of Investigations
 - (iii) Suspects

A. Introduction

1. This chapter considers all other sources of data that the Scoping Inquiry obtained in relation to the number of allegations of historical sexual abuse in schools run by religious orders. As detailed in the next chapter, many of the records held by state authorities were not capable of being readily searched for data specifically relating to allegations of sexual abuse in schools run by religious orders. Nonetheless, some data was forthcoming on the basis that it either related to (i) all sexual abuse allegations by members of religious orders that ran schools or (ii) certain limited records of allegations of abuse occurring in a school run by religious orders.

B. Tusla

2. On the basis of the data included in Tusla's 'Audit of Religious Orders, Congregations, and Missionary Societies Safeguarding Arrangements and Management of Allegations of Child Sexual Abuse Report' ('**the Audit Report**'), and further data collected for a period following the Audit, Tusla was able to extract information relevant to sexual abuse allegations in schools run by religious orders, which is set out in the list below.
3. In compiling the list of sexual abuse allegations set out below, Tusla officials considered all records in the possession of the audit team, including those provided by the orders themselves, An Garda Síochána, Tusla Social Work records, State and church national and private counselling agencies, and those received by members of the public.
4. The figures provided to the Scoping Inquiry included not only the information which fell within the scope of the Audit Report, but also information which came outside of that remit and information received up to 31 January 2018 while the audit database was being maintained. Tusla noted that they considered this 'a reliable comprehensive analysis of available relevant records'.¹
5. In analysing whether the information held by Tusla indicated that an allegation was likely to have taken place in a school setting in Ireland, Tusla applied a high balance of probability test based on the evidence available to them. Allegations where there was any reasonable doubt of the location were not included in Tusla figures. It was noted that 'In just under one third of the allegations examined for this exercise the location of the abuse could not be reliably determined [and] also those that were considered extra jurisdictional were not included'.²

1 Letter of 25 November 2023 from Tusla to the Scoping Inquiry.

2 Ibid.

6. Tusla stressed that the figures provided have not been reverified with the religious orders and 'should only be considered as an approximation of the number of cases known and not considered as a definitive cumulative historical figure. The audit and investigation teams received a lot of information that simply could not be verified and therefore was considered unreliable'.³
7. It was also highlighted that the numbers provided by Tusla to the Inquiry do not represent the number of allegations assessed as credible or confirmed by statutory authorities, but are merely a representation of allegations that were recorded by Tusla as having been received.
8. In total, Tusla examined 3,498 records of sexual abuse allegations arising from the list of religious orders which ran day or boarding schools in the State provided by the Inquiry. Tusla assessed that some 1,387 of those allegations could on a high balance of probability be determined to have originated from a school setting.

Name of Religious Order	Total Number of Allegations Occurring in a School Setting
Augustinians (OSA)	1
Benedictine Nuns (OSB)	0
Benedictines, Glenstal Abbey (OSB)	4
Brothers of Charity (FC)	103
Capuchins (OFM Cap)	4
Carmelites (OCarm)	14
Christian Brothers (CFC)	696
Cistercians – Four Monasteries (OCSO)	0
Congregation of the Blessed Sacrament (Brothers)	0
Congregation of the Holy Spirit (CSSp)	77
Congregation of the Sisters of Mercy, All Four Provinces (RSM)	9
De La Salle Brothers (FSC)	67
Discalced Carmelites (OCD)	4
Dominicans (OP)	24
Faithful Companions of Jesus (FCJ)	0
Franciscan Brothers (OSF)	41
Conventual Franciscans Friars (Brothers) (OFM)	31
Irish British Province of the Society of the Divine Word (SVD IBP)	2
Jesuits (SJ)	20

3 Ibid.

Name of Religious Order	Total Number of Allegations Occurring in a School Setting
Legionnaires of Christ (LC)	0
Marist Brothers (FMS)	51
Marist Fathers (SM)	20
Mill Hill Missionaries (MHM)	7
Missionaries of the Sacred Heart (MSC)	78
Missionary Oblates of Mary Immaculate (OMI)	1
Missionary Sisters of Our Lady of the Apostles (OLA)	1
Order of Canons Regular of Prémontré [Norbertines]	10
Order of St Camillians (MI)	1
Patrician Brothers (FSP)	18
Presentation Brothers (FPM)	22
Redemptorists (CSSR)	0
Rosminians (IC)	20
Salesians of Don Bosco (SDB)	3
Sisters of Charity of St Paul the Apostle (SCSP)	0
Society of African Missions	11
Ursulines of the Irish Union (Irish / Wales Province)	1
Vincenzian Fathers (CM)	10
Saint John of God Hospitaller Ministries (SJOG HSG)	36
TOTAL	1,387

C. The National Board for Safeguarding Children in the Catholic Church

(i) The NBSCCCI Religious Order Reviews

9. The National Board for Safeguarding Children in the Catholic Church in Ireland ('the NBSCCCI') was established in 2006 by the Irish Catholic Bishops Conference, the Conference of Religious in Ireland and the Irish Missionary Union to provide advice and assistance in relation to child safeguarding in the Catholic church, to monitor compliance with legislation, policy and best practice in this area, and to report annually on these activities. The NBSCCCI's remit includes Northern Ireland.
10. The NBSCCCI conducted reviews of the safeguarding practices of the majority of religious orders operating in Ireland between 2009 and 2016 under the NBSCCCI's 2008 child safeguarding standards. In 2016 it revised its child safeguarding standards and a number of further reviews were carried out in respect of those standards. The reports of the religious order reviews under the 2008 and 2016 standards are published on the NBSCCCI website. From the information contained in these reviews, the Scoping Inquiry identified a further 13 religious orders (in addition to the 68 religious orders identified from the Tusla Audit Report) who may run or have previously ran schools in Ireland.
11. There have been only 13 NBSCCCI reviews of child safeguarding practices under the 2016 revised standards.⁴ The NBSCCCI explained that many religious orders no longer have ministry with children, nor are they managing allegations of abuse – in these circumstances there is no need for these orders to be reviewed in terms of their current practice. A number of religious orders did request reviews and these reports have been published. There nonetheless remains a number of religious orders eligible to be reviewed because of their ministry with children who have not come forward for review under the 2016 standards. The NBSCCCI explained that this was in large part due to legal advice obtained by the religious orders that they could not share personal sensitive data with the NBSCCCI. After the passing of the General Data Protection Regulation ('GDPR'), on the basis of legal advice, a number of religious orders adopted the position that it was legally unsafe to share sensitive personal data with the NBSCCCI as a non-statutory organisation unless there was a legislative basis to do so. In contrast with the position taken by religious orders, the diocesan reviews have continued without interruption and in February 2024 the NBSCCCI announced that all diocesan reviews were concluded, with the final review occurring in September 2023.⁵

4 Only 11 such reports are publicly available on the NBSCCCI website, but the NBSCCCI indicated 13 reviews had been carried out under the 2016 standards.

5 NBSCCCI, 'Reviews of Irish Catholic Dioceses – Overview Report – February 2024' https://www.safeguarding.ie/images/Pdfs/Dioceses_reports/Overview_of_Diocesan_Report_Launched_February_2024.pdf

12. It was apparent that 69 of the 81 religious orders which the Scoping Inquiry have identified as currently running or having previously run schools in Ireland had been reviewed by the NBSCCCI. Having analysed the religious order review reports conducted by the NBSCCCI between 2009 and 2016, and 10 additional review reports under the 2016 standards, the Scoping Inquiry compiled two tables of the total numbers of child protection allegations recorded in relation to those religious orders that ran schools:
- Table 1 sets out the total numbers of child protection allegations recorded in relation to each of the orders in NBSCCCI review reports between 2009 and 2016.
 - Table 2 sets out the total numbers of child protection allegations recorded in relation to the 10 religious orders reviewed under the revised 2016 standards.
13. The figures are set out separately in circumstances where the NBSCCCI has advised the Scoping Inquiry that it was unable to confirm whether the same person could be counted twice as an alleged abuser where there are two review reports from the same order:

Table 1 (2008 Standards)

Religious Order	Year of Review	Number of Allegations	Number of Alleged Abusers	Number of Alleged Abusers Deceased
Augustinians	2014	33	11	4
Benedictines of Glenstal	2014	10	6	2
Benedictine Community of Nuns of Kylemore Abbey	2015	1	1	0
Presentation Brothers	2014	54	28	16
Redemptorist Congregation	2014	24	13	6
Irish British Province of the Society of the Divine Word	2013	8	6	1
The Congregation of the Blessed Sacrament (Brothers)	2015	6	4	2
Brigidines	2015	0	0	0
The Brothers of Charity	2015	132	46	30
The Capuchin Franciscans	2015	72	21	13
Carmelites	2015	17	11	6
Christian Brothers	2013	870	325	145
Order of Cistercians of the Strict Observance	2015	48	21	15
The Sisters of the Cross & Passion	2015	0	0	0
Daughters of Charity of St. Vincent de Paul	2015	1	1	1
Society of the Daughters of the Heart of Mary	2014	0	0	0

Religious Order	Year of Review	Number of Allegations	Number of Alleged Abusers	Number of Alleged Abusers Deceased
De La Salle Brothers	2017	82 ⁶	44 ⁷	43 ⁸
Discalced Carmelite Friars	2014	11	6	4
Dominican Sisters	2014	3	3	0
Faithful Companions of Jesus	2014	0	0	0
The Franciscan Brothers	2015	56	14	7
The Franciscan Friars	2014	109	28	18
The Franciscan Missionaries of the Divine Motherhood	2015	0	0	0
The Handmaids of the Sacred Heart of Jesus	2016	0	0	0
Holy Faith Sisters	2014	2	2	1
Holy Family of Bordeaux Sisters	2014	0	0	0
Saint John of God Hospitaller Ministries	2015	97	24	13
Dominican Friars	2012	52	27	15
Irish Spiritans	2012	143	48	36
Jesuits	2015	79	36	27
La Sainte Union	2015	0	0	0
Legion of Christ	2015	4	4	1
Loreto Sisters	2015	0	0	0
Marianists	2015	0	0	0
Marist Brothers	2016	39	15	8
Marist Fathers	2014	18	7	4
Marist Sisters	2015	1	1	1
Mercy Sisters (4 provinces)	2015	31	17	4
Missionaries of the Sacred Heart	2012	61	17	6
Missionary Sisters of the Holy Rosary	2014	0	0	0
The Norbertines	2016	103 ⁹	4	1

- 6 This figure refers to the number of named individuals who made allegations of sexual abuse against a named brother in Ireland. A further 103 named persons made allegations of sexual abuse against a named brother in Northern Ireland. In addition, 21 allegations of sexual abuse were made (in both Ireland and Northern Ireland) where the identity of the alleged abuser was not clearly given, and allegations of sexual abuse were made against 7 named brothers by unidentified or anonymous complainants (in both Ireland and Northern Ireland). There may be overlap between the unidentified and identified persons in these figures.
- 7 This figure relates to the number of named brothers against whom allegations of sexual abuse have been made by named complainants in Ireland. Allegations of sexual abuse were made against a further 32 named brothers by named complainants in Northern Ireland. 21 allegations of sexual abuse were made (in both Ireland and Northern Ireland) where the identity of the alleged abuser was not clearly given, and allegations of sexual abuse were made against 7 named brothers by unidentified or anonymous complainants (in both Ireland and Northern Ireland). Again, there may be overlap between these figures.
- 8 Including Northern Ireland.
- 9 This figure is based on a review of incomplete records by the NBSCCCI and the total number is not known.

Religious Order	Year of Review	Number of Allegations	Number of Alleged Abusers	Number of Alleged Abusers Deceased
Notre Dame des Missions/ Sisters of our Lady of the Missions	2014	0	0	0
Order of St. Camillus/Camillians	2015	1	1	1
Our Lady of Apostles	2015	0	0	0
Patricians	2014	22	15	9
Poor Servants of the Mother of God	2015	0	0	0
The Religious of Christian Education	2015	0	0	0
Religious of Jesus and Mary	2015	0	0	0
The Religious Sisters of the Sacred Heart of Mary	2015	0	0	0
The Religious Sisters of Charity	2015	14	14	4
Rosminians (Institute of Charity)	2015	98	43	32
Congregation of the Sacred Hearts of Jesus and Mary (SSCC)	2014	5	3	2
Sisters of the Sacred Hearts of Jesus and Mary	2014	0	0	0
Salesians	2015	11	9	4
Salesian Sisters	2015	0	0	0
Sisters of St Louis	2014	5	4	2
Sisters of St. Clare	2015	0	0	0
The Sisters of St. Joseph of Cluny	2015	0	0	0
The Sisters of the Christian Retreat	2015	0	0	0
Sisters of the Infant Jesus	2014	0	0	0
Sisters of St. John of God (SSJG)	2015	0	0	0
Society of African Missions (SMA)	2013	32	21	11
The Society of the Holy Child Jesus	2014	0	0	0
The Society of the Sacred Heart	2015	0	0	0
Sisters of Charity of St Paul the Apostle	2015	2	2	2
St Joseph's Society for Foreign Missions	2014	13	8	2
Presentation Sisters	2014	2	2	1
Ursulines of the Irish Union	2015	0	0	0
Vincentian Congregation	2014	42	13	11
TOTAL		2,414	912	511

10 The review carried out under the 2008 standards related to the Union of Sisters of the Presentation of the Blessed Virgin Mary (Ireland), which was made up of three provinces (South East, Northern and South West). In 2015, the South East and Northern provinces were amalgamated into a new North East Province, and the order is now made up of two provinces, the South West and the North East. The review carried out under the 2016 Standards relates to the South West province only.

Table 2 (2016 Standards)

Religious Order	Year of Review	Number of Allegations	Number of Alleged Abusers	Number of Alleged Abusers Deceased
Augustinians	2022	3	3	0
Benedictines of Glenstal	2018	1	1	1
Benedictine Community of Nuns of Kylemore Abbey	2022	0	0	0
Presentation Sisters South West Province ¹⁰	2020	0	0	0
Presentation Brothers	2023	14	10	9
Redemptorist Congregation	2022	8	7	2
Irish British Province of the Society of the Divine Word	2021	0	0	0
Carmelites (OCarm)	2024	49	10	6
Discalced Carmelite Friars	2024	4	2	1
Marist Fathers	2023	7	5	1
TOTAL:		86	38	20
		Total Allegations recorded	Total Alleged Abusers recorded	Deceased Alleged Abusers recorded

14. As is apparent from that analysis, the 69 religious orders concerned had 2,414 allegations recorded by the NBSCCCI in its reports carried out between 2009 and 2016. 86 further allegations were recorded in the 10 further reports carried out by the NBSCCCI in respect of those orders since 2016. This amounts to a total of 2,500 allegations. As mentioned elsewhere in this Report, it should be recalled that the NBSCCCI is only concerned with allegations against members of the clergy, and therefore these figures would not capture allegations in relation to abuse by laypersons, peers, or other visiting clerics in schools run by religious orders.
15. An approximate total of 912 alleged abusers are identified in the NBSCCCI reviews between 2009 and 2016, though 511 of this number are recorded as deceased. This latter figure may have increased in circumstances where the majority of the reviews concerned were conducted in 2014 and 2015 and given the age profile of the clerics concerned. In the 10 further reports carried out since 2016, a total of 38 alleged abusers are identified, of whom 20 are deceased. As noted above, the NBSCCCI has advised the Scoping Inquiry that it was unable to confirm whether the numbers of alleged abusers referred to in the reports carried out since 2016 overlap with the alleged abusers referred to in the earlier reports.
16. The import of these statistics to the work of the Scoping Inquiry is limited because the scope of the NBSCCCI's reviews of religious orders are quite distinct from that of

the Inquiry. In particular, the complaints recorded in a NBSCCCI review can relate to either physical or sexual abuse and in the vast majority of its review reports there is no separate figures for complaints of sexual abuse.¹¹ Moreover, the NBSCCCI review reports do not generally record whether the abuse complained of occurred in a school setting,¹² so all that can be said is that the list above is comprised of orders that run schools and therefore it is likely that some portion of the allegations recorded above arose in a school setting.

17. However, it is notable that the total of 2,500 allegations broadly aligns with the total figures recorded from religious orders' records, discussed in the previous chapter.¹³

(ii) NBSCCCI Annual Reports

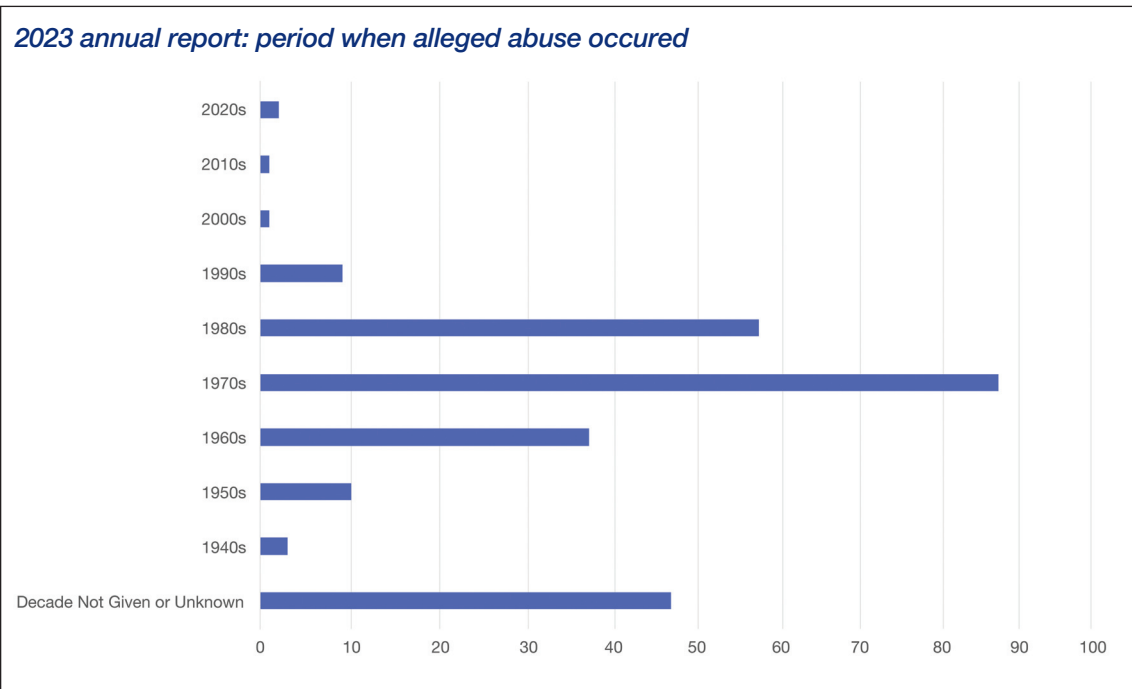
18. The NBSCCCI also compiles annual reports of the total figures of allegations made against Catholic Church clergy. These reports do not break down the information regarding numbers of allegations by reference to religious orders or by reference to abuse alleged to have occurred in a school context.
19. The NBSCCCI reports are not limited solely to sexual abuse and reflect broader child protection and safeguarding issues. However, sexual abuse is the predominant form of violation reported. Thus, the 2023 annual report records that the majority of allegations received (200) stated sexual abuse as the major abuse, while there were 37 allegations of physical abuse, 1 boundary violation, and 13 cases of alleged abuse for which the type was not provided. The 2021 report similarly records that 140 allegations related to sexual abuse, 18 allegations related to physical abuse, and 8 alleged boundary violations.
20. The NBSCCCI annual reports record allegations that are received directly from complainants, through solicitors or other third parties, and occasionally in unclear reports through media and other public information.¹⁴
21. While the data on numbers of allegations in these reports would be of little assistance to the Scoping Inquiry's work given its breadth, some general trends addressed in the NBSCCCI annual reports appear relevant. For example, the 2023 annual report included the following breakdown of the period when the abuse reported was alleged to have taken place:

11 Where there are separate figures these have been included above, rather than the combined physical and sexual abuse figure.

12 There are some exceptions. For example, the 2023 Presentation Brothers review report notes that the 12 allegations of abuse referred to were all alleged to have occurred in an educational setting.

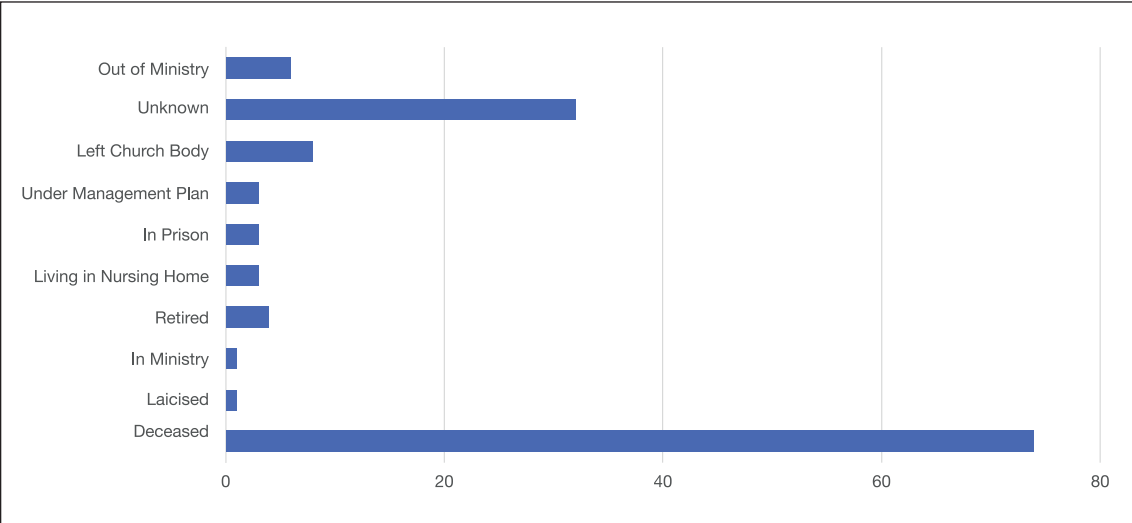
13 Some variation would be expected given the April 2023 cut-off point for complaints to be provided by religious orders to the Scoping Inquiry. The 2024 review reports of the Carmelites and Discalced Carmelite Fathers, included above, may therefore include allegations made after the Scoping Inquiry's cut-off point.

14 2021 NBSCCCI annual report, p 7.



Decade Not Given or Unknown	1940s	1950s	1960s	1970s	1980s	1990s	2000s	2010s	2020s
45	3	10	36	88	56	9	1	1	2

22. As is clear from the above, the 1960s, 1970s, and 1980s were the periods when the majority of the abuse reported occurred. A similar pattern emerges in other annual reports of the NBSCCCI. However, the smaller numbers of complaints referring to abuse prior to this period may simply be a reflection of the age cohort of persons affected by such abuse and the declining numbers of living survivors of abuse from those periods.
23. The 2023 annual report also reflected the fact that the vast majority of respondents to the abuse allegations reported were deceased:



24. As is apparent from the foregoing, while certain matters of note are recorded in the NBSCCCI religious order reviews and annual reports, the breadth of these reports mean that they cannot provide anything close to a definitive indication of the scale of allegations of historical sexual abuse in schools run by religious orders.

D. The Department of Education

25. The Department of Education reviewed their records to identify what number of allegations of sexual abuse in schools run by religious orders were recorded therein.

26. On 26 April 2024 the Department of Education confirmed that they had records of a total of 311 allegations of abuse which they believed related to schools run by religious orders. Of this figure of 311 allegations, the Department caveated that:

- (i) In respect of 196 of those allegations, the Department had verified that a religious order was the sole patron of the school concerned;
- (ii) In respect of 43 of those allegations, the Department had verified that a religious order was a joint patron of the school concerned; and
- (iii) In respect of 72 of those allegations, the Department formed the view that the school may have been previously run by a religious order. This included allegations where the school concerned is not currently run by a religious order, but the name of the school suggests that the school may have previously been run by a religious order.

27. The Department only provided information recorded from July 1994 onwards. The Department indicated that to identify records of allegations received prior to that date would require reference to hard copy records. All hard copy records in relation to the pre-2008 period are held in an off-site storage facility used to archive old Department files. A search of these paper files was not deemed possible with current resources within the timeframe of the Scoping Inquiry.

28. The Department caveated that in providing data about its records of historical sexual abuse allegations to the Scoping Inquiry, it has not included allegations where it was not possible to identify the school where the abuse was alleged to have occurred, since without identifying the school, it would not be possible to determine if the school was run by a religious order.

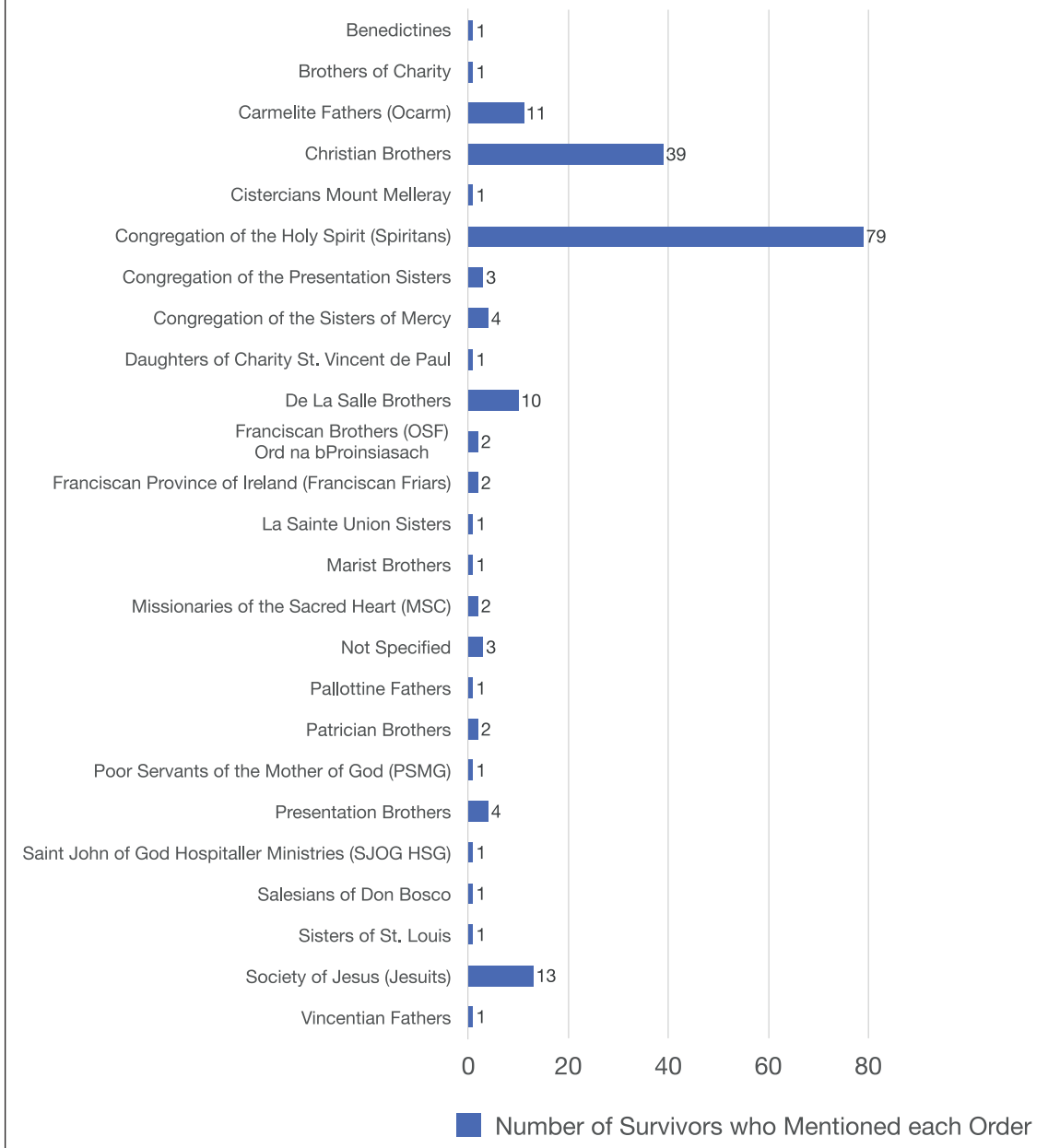
29. What can be said is that the Department of Education can confirm that they have records of some 311 allegations made since 1994 in relation to schools run by religious orders. This is far from an indication of the total number of allegations of sexual abuse that the Department was made aware of, since anything reported to the Department prior to 1994 is excluded.

30. In addition, there is no way of knowing whether the allegations reported to the Department were also reported to religious orders and/or the extent to which these 311 allegations are already included in the religious orders' records of allegations. The potential for duplication means that it is certainly not possible to simply add 311 to the numbers of allegations recorded by religious orders to arrive at a total number of allegations. Rather, each source must be considered separately.

E. Survivor Engagement Statistics

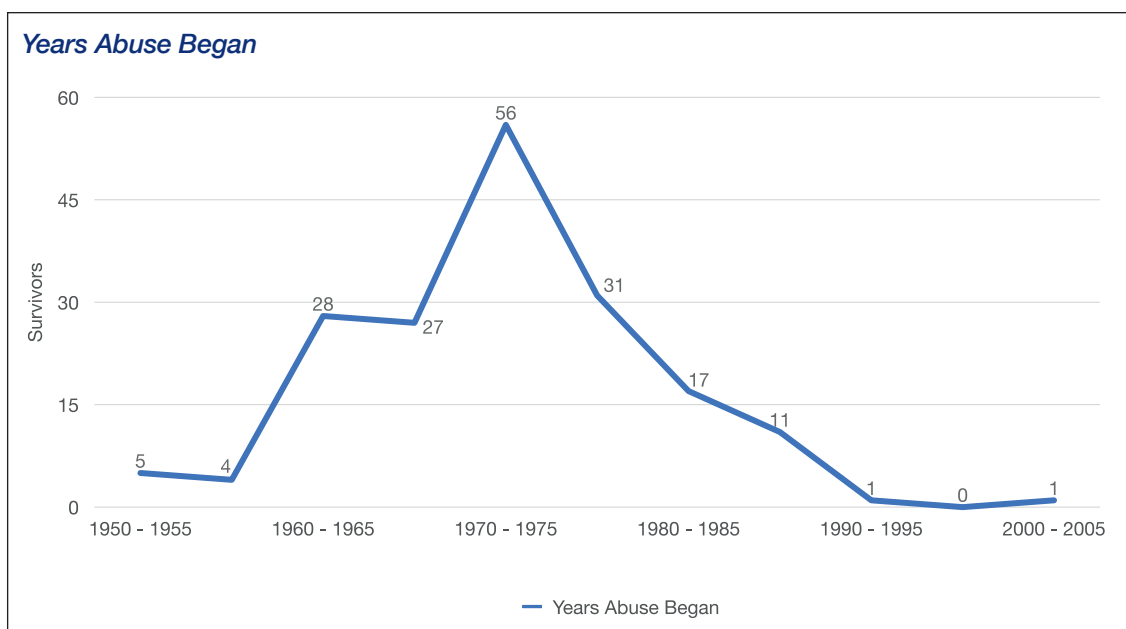
31. Some 182 questionnaire responses provided as part of the Survivor Engagement process provided a separate source of data on the number of allegations of historical sexual abuse in day and boarding schools run by religious orders.
32. There is no way of cross-checking this data against the anonymised records of allegations of historical sexual abuse received from religious orders, the Department of Education, or Tusla and, as such, it may well be the case that there is duplication between these sources of allegations.
33. Again, as with the other sources identified above, the potential for duplication means that one cannot simply add these allegations to the total number of allegations recorded by religious orders. The breadth of the category of persons counted as an alleged abuser associated with a relevant school should also be recalled; it includes abuse by religious order members, lay staff, visiting clerics, and other pupils.
34. The total number of survivors set out in the table below is higher than the total number of persons who completed the questionnaire due to some survivors experiencing abuse from members of more than one religious order and/or in both primary and secondary school. In addition, a small number of survivors who approached the Inquiry at a late stage have been included in these figures, despite it being too late for them to participate in the full Survivor Engagement process. The below table sets out the numbers of survivors who indicated that they were attending schools run by each of the religious orders listed at the time of their alleged abuse:

Religious Orders Identified by Participants as Running The School Where They Said They Experienced Sexual Abuse and Number of Instances Where Each Order Was Named



35. As is apparent from the above table, by far the largest grouping (79) of those who participated in the Survivor Engagement process were former pupils of Spiritan-run schools. This is likely attributable to the efforts of Mark and David Ryan in encouraging former pupils of Spiritan schools to participate in the Scoping Inquiry.

36. It appears that some of the circa 85 schools named by survivors¹⁵ had not been identified as schools having allegations in the religious order records.¹⁶ A possible explanation, which could apply in relation to 4 such schools, is that these schools are amongst the Sisters of Mercy schools for which no name was provided to the Scoping Inquiry. The fact that the remaining schools have not been mentioned in religious order records is an indication of the scale of sexual abuse beyond that reflected in those records. One explanation could be that no complaint was ever made prior to a survivor speaking to the Scoping Inquiry. Equally, a survivor may have made a complaint to Tusla or the Gardaí, but not the religious order. On the other hand, one order (the Franciscan Brothers) said the school named by a survivor was not run by them, although it acknowledged that at times both the principal and staff were members of its order.
37. Survivors were asked about the era when the alleged abuse first occurred. The below chart shows a spike in such incidents beginning in the 1960s and peaking in the 1970s:



38. This trajectory mirrors the statistics in the more recent NBSCCCI reports, discussed above. However, it should again be caveated that this may be a consequence of the age profile of the survivors who came forward to participate in the Survivor Engagement process.

15 There is some uncertainty as to whether some schools are mentioned under two different names.

16 This would include the records provided from schools via the schools questionnaire.

F. An Garda Síochána

39. The Scoping Inquiry approached An Garda Síochána with a view to obtaining figures from their records of the number of allegations of historical sexual abuse in schools run by religious orders.
40. For a number of reasons, detailed elsewhere in the Report, that was not a task which An Garda Síochána were ultimately able to fulfil within the timeframe of the Scoping Inquiry.
41. Nonetheless, in carrying out a sample search of 5 schools as part of an effort to gauge the time and resources required for a full search of PULSE, one useful piece of analysis was forthcoming, which is discussed in this section. The figures set out below in relation to these schools are presented anonymously (as Schools A, B, C, D, and E) at the request of An Garda Síochána.
42. An Garda Síochána, selected 5 of the 9 sample schools suggested by the Scoping Inquiry for the purpose of searching the PULSE database for sexual offences alleged to have been committed prior to 2013, which was the Scoping Inquiry's cut off point for 'historical' offences.¹⁷
43. This PULSE search would only capture allegations reported after 2003 because, while the PULSE system came onstream in 1999, the first complete calendar year of its operation was 2003. An Garda Síochána advised that it did not expect that any incidents reported prior to that date would be captured by the search.¹⁸

(i) Incident Volumes

44. Analysis of the 5 school names and addresses revealed 168 incidents of historic sexual abuse had been reported to An Garda Síochána with 145 distinct victims linked to these incidents. This means that a portion of these victims had reported more than one incident during the period under analysis.
45. School A accounted for 45% (75 incidents) of all historically reported sexual abuse in the sample, followed by School B at 36% (61 incidents) and School C 11% (18 incidents). The remaining two schools (Schools D & E) comprising of the remainder (14 incidents).
46. Victims were predominantly Irish males (96%).

17 The search was conducted on the basis that it would return results where the names and addresses of the five schools were recorded in any of the "name", "address" or "location" fields, or were referenced in the open text or narrative of the database.

18 An Garda Síochána advised that the findings of their search are accurate as of the 19 February 2024 from a live system and are subject to change. Crime Counting Rules were not applied to ensure all incidents were identified.

(ii) Status of Investigations

47. In terms of the status of Garda investigations in relation to the 168 incidents recorded, as of 19 February 2024, 40% (62 incidents) of the 168 incidents which occurred had charges associated with the incident. This can be compared with the 32% of overall sexual offence incidents which received charges during this same period.¹⁹
48. A further 30 incidents (18%) have 'no proceedings' status. An Garda Síochána advised that the reasons an investigation cannot be progressed include, but are not limited to, insufficient evidence, a victim being unwilling to support the investigation or withdrawing the complaint. The remaining 45% (76 incidents) have 'investigation ongoing' status, the majority of which are linked to School B and School C.

(iii) Suspects

49. While 62 incidents yielded charges for sexual abuse during this period, a disproportionate amount of these charges are focused on a few distinct suspects.
50. Of the 75 incidents which occurred within School A, 76% of all charges relating to these 75 incidents were directly related to one distinct suspect. A further 16% related to another distinct suspect within School A.
51. Similarly, 55% of all charges pertaining to the 61 incidents reported in School B related to 2 distinct suspects. Volumes are more broadly dispersed and of significantly lower volumes in the 3 other schools.
52. According to the PULSE system, all but 10 suspects have been identified as deceased.
53. Of the incidents linked to these 10 suspects:
 - 54 incidents have charges linked.
 - 11 incidents have no proceedings recommended.
 - 17 incidents remain at 'investigation on-going' status.

19 This figure is based on a comparison of any sexual offence incident listed on PULSE prior to 2013.

Chapter 11:

The Extent of Records Held by Public Bodies and Other Organisations

- A. Introduction
- B. Tusla
- C. An Garda Síochána
- D. The NBSCCCI
- E. The Department of Justice
- F. The Department of Health
- G. Department of Children, Equality, Disability, Integration and Youth
- H. The Department of Education

A. Introduction

1. In seeking information regarding the numbers of allegations of sexual abuse in day and boarding schools run by religious orders, the Scoping Inquiry sought to establish what records documenting such allegations exist. Where possible, the Scoping Inquiry sought to identify if files exist that may potentially be relevant to the work of a future substantive inquiry or investigation.
2. In order to assess the extent of relevant records that may be held by various state and non-state bodies, the Scoping Inquiry wrote to and met with a range of organisations and government entities. In general, the Scoping Inquiry asked what records existed that captured the numbers of allegations of sexual abuse made against any of the following:
 - Members of religious orders
 - Members of the clergy (other than the religious order running the school)
 - Lay persons associated with the school
 - Peer to peer abuse in schools.
3. Typically, the Scoping Inquiry asked to meet with the relevant body to discuss what records of historical sexual abuse complaints they held, the different ways in which such records were collated or filed, and what resources and timeframe would be required to obtain the particular information sought by the Scoping Inquiry.

B. Tusla

4. As outlined in previous chapters, following the publication of the Ferns Report in 2005, Tusla conducted audits of both Catholic dioceses and religious orders to ascertain the level of compliance with the Catholic Church's guidance on child protection. Tusla's Audit report on the religious orders was published in 2018 and compiled allegations of historical sexual abuse up to 31 December 2013.¹ From the information contained in this audit, the Scoping Inquiry identified 71 religious orders currently and historically involved in education in Ireland.
5. The Scoping Inquiry met with representatives of Tusla on a number of occasions in relation to what records Tusla held of complaints of historical child sexual abuse in schools run by religious orders.

1 'Child and Family Agency, Audit of Religious Orders, Congregations and Missionary Societies' Safeguarding Arrangements and Management of Allegations of Child Sexual Abuse Volume II': available at <https://www.tusla.ie/publications/audit-of-religious-orders-congregations-and-missionary-societies-safeguardii/>.

6. Tusla were able to confirm that they still held the files from their review of allegations involving religious orders and had updated those records up until 31 January 2018, when the unit which conducted the audit was disbanded. Having been provided with a list of religious orders which run, or ran, schools by the Scoping Inquiry, Tusla identified approximately 1,890 allegations that came within their audit of allegations up to the end December of 2013. The data on religious orders allegations received after the Audit and up until 31 January 2018 was recorded in a less detailed manner than the Audit questionnaire, and for this reason Tusla was unable to say whether or not the allegations in those records related to abuse in school settings if the order also had ministries outside of schools.
7. Discussions with Tusla identified that there were a number of inherent limitations on the extent to which the data compiled for the Audit could assist the Scoping Inquiry's work in identifying allegations of abuse in schools run by religious orders:
 - (i) Firstly, the Tusla Audit solely addressed sexual abuse by members of religious orders, and did not consider lay or peer-to-peer abuse, or abuse by other clerics;
 - (ii) Secondly, while the questionnaires used to gather information for the Tusla Audit asked for the location of the abuse, there was a broad range of responses to this question, with some responses merely stating the county where the abuse occurred;
 - (iii) Thirdly, the information contained in the questionnaire was based on the figures provided by the religious orders concerned. These figures were not independently confirmed or verified by Tusla.²
8. Crucially, the Tusla Audit had not been conducted solely in relation to allegations of abuse occurring in a school setting or associated with schools. Accordingly, at the time of the Audit, Tusla had not conducted any analysis of whether particular allegations related to schools. Tusla indicated that they would need to review the paper files collated for the Audit in order to identify which of the allegations of abuse captured by the Audit related to schools run by religious orders.
9. As is apparent from the previous chapter, Tusla agreed to analyse the records of the cases relating to orders that ran schools to determine if any of the files indicated the alleged abuse occurred in a school context. This analysis included the files of the religious orders examined for the Audit, and any information gathered following the Audit up to 31 January 2018.

2 While Tusla made every effort to confirm and validate the information received on the questionnaires by a triangulation exercise with An Garda Síochána and Tusla social work services for the information up to December 2013, the same exercise was not repeated for the information up to January 2018.

10. Tusla also indicated that the only source of information to identify how many of the allegations of abuse received since 2018 related to schools run by religious orders would be the records of allegations held in the six Tusla regional offices. Whether or not abuse occurred in a school setting or an alleged abuser was associated with a school is not routinely recorded by Tusla on its electronic database. To discern this information, Tusla would need to review all records of allegations since 2018 held in each region. Having considered their position, in July 2023 Tusla informed the Scoping Inquiry of its view that this would be too onerous a task to undertake within the timeframe of the Scoping Inquiry and would not be possible to achieve given their current resources.
11. Tusla considered all records in possession of the Audit team, including records provided by the religious orders themselves and by An Garda Síochána, Tusla social work records, records provided by state and church national and private counselling agencies and those provided by members of the public. In total, Tusla examined 3,498 records of sexual abuse allegations made against religious orders and determined that approximately 1,387 allegations originated from a school setting. Tusla provided the Scoping Inquiry with a breakdown of the number of such records by religious order, and these figures are presented in the Report. We are very grateful for the efforts taken by Tusla to review and reconsider the Audit's records in order to assist the work of the Scoping Inquiry.
12. The position remains, however, that the records held by Tusla outside of the Audit, which would involve post-2018 notifications of allegations of historical abuse, are not included in the above figures. If a future inquiry needed to get a fuller picture of all notifications of historical sexual abuse received by Tusla to date in respect of schools, the absence of a central database of allegations searchable on the basis of whether the abuse alleged occurred in a school setting means that significant manual searches across regional offices would be required.

C. An Garda Síochána

13. Early in its work, on 12 April 2023, the Scoping Inquiry wrote to the Commissioner of An Garda Síochána seeking information in relation to:
 - (i) the extent of the records held by An Garda Síochána of complaints of child sexual abuse occurring in day and boarding schools run by religious orders, or the extent to which such information can be gleaned from existing records;
 - (ii) whether An Garda Síochána have ongoing inquiries and the extent of same in light our Terms of Reference.

14. On 27 April 2023, the Scoping Inquiry met with representatives of An Garda Síochána in relation to identifying records of the number, or approximate number, of complaints that the Gardaí have received concerning sexual abuse in schools run by religious orders.
15. The Gardaí confirmed that they had maintained a Clerical Sexual Abuse Register since 2002, including both diocesan and religious order clerics. The Gardaí stated that they were in the process of making the register searchable in relation to matters such as the religious order against whom the allegation was made and the location of the abuse, but that currently the register was not searchable.
16. In relation to allegations and complaints made prior to 2002, the Gardaí stated that they would need to ask individual districts to search their hard-copy files. The PULSE database, set up in 1999, does not record schools or religious orders, and for the purposes of the Scoping Inquiry, would only be searchable by the name of the alleged abuser or location of abuse. Members of the clergy often took a different name on ordination, so to run such searches through PULSE one would need to have the alleged abuser's given name and their religious names. As such, one could not use PULSE to simply search for numbers of allegations of sexual abuse in schools.
17. Prior to 1999, the Gardaí's records were solely paper-based, and a complaint of child sexual abuse would simply be filed in a Garda station's records. Accordingly, it would be difficult to say how many such complaints were received prior to the creation of the Clerical Sexual Abuse Register in 2002 without a root and branch search of every file in Garda stations across the country.
18. In terms of the resources required for a root and branch search of hard copy files, the Gardaí indicated that it took a team of 10 Gardaí some 2 years to assist the Cloyne Inquiry in relation to just 19 priests.
19. In the course of this meeting, it was also noted that where an alleged perpetrator is said to be deceased the Gardaí undertake an initial investigation to confirm that this is the case and generally seek a statement of complaint and a death certificate.
20. Following the meeting, on 2 May 2023 the Scoping Inquiry sent a list of queries regarding the records held by the Gardaí to assist it in 'ascertaining the number, or approximate number of complaints that the Gardaí have received concerning sexual abuse in schools run by religious orders.' The letter further requested information regarding:
 - The manner in which An Garda Síochána envisage the work of any potential inquiry or tribunal recommended by the Scoping Inquiry could be impacted/restricted by the existence of existing criminal investigations;
 - The number of criminal investigations ongoing in respect of historical sexual abuse in schools run by the religious orders at that time.

21. Unfortunately, despite the Scoping Inquiry repeatedly writing to the Gardaí following the April 2023 meeting, the Gardaí neither provided the information sought nor responded to correspondence from the Scoping Inquiry seeking a timeline for when the information requested would be available. In this regard, letters looking for a timeline for response were sent on 16 May 2023 and 8 August 2023, and the outstanding response was brought to the attention of the Commissioner of An Garda Síochána by the Scoping Inquiry on 21 September 2023. This prompted contact being made with the Scoping Inquiry on 25 September 2023, where certain challenges in relation to the storage of information were outlined and it was suggested that a sample list of schools be provided to the Gardaí so they might be able to come back with the numbers of allegations involving such schools.
22. Ultimately, the Gardaí informed the Scoping Inquiry in a letter dated 5 October 2023 that they faced significant challenges in providing information from their records and systems. The Gardaí stated that, depending on the date of the alleged abuse, records could be held in the PULSE database, the Clerical Sexual Abuse Register or paper records held at various levels across the organisation. However, the Gardaí's stated position was that the 'only information retrievable in a timely format is that information retrievable from the Garda PULSE System'. The Gardaí specified that while PULSE was created in 1999, 2003 is 'considered as the first complete calendar year when all reported incidents were recorded'. Further, they noted that PULSE contains defined data fields such as names, dates of birth, and the location of the incident. While there is a field for 'location type', which would include schools, this does not distinguish between schools run by religious orders and other schools, and it would therefore not be possible to isolate incidents which occurred in schools run by religious orders with any degree of certainty. Their letter further stated that '[i]t is only possible to conduct large scale searches based on content recorded in specified data fields (i.e. School Name/Address)', and that this would therefore not retrieve incidents which occurred off school premises such as on school trips. They further noted that, while it is possible to search PULSE for all records of sexual abuse against minors, or to carry out searches on the basis of the details of victims, this would return incidents which are outside of the scope of the Scoping Inquiry.
23. As regards the Clerical Sexual Abuse Register, the Gardaí explained that they had not provided data arising from the Register because 'The Clerical Sexual Abuse Register is currently stored in a format which creates difficulties in searching for specific information whilst ensuring that any records retrieved from same can be cross-referenced against PULSE so as to remove potential for double-counting'.

24. The Gardaí stated that ‘to offset the above challenges’ they would need the following information to progress the Scoping Inquiry’s request for the number of allegations of abuse in schools run by religious orders that have been made to the Gardaí:
- A list of all schools (full names and addresses) and dates they were in existence (both current/closed or at one point under religious order control) which can be inputted into PULSE;
 - A list of all persons (clerical and lay) who worked, had access to etc, children in the relevant schools including actual and clerical names used by those persons;
 - A list of all children who attend the schools in respect of which records were sought. They further specified that they would require the name, date of birth and address at the relevant time to establish the correct identity of such students.
25. The Gardaí further stated that they considered the only way to accurately and confidently provide complete information to the Scoping Inquiry would be to retrieve all data from PULSE, the Clerical Sexual Abuse Register and paper files, and to establish a Working Group to conduct a manual examination of the investigation files to determine whether they meet the Terms of Reference. They concluded that ‘This would be a significant undertaking and further discussion is necessary to establish if same can be considered at this time’.
26. On foot of this information, the Scoping Inquiry wrote to the Gardaí on 11 October 2023 seeking a meeting with the Gardaí to discuss how to progress matters. In addition, the Scoping Inquiry sought information in relation to a school run by the Norbertine Order, in circumstances where it had not been possible to identify any other source of information regarding the number of allegations associated with that Order. A meeting occurred on 26 October 2023 where the Scoping Inquiry suggested that searches of the PULSE system might start by inputting the names of the religious orders who ran schools. The Inquiry also requested that the Gardaí nominate a person with whom the Inquiry could engage to discuss the manner in searches of the PULSE system could be carried out effectively. Following further letters on 2 November 2023 and 24 November 2023, the Gardaí nominated a liaison officer in a letter dated 27 November 2023. That letter also provided some helpful data on the allegations associated with the single school by the Norbertine Order about which queries had been raised on 11 October 2023.

27. A meeting took place between the Scoping Inquiry and the nominated liaison officer on 6 December 2023. During that meeting, and in subsequent interactions with the liaison officer, the Scoping Inquiry explored with the Gardaí the ways in which the PULSE system can be searched and how useful search parameters can be defined, with a view to establishing the likely scale of potential allegations recorded by the Gardaí and the likely timeframe for carrying out such a search and reviewing results.
28. The Gardaí explained that the PULSE system was not designed to be searched or to be used for analysis purposes, but explained various options for carrying out searches and the advantages and drawbacks of each. The Gardaí explained that the only way to give an estimate or identify the scale of potential allegations is by defining search parameters, such as identifying individual schools, reviewing the search results in order to ensure that data was extracted accurately, and examining the narrative section of each record to ensure that inaccurate information is not being provided. On 2 January 2024 it was suggested that a sample search be carried out in respect of an initial list of 4-5 schools in order to assess the volume of likely returns from a more comprehensive search.
29. Ultimately, the Scoping Inquiry requested a sample search be carried out by the Gardaí on the PULSE system in respect of 9 schools. The Scoping Inquiry chose schools where it anticipated that there would be PULSE records, using the name of the relevant religious order and the address of each school as the search parameters. An Garda Síochána ultimately carried out a search of PULSE in respect of 5 of the sample schools and provided a summative report in respect of the search on 5 March 2024. The Gardaí subsequently indicated that the results of the sample search were not matters which the Gardaí were willing to be made publicly available.
30. Notwithstanding the use of the results of the sample search being restricted, a number of relevant matters were explained in the report.
 - The report explained that the PULSE system was not designed for data analysis or large-scale searches. Whether a school name and address was recorded on the PULSE system would depend on whether the name and address of the school was filled in on the location field when the incident was recorded, or otherwise appeared in the narrative text concerning the incident. Small variations in spelling, or in different elements of an address, particularly prior to the introduction of Eircodes, could lead to a school being counted more than once in relation to the same incident. Whether the name and address of a school was included in the incident report was at the discretion of the investigating officer. It may also be the case that the victim may report the incident by reference to the suspect, rather than by reference to a particular school. In this way, the Scoping Inquiry was advised, a search of PULSE for specific schools may not reflect all incidents concerning those schools.

- It confirmed that the Clerical Sexual Abuse Register had been set up in 2002 to progress any outstanding lines of inquiry from files specific to the Dublin Archdiocese Inquiry and had been maintained since then. Due to the age and design of the system it did not allow for ease of analysis and retrieval of information. Records would have to be examined manually, which would require a considerable amount of time, and furthermore, information relevant to the Scoping Inquiry may not necessarily be recorded on the Register in all cases, as PULSE is the main repository of information, and records on PULSE may not always be entered on the Register as well. Further, An Garda Síochána were currently reviewing the Register and examining the future of its use, if any.
- An Garda Síochána were able to confirm to the Scoping Inquiry that based on a longitudinal analysis of the sample search as to when sexual abuse incidents occurred, an increase in volume can be seen between 1972 and 1983, which appears to taper off thereafter. However, the average delay in reporting was 43 years, and it is therefore possible that an increase in historical reporting for incidents post 1981 will begin to emerge in the coming years. This analysis is referred to in more detail in the previous chapter.

31. On 21 March 2024 a further meeting was held with An Garda Síochána concerning the asserted confidentiality of the results of the sample search of PULSE that had been conducted in relation to 5 schools. An Garda Síochána expressed the concern that identifying the sample schools may prejudice ongoing investigations, and that An Garda Síochána regarded the information gleaned from PULSE in respect of the sample schools as highly sensitive. An Garda Síochána made clear that no confidentiality requirements were raised in respect of providing a report to the Minister.³
32. The Scoping Inquiry was of the view that, while publishing wholly anonymised information concerning only 5 sample schools would not add to the overall understanding of the likely volume of allegations, it was of some value in terms of indicating prevalence of abuse by individual perpetrators and this information is therefore set out for completeness in this Report. An Garda Síochána also expressed concerns about data protection were the information it supplied to the Scoping Inquiry to be made public and to their general policy of not releasing this type of information because of its potential impact on any criminal prosecution or ongoing Garda investigation. The Scoping Inquiry assured An Garda Síochána that it was mindful of its obligations under data protection law, had taken advice about its application, and did not envisage any breach would arise.

3 The report will therefore be separately furnished to the Minister.

33. An Garda Síochána also told the Scoping Inquiry that at all times during their interactions with the Scoping Inquiry, their understanding and expectation was that any data provided was for the purposes of establishing whether a full statutory inquiry would be required. They further stated that it was not stated or assumed by them that the Scoping Inquiry report would or could be made publicly available.
34. It is unfortunate that this misapprehension arose. The Scoping Inquiry considered that its correspondence setting out the relevant parts of its Terms of Reference made clear that in seeking information as to the likely extent of future allegations it was giving effect to its Terms of Reference and that these were clearly not contingent on whether there was to be a future wider statutory inquiry. It also appeared self-evident to the Scoping Inquiry that the Minister may publish the report on receipt of same. However, An Garda Síochána state that they had a different view. This difference in views did not become evident prior to embarking upon the searches concerning the sample schools.
35. Ultimately, in carrying out its work under its Terms of Reference the Scoping Inquiry must have regard to the potential impact of its report on any criminal prosecution or ongoing Garda investigation that may be affected. In those circumstances, and in light of An Garda Síochána's concerns in this regard, the information concerning the sample schools has not been included in this Report.

D. The NBSCCCI

36. The Scoping Inquiry met with the CEO of the National Board for Safeguarding Children in the Catholic Church ('the NBSCCCI') in May 2023 primarily to seek her assistance in relation to the records the NBSCCCI might hold that could inform the Inquiry's analysis of the expected scale of complaints of historical child abuse in schools run by religious orders.
37. The NBSCCCI figures from their reviews of the relevant religious orders are set out in the previous chapter. As already noted, in addition to the religious order reviews, the NBSCCCI compiles annual reports which contain statistical information on allegations of abuse made against members of the clergy of Catholic Church. The NBSCCCI explained that the data that they receive does not contain any identifying information, including the location of the alleged abuse; they therefore do not have information to share about the extent of allegations from within school settings. Initially, the notifications related to sexual abuse only, but since the introduction of Children First (2015) they are also advised of other allegations relating to all forms of child abuse. However, their annual reports do not record whether allegations relate to a religious order or arise in the context of a day or boarding school run by a religious order.

38. The NBSCCCI does not retain the records used for the compilation of its annual reports due to data protection concerns. As a consequence, the NBSCCCI does not hold information or statistics that could be broken down on the basis of complaints of sexual abuse in schools.
39. The 2023 NBSCCCI annual report stated that it had received 251 notifications of child protection concerns between 1 April 2022 and 31 March 2023.⁴ Notably, the report stated that ‘There was a significant increase in the number of notifications of allegations of abuse reported to the National Board over the last twelve months. It is clear from the source of the allegations that many of these relate to alleged abuse in boarding schools run and managed by male and female religious’. The Scoping Inquiry inquired of the NBSCCCI whether it could be established that the increase in complaints of abuse was mainly or entirely attributable to reports of historical sexual abuse in day and/or boarding schools run by religious orders.
40. The NBSCCCI explained that while the increase in numbers emanated from religious orders which ran schools, it did not have the data necessary to ascertain whether and which of the allegations of sexual abuse specifically related to schools. The NBSCCCI said that it would require the individual orders to give it a breakdown of the figures supplied to ascertain how many of the allegations were related to schools. The NBSCCCI consulted the religious orders and informed the Scoping Inquiry that the religious orders were concerned about duplication of their figures in circumstances where they were already engaging with the Scoping Inquiry to provide statistics in relation to the number of allegations of historical child sexual abuse in their schools. Instead, the NBSCCCI was authorised by some 12 of the religious orders who had received allegations of sexual abuse between 1 April 2022 and 31 March 2023 to pass on their names and contact details so that the Scoping Inquiry could contact those orders directly in relation to this issue. The NBSCCCI explained that the remaining orders had not responded to their request or were engaging directly with the Scoping Inquiry.
41. The NBSCCCI told the Scoping Inquiry that when there is a spike in notifications it can usually track that increase to some media publicity or safeguarding event. However, it could not directly attribute a specific proportion of the increase in allegations in 2022/23 to allegations of historical sexual abuse in schools, as it did not have that data.
42. The NBSCCCI was of great assistance to the Scoping Inquiry throughout its work, both in identifying the religious orders which ran schools, and sometimes acting as a liaison between religious orders/individuals and the Scoping Inquiry. The Scoping Inquiry is grateful to the NBSCCCI for its assistance.

4 This is described by the NBSCCCI as the 2022-2023 annual report, but for ease of reference it is described simply as the 2023 annual report here.

E. The Department of Justice

43. In May 2023 the Scoping Inquiry wrote to the Department of Justice with a request that it identify what records it held concerning allegations of historical sexual abuse in schools.
44. In June 2023 the Department of Justice indicated that it had arranged for a search of its electronic and paper records relating to historical sexual abuse in schools run by religious orders. Both physical storage and electronic systems were searched, with the majority of records comprising correspondence from members of the public. This search identified 11 physical files, and in excess of 3,000 electronic records which may be of relevance.
45. The Department indicated that the content of these files, in addition to correspondence from members of the public, primarily related to:
 - The Commission to Inquire into Child Abuse;
 - The Commission of Investigation into the Dublin Archdiocese;
 - The Commission of Investigation into the Diocese of Cloyne.
46. As such, the bulk of those files would not tend to relate to allegations of sexual abuse in day and boarding schools run by religious orders.
47. In early August 2023, members of the Scoping Inquiry team attended at the Department's offices to physically inspect the hard copy files that the Department had identified as potentially relevant on foot of the Scoping Inquiry's correspondence. This exercise yielded a number of files that may potentially be relevant to the work of a future substantive inquiry, but did not shed any light on the total number of allegations that might have been brought to the Department of Justice's attention. However, it was apparent that a limited number of incidents of abuse in a school context had been the subject of correspondence bringing them to the attention of the Department of Justice.
48. The Department officials which the Inquiry met with indicated that all of the Ministerial email correspondence post-2009 is searchable. Emails prior to 2009 were not available from the IT Department. The Department primarily held paper-based records in relation to matters prior to 2009.

49. The Department helpfully provided the following breakdown of the numbers of electronic records held by Department of Justice, relating to the Scoping Inquiry:

Search Term	Ecorr	Edoc	2009 – 2020 Mail	Total
Child sexual abuse school	763	1915	367	3045
Allegations child sexual abuse	582	1608	274	2464
Sexual abuse	4230	5024	1923	11177
Child sexual abuse	2655	4096	1018	7769
Allegations sexual abuse	750	1699	347	2796
Clerical sexual abuse	190	523	155	868
Teacher sexual abuse	263	706	133	1102
Religious Schools	599	981	577	2157
Cloyne inquiry/Commission	6	26	81	113
Archdiocese of Dublin	40	43	147	230

50. As is apparent from the foregoing, the significant scale of potentially relevant files held by the Department of Justice made a paper-based review of such files within the lifetime of the Scoping Inquiry unachievable.

F. The Department of Health

51. In early June 2023 the Scoping Inquiry wrote to the Department of Health seeking a meeting to discuss whether the Department held any records that would be of assistance to the Scoping Inquiry. A meeting took place on 3 July 2023 with Department officials.
52. The Department of Health was previously the Department of Children and Health, and while most relevant files were moved following the creation of the Department of Children, the Department of Health still held some files from that period as of 3 July 2023. However, the Department of Health has advised that the transfer of files is ongoing.

53. Department officials indicated they were more likely to have records of allegations than statistics of abuse, and such allegations might have been disclosed during a hospital visit or in a letter to a Minister. The officials acknowledged that while the Department might have relevant records, because it did not have a unit with responsibility for abuse in schools and because of how the records were filed, it was not obvious where those records would be. The Department indicated that a search exercise similar to that undertaken as part of the Mother and Baby Homes Inquiry, which involved physical review of over 5,000 files identified by a keyword search of a records management system, CRAFTS, could take up to a year. Even taking this approach, the officials thought that there was still a high chance that such a search would miss a relevant document. In addition, the Department officials indicated that ministerial correspondence was only relatively recently digitised to be searchable.
54. At the July 2023 meeting a number of sets of search terms for conducting searches across the Department's records were agreed. In early August 2023 the Department outlined the results of their search in some detail. The Department's position was that, based on the initial searches carried out, over 555,000 records would need to be reviewed to determine if they fall within the scope of the Scoping Inquiry, and considerable resources would be required to conduct full searches of all the Department records. The Department's view was that this would cause a substantial interference with their ordinary work and would require substantial additional resources being allocated. Moreover, from the search results on the Department's CRAFTS database, which give a description of the hard copy files, and from their examination of a sample of their other records, the Department considered it unlikely that undertaking these full searches would yield information of the nature sought by the Scoping Inquiry.

G. Department of Children, Equality, Disability, Integration and Youth

55. In May 2023 the Scoping Inquiry wrote to the Department of Children, Equality, Disability, Integration and Youth to identify what records it held concerning allegations of historical sexual abuse in schools.
56. The Department emphasised that while it holds responsibility for child welfare and protection policy and legislation, it does not have functions specifically in relation to allegations of child sexual abuse generally or allegations in schools run by religious orders. The Department stressed that, in the event that an allegation was received by the Department, it would have been referred to Tusla and, as such, Tusla rather

than the Department would be the primary source of any such allegations.

57. The Scoping Inquiry met with a number of relevant Department officials in June 2023. The Department officials outlined the limitations of the information that it held in a searchable form relating to allegations of sexual abuse. In particular, the limited file descriptions of paper records posed a challenge in identifying what relevant records the Department may hold. In addition, from 2011, there may have been representations that went straight to the Minister under the Ministerial correspondence tracking system. This system has limited search functionality in respect of correspondence stored as PDFs.
58. The Department indicated that there was no practice of compiling a list or database of referrals of child protection issues that the Department made to Tusla, the Gardaí or the HSE. While the Department has files regarding abuse in particular settings, and in such cases the title of a school might be a file name, this would not indicate if the school was run by a religious order and the title of the file would not tell the Department that the file related to abuse.
59. The Department's view was that because of the limitations of their filing system, a physical search would be needed to be definitive. The Department indicated that while it is possible to search particular terms in catalogues detailing paper records held by the Department, tracking systems used for Ministerial correspondence and the electronic system of records in use since 2020, such a search would only be in relation to file titles and other limited information relating to such records. Any files of interest identified in such searches would then need to be manually reviewed.
60. The main areas of relevance to the Scoping Inquiry identified by the Department were: Child Care Performance and Social Work files, Child Protection Policy and Legislation files and Ministerial correspondence. Records from the Access to Institutional and Related Records ('AIRR') Project, received from the Department of Health under the Transfer of Functions, were also checked. The Department viewed it as unlikely that any of the other 50 units in the Department would hold relevant records.
61. Following discussion, the Department agreed to carry out a number of searches and on 31 July 2023 the Department indicated that an electronic search of the Ministerial correspondence register, limited to records since 2012 following the Department's creation, revealed 56 matters referencing child sexual abuse, and 5 matters referencing sexual abuse or child abuse in schools. Search terms relating to sexual abuse and schools yielded 8 search results on the e-correspondence register.
62. The use of the same search terms on the online catalogue of the Child Care Performance and Social Work Unit's files yielded no search results. Only 13 results were returned from using the same search terms across the Child Protection Policy

and Legislation Unit's files. No results were returned from using those search terms across the files held in relation to the AIRR Project.

63. Given the limited number of files identified in the search results, the Scoping Inquiry requested that the Department manually review those files to determine whether any of those files contained relevant information regarding sexual abuse in schools run by religious orders.
64. The Department carried out a manual review of the files as requested and, in October 2023, it informed the Scoping Inquiry that the 13 files relating to the Child Protection Policy and Legislation Unit in the Department were not relevant to the inquiry, and only one file from its ministerial correspondence register appeared to fall within the remit of the Scoping Inquiry, as it related to historical abuse in a school. That case was referred to the Department of Education as the appropriate Department to respond.

H. The Department of Education

65. In May 2023 the Scoping Inquiry wrote to the Department of Education in relation to the records of allegations of abuse in schools that it holds. Based on the Scoping Inquiry's previous interactions with religious orders, one particular line of inquiry was whether historical sexual abuse allegations in respect of lay persons employed by a school could have been passed onto the Department rather than to the Provincial of the religious order concerned.
66. To this end, the Scoping Inquiry asked the Department for information regarding the different ways in which records of historical sexual abuse complaints are held by the Department and, in particular, what records are paper-based, online, or searchable in relation to whether the abuse alleged occurred in a school run by a religious order.
67. In June 2023 the Department of Education indicated that it had an electronic database since 1981 which records alleged child protection concerns brought to the attention of the Department. It stated that some of the information sought by the Scoping Inquiry was not recorded on the database, in particular whether the allegation made was against a lay person or a member of a religious order. To retrieve such information, the Department would need to review the hard copy files for each allegation. Such files are stored in an off-site facility in Tullamore.
68. The Department indicated at a meeting held in July 2023 that it has no central record of allegations of sexual abuse in schools made prior to 1981. Historically, such matters were not recorded centrally on a central child protection file in the Department and any record of such an allegation would have been placed on an individual school file. Prior to the creation of their database in 1981, Department records were generally filed in paper files on a school-by-school basis. These paper

school files date back to the 1920s or 1930s, but they are not digitised and are held in an archive in Tullamore.

69. While the Department's schools inspector did investigate child protection concerns, such files would be paper-based and stored in the archive in Tullamore which was not easily searchable.
70. The Department initially indicated that, having filtered their electronic database by historical sexual abuse allegations, some 511 allegations were brought to the attention of the Department between 1981 and 2022. However, following discussion with Department personnel in July 2023, the Department revised their search to remove the term 'historical' since this excluded allegations which were made contemporaneously by students or their parents in, for example, the 1980s or 1990s, which would now be properly considered historical sexual abuse. Initial discussion with Department personnel indicated that removing the term 'historical' from the search of their electronic database would yield a further 600 cases. These search results had not been filtered by whether the allegations related to a school run by a religious order, and this is something which the Department agreed to undertake by checking the school roll numbers listed on their database in each case.
71. The Department noted that their electronic database details the position held by the person against whom the allegation was made (principal, teacher, school volunteer, non-staff member, transport staff, visitor to the school). All of these categories, save 'non-staff member', would fall within the Scoping Inquiry's definition of persons 'associated with the school'. In some cases, a person categorised as a non-staff member might nonetheless be 'associated with the school', for example, if they lived in an on-site school property. However, given that the Department's electronic database does not record that level of detail regarding non-staff members, the Scoping Inquiry simply sought a breakdown of the number of allegations in each of the above categories.
72. The Department agreed to conduct the search again in full and to set out the results formally in writing. These figures are referred to in Chapter 10 of the Report.

Chapter 12:

The Irish Education System

- A. Introduction

- B. Historical Establishment of Education
 - (i) Primary Education
 - (ii) Secondary Education
 - (iii) Structure of the Irish Education System
 - (a) The 1937 Constitution and Education
 - (b) The Education Act 1998
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- C. Types of Primary Schools
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E. Current role of the Religious Orders: Educational Trust Companies

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(a) The exclusion of non- religious order run schools

(b) Objections to the exclusion of non- religious order run schools

(c) Consequences of a wider remit in a future inquiry

A. Introduction

1. In this chapter we set out a brief overview of the Irish education system, both for general context and more specifically to contextualise the issues that the Scoping Inquiry faced in defining what is meant by schools ‘run by religious orders’.
2. In summary, given the complexities of the Irish education system, the category of schools ‘run by religious orders’ is not particularly clear-cut. What is apparent is a changing degree of religious control in some categories of schools, and a transfer between diocesan and congregational control in other categories of schools.
3. Somewhat surprisingly, categories of schools which we now consider to be non-denominational or multi-denominational, nonetheless have had Catholic religious involvement since the time of their foundation. The extent to which this involvement amounts to control that might bring these schools fairly within the category of schools run by religious orders likely varies across different time periods.
4. This chapter is far from a complete study on the intricacies of Irish educational arrangements and the nature of religious involvement. However, it is hoped that a consideration of the different types of schools that have operated in the Irish educational system will provide some context for our interpretation of which schools should be treated as having been ‘run by religious orders’.

B. Historical Establishment of Education

(i) Primary Education

5. The Irish national educational system has its foundations in the ‘Stanley Letter’ of 1831, written by Lord Stanley, Chief Secretary for Ireland. The education system was established informally by the direct executive action of the State, which was then under British rule.¹
6. The Stanley Letter proposed a non-statutory, state-funded system of first-level education, which was to be provided in state-supported schools and was intended to be multi-denominational in character.² Secular education was to be provided to all children, with separate religious instruction to be provided in accordance with students’ faiths. What emerged was a ‘de jure mixed system which, from mid-century onwards, became increasingly denominational in fact’.³

1 See, for a general overview of the legal standing of national schools, the judgment of Hardiman J in *O’Keeffe v. Hickey* [2009] 2 IR 302.

2 Glendenning, *Education and the Law* (3rd edn., Bloomsbury Professional 2023), para. 2.05.

3 Coolahan, *Irish Education: History and Structure* (Institute of Public Administration, 1981), p. 5.

7. As described by Glendenning,⁴ by the end of the nineteenth century, national schools (also known as 'primary schools') were mainly owned and managed by various churches, with each religious denomination managing its own schools under clerical managers.
8. Traditionally, the 'patron' of the school was the person or body of persons who established the school under the Stanley Plan of 1831. This term now has a statutory meaning under s. 8 of the Education Act 1998 ('the 1998 Act') considered below. With the offer of increased state funding for schools with Boards of Management, the Board of Management model was introduced into the organisational structure of schools, to replace individual managers, in 1975.⁵

(ii) Secondary Education

9. For much of the nineteenth century, a dual system of secondary schooling existed, comprised of Protestant schools which benefited from public endowment but were not under state management, and Catholic schools which were private and did not receive state funds.⁶ The Intermediate Education Act 1878 provided for indirect funding of denominational secondary schools, by means of an examination board which disbursed funds to school managers on the basis of successful examination results of their students.
10. In 1922, this model was altered to capitation grants for pupils, and incremental salaries for teachers, in 'recognised' schools. However, schools continued as private denominational institutions which were free to conduct their own affairs subject to their compliance with the rules for recognised status.⁷
11. By 1963, there were effectively two management models operating at post-primary level; vocational schools established under the Vocational Education Act 1930 and the voluntary secondary school system.⁸ Voluntary secondary schools were predominantly Catholic schools, either diocesan or run by Catholic religious orders. Other religious denominations also ran voluntary secondary schools. Free secondary-level education was introduced by the State in 1967.

4 Glendenning, at [2.06].

5 Coolahan, p. 174.

6 *ibid*, p. 52.

7 Coolahan, p. 53.

8 O'Flaherty, *Management and Control in Irish Education: The Post-Primary Experience* (Drumcondra Teachers' Centre, 1992), p. 5.

(iii) Structure of the Irish Education System

(a) *The 1937 Constitution and Education*

12. Article 42 of the Irish Constitution introduced in 1937 concerns the provision of education in the State. The Article guarantees free primary education, enshrining the model of indirect state provision of education in Article 42.4 as follows:

4. The State shall provide for free primary education and shall endeavour to supplement and give reasonable aid to private and corporate educational initiative, and, when the public good requires it, provide other educational facilities or institutions with due regard, however, for the rights of parents, especially in the matter of religious and moral formation.

13. The Supreme Court have commented that the distinction between ‘providing for’ and ‘providing’ distinguishes a largely state-funded, but entirely clerically administered system of education on the one hand and a state system of education on the other.⁹

14. Also of some relevance is Article 44.2.4°, which provides that:

4° Legislation providing State aid for schools shall not discriminate between schools under the management of different religious denominations, nor be such as to affect prejudicially the right of any child to attend a school receiving public money without attending religious instruction at that school.

15. Glendenning describes this model of education as having a ‘hybrid character in which the State provides for education in mainly regulated church-owned, publicly funded, recognised primary [schools]’.¹⁰

(b) *The Education Act 1998*

16. The first significant legislation concerning education was the Education Act 1998. Prior to this the Irish education system was established on a largely administrative basis. The 1998 Act regulates the provision of education in the State and confers statutory recognition on certain pre-existing governance structures in respect of both primary and post-primary education providers. A school which is recognised by the Minister pursuant to the conditions and criteria set out in s. 10 of the 1998 Act will receive funding from the State.¹¹ Unrecognised schools are schools which do not receiving State funding. Such schools are certified by Tusla as providing a minimum standard of education for their students. This reflects the provisions of the

9 *O’Keeffe v Hickey* [2009] 2 IR 302, *per* Hardiman J at para. 29.

10 Glendenning, at [1.24].

11 Section 12 of the Education Act 1998.

Constitution, which recognises the rights of parents to educate their children as they see fit, subject to the child receiving a minimum standard of education.

Unrecognised schools are discussed elsewhere in this chapter.

(c) Patronage and Trustees of Schools

17. As referred to above, the term ‘patron’ was first used to denote those persons or bodies who had established a national school under the Stanley Plan of 1831. Patronage was linked with the trustees of a school; the early Rules for National Schools provided that where a school was vested in trustees, the trustees were the patron of that school.¹²
18. Madigan, writing on behalf of the Association of Trustees of Catholic Schools, provides that the trustees of the schools are the people whose names appear in the lease which is entered into by the landowners when the school is established.¹³
19. The patronage of a school is now regulated under s. 8 of the 1998 Act governing the status of patrons. The 1998 Act recognised, in relation to primary schools, that the patron was the person or body who was the patron immediately before the Act came into force. In relation to secondary schools, the 1998 Act recognised the following category of persons as patron: (i) the trustee, (ii) Board of Governors or, (iii) where there was no trustees or Board, the owner of the secondary school who held that role immediately before the 1998 Act came into force. In any other case, the patron was the person who requested recognition of the school, or the nominee of that person or body. The 1998 Act allows for more than one person or body to be the patron of a school. Such co-patron arrangements are common in the comprehensive and community school sector, discussed below. The patron’s powers are those bestowed by the 1998 Act or other legislation, or by the instrument establishing the school, or providing for how the school is to operate.
20. The 1998 Act also requires that the patron appoints a Board of Management. The composition of the Board is agreed between patrons of schools, national associations of parents, recognised school management organisations, recognised trade unions and staff associations representing teachers and the Minister.¹⁴

12 Madigan, ‘A Guide to Patronage and Trusteeship of Catholic Schools in Ireland, Association of Trustees of Catholic Schools’ (2012), [2.24].

13 *ibid*, [2.26].

14 Section 14(1).

21. The Minister, with the agreement of the patron, national associations of parents, recognised school management organisations and recognised trade unions and staff associations representing teachers, prescribes certain matters relating to the appointment of a board,¹⁵ and can, for example, make a direction regarding its gender balance.¹⁶

(d) The Introduction of Boards of Management

22. At the time of their introduction, a Board of Management was required to operate in accordance with a detailed schedule of regulations and procedures issued by the Department of Education. It was responsible for the appointment of all teachers subject to the prior approval of the patron and the Minister, along with other administrative matters.¹⁷

23. By 1985, a Board of Management structure for Catholic voluntary schools had been agreed between the relevant stakeholders. This provided that a Board would have eight members:

- Four members nominated by the trustees (patrons) of the school;
- Two parent representatives;
- Two teacher representatives;
- The principal of the school was also entitled to attend Board meetings as a non-voting member.¹⁸

24. Boards of Management were subsequently given a statutory basis under the 1998 Act and the establishment and membership of the Board is now in accordance with that Act. The membership is set out in governance manuals issued by Departmental circulars. For example, the Governance Manual for Primary Schools 2023 – 2027,¹⁹ contains the following overview of the rules regarding the composition and operation of Boards of Management for schools with more than one teacher:

- (a) Two direct nominees of the patron;
- (b) Two parents elected from parents of children who are enrolled and have commenced attendance at the school (one being a mother, the other a father, elected by the general body of parents of children who are enrolled and have commenced attendance at the school);

15 Section 14(6).

16 Section 14(5).

17 Coolahan, p. 175.

18 O'Flaherty, p. 112.

19 At page 17. Published pursuant to Circular 0049/2023.

- (c) The principal (or acting principal) of the school;
- (d) One other serving teacher on the staff of the school, elected by vote of the teaching staff which includes the principal;
- (e) Two extra members proposed by those nominees, described at (a) to (d) above.

25. The Board is to fulfil the functions assigned to the school under the 1998 Act.²⁰ Members of the Board, except where the articles of management provide otherwise, are to be appointed by the patron of the school.²¹ It is the duty of the Board to manage the school on behalf of the patron, and for the benefit of the students and their parents and to provide an appropriate education for each student at the school.²²
26. The Board is to perform the functions conferred on it by the Act and is obliged to do so in accordance with the policies determined by the Minister.²³ It must also in carrying out its functions ‘uphold, and be accountable to the patron for so upholding, the characteristic spirit of the school as determined by the cultural, educational, moral, religious, social, linguistic and spiritual values and traditions which inform and are characteristic of the objectives and conduct of the school’.²⁴
27. The Board must also act in accordance with any Act of the Oireachtas or instrument made thereunder, deed, charter, articles of management or other such instrument relating to the establishment or operation of the school.²⁵ Boards of Management must also have and promote respect for the diversity of values, beliefs, traditions, languages and ways of life in society.²⁶ The 1998 Act also makes clear that nothing in the Act confers any right or interest in the lands and building of the school on the board.²⁷

(iv) The Powers and Duties of the Patron and those of the Board of Management

28. A question arises regarding the scope of the powers and duties of school patrons. Can the Board of Management exercise powers independently of the patron, and, if so, what is the scope of the Board of Management’s powers?

20 Section 14(2).

21 Section 14(4).

22 Section 15(1).

23 Section 15(2)(a).

24 Section 15(2)(b).

25 *ibid.*

26 Section 15(2)(e).

27 Section 15(3).

29. These issues have been considered in two reported cases by the High Court. In *Ui Chroinin v Minister for Education*²⁸ the patron refused to consent to a change of school status to a co-educational school. The Minister refused to grant the change of status on the basis that the patron's consent was required. The Board of Management challenged the Minister's refusal. The High Court found that the 1998 Act left no doubt that the role of the patron was antecedent to the role of the Board of Management, and that the Act recognised the permanent nature of the role of the patron, the submissive role of the Board, and the temporary character of membership of the Board.²⁹
30. The High Court found that the patron represents the interests of the owners of the school's land and buildings. The Act requires the Board to be accountable to the patron for the 'the characteristic spirit of the school' as defined in s. 14 of the 1998 Act. The High Court dismissed the challenge, holding that it was not unreasonable of the Minister to require the consent of the patron to the change, as the application was to permanently alter the nature of the school.
31. A somewhat different position was taken in *Blanchfield and ors v Garvey and ors*.³⁰ The case concerned whether a Board of Management was entitled to pursue litigation in circumstances where the school's patron, the Edmund Rice Schools Trust, did not approve of the legal proceedings concerned. Stewart J held that, while it was possible that the patron's supervisory role was sufficiently all-encompassing as to circumscribe the Board's statutory power to sue, the 1998 Act and Articles of Management for Catholic Secondary Schools did not definitively set out that position. Rather, the relationship between the patron and the Board of Management seemed to pertain primarily to the school's ethos, culture, values, conduct, management, and financial administration. The High Court was not convinced that litigation to recover for wrongs committed against the Board by its former patron (the Christian Brothers), that could confer a benefit on the school, came under that relationship. Ultimately, Stewart J joined the Board of Management to the litigation on the basis these legal issues could be fully resolved at hearing:³¹

The provisions of the 1998 Act and the Articles of Management, as they were explained to this Court, **do not seem to suggest the BOM is subservient to its patron in every single respect**. Rather, it would appear that there are specific areas in which the BOM must bend to ERST's greater authority. If the act envisaged comes outside those specific areas, it would appear that the BOM can behave as it wishes (assuming, of course, that said act is *intra vires*).

28 [2010] 4 IR 99.

29 *ibid*, paras 33-35.

30 [2018] IEHC 259.

31 *ibid*, at para 23.

Final determinations on these questions will be made at plenary hearing, as will determinations on the specific question of whether the patron can circumscribe the BOM's statutory power to sue. (emphasis added)

32. It therefore seems that the power to make decisions concerning the school is not necessarily exclusively a matter for the patron. The patron appears to have the right to decide matters concerning the ethos, culture, values, being matters largely concerning the characteristic spirit of the school, together with the management of the school and the financial administration of the school. The patron is also entitled to make decisions relating to school buildings and property. However, it seems that the Board of Management has some capacity, albeit limited, to make decisions that fall outside of these areas of concern. The matter is not without uncertainty, but it appears that the thrust of the limited decisions on this question is that, for the most part, the patron of the school is in the dominant position, and is entitled to make most decisions concerning the school, albeit that the consent of the Minister is also required in certain circumstances.

C. Types of Primary Schools

(i) Model Schools

33. Model schools are state-owned primary schools largely established in the nineteenth century, when Ireland was under British rule. There are nine model schools, all of which are in State ownership and are under the direct control and patronage of the Minister for Education.³² It appears that model schools were intended to set standards for the organisation and running of schools and to serve as centres for teacher education. They were operated under strict 'mixed education' principles meaning they strictly separated religious and secular education. For this reason they were largely unacceptable to Catholic Church authorities, who discouraged the attendance of Catholic children at these schools. These schools do not fall within the Terms of Reference of the Scoping Inquiry as they are not religious order run schools.

(ii) Gaelscoileanna

34. Gaelscoileanna established prior to 1993 are under the patronage of the local bishop.³³ A small number of Gaelscoileanna are model schools under the patronage of the Minister for Education.

32 Glendenning, [2.13].

33 Glendenning, at [2.27], writes that there are approximately 80 such schools.

35. An Foras Patrúnachta became the patron body for gaelscoileanna that were established after 1993. Such schools are partially funded by the State and by parents. These schools provide religious instruction in accordance with parental wishes; Glendenning notes that some are multi-denominational, some inter-denominational and some denominational.³⁴ Otherwise, An Foras Patrúnachta does not appear to have historical links to any religious denomination. The Department of Education advise that there are 249 gaelscoileanna at primary level, and 50 gaelcolaiste at post-primary level.
36. Certain of these schools fall within the Terms of Reference of the Scoping Inquiry as they were schools run by a religious order. Information provided by the Department of Education indicates that there are currently 14 gaelcolaiste with a religious order or educational trust patron in operation. However, these figures do not capture the historical position in relation to these schools and it is possible that there were other schools run by religious orders which have closed or amalgamated with other schools. Moreover, it is likely that a number of the gaelscoileanna now listed as having diocesan patronage were originally under the patronage of religious orders and were transferred as part of the 1975 transfer of primary schools to diocesan authorities.

(iii) Community National Schools

37. Community National Schools are state co-educational multi-denominational primary schools. They were established in 2008 and are described as part of the response to increasing demand for the State to provide a choice of schools.
38. The patrons of the Community National schools are primarily Education and Training Boards ('ETBs'), who provide governance, education, administrative, financial, human resources, and IT support. The schools have a multi denominational ethos and the children engage in a multi-belief and education curriculum.
39. There are 30 Community National Schools in the country. Community National Schools do not fall within the terms of reference of the Scoping Inquiry as there is no religious order or other religious denominational involvement in community national schools.

34 *ibid*, [2.27].

(iv) National Schools

40. Prior to the introduction of Boards of Management, national schools were operated according to the 'managerial system', whereby the patron of the school appointed a manager, usually a clergyman, who undertook the general running of the school. The schools were state funded. The role of the manager has been described as the equivalent of a trustee of an educational trust, since he did not own the school or run it for his personal benefit.³⁵
41. Catholic primary schools are mostly comprised of schools vested in trustees:
- for parish schools, the original trustees were senior clergymen;
 - for convent/monastery schools, the original trustees were senior members of the religious congregation; and
 - in instances of joint trusteeship, the original trustees were both religious and members of the clergy.³⁶
42. Over time, many of the original trustees of national schools passed away and were not replaced. In or around 1962, following discussions with the Department of Education in relation to this issue, the local bishop was officially recognised as the patron of all the schools in his diocese which had clerical managers.³⁷ In or about 1975, it was agreed between the Catholic Church and the Department of Education that the local bishop should also be accepted as the patron of all those convent/monastery schools where he was not already patron.³⁸
43. Although the diocesan bishop is the patron of such primary schools (and of diocesan secondary schools), in the case of many traditional convent or monastery primary schools, trusteeship continued to be exercised by religious congregations or the education trusts that have replaced them (discussed below).³⁹ Trusts also exist for diocesan property, including school buildings and grounds, and Madigan notes that these trustees are usually senior members of the clergy.⁴⁰
44. National schools are not within the Terms of Reference of the Scoping Inquiry as they are diocesan schools, under the auspices of the bishops of the dioceses as opposed to religious orders. However, allegations of historical sexual abuse in primary schools run by religious orders prior to their transfer into diocesan control would fall within the Terms of Reference of the Scoping Inquiry.

35 Per Murnaghan J in *McEaney v Minister for Education* [1941] IR 430. It should be noted that this characterisation was not expressly affirmed in the judgment of the Supreme Court.

36 Madigan, [2.26].

37 *ibid*, [2.27].

38 *ibid*, [2.28].

39 *ibid*, [8.1].

40 *ibid*.

(a) *Non-recognised and Independent Primary Schools*

45. There are, however, primary schools that were run or are currently run by religious orders. In general, these are fee-paying primary schools and generally are non-recognised or independent schools, which do not receive any financial support from the Department of Education.
46. It seems that it is now the case that, apart from those unrecognised primary schools, the religious orders have transferred their primary schools to dioceses or to trusts and those schools are now under the auspices of the relevant bishop or trustees.
47. In the case of schools owned by religious congregations or trust companies, the trustees are those legally nominated as such by the individual religious congregation or trust company. The trustees, as parties to the lease of the school premises, undertake that the buildings shall continue to be used as a national school for the term of the lease.
48. While the role of the trustees does not encroach on the rights and duties of the patron, in the case of traditional convent/monastery schools, some of which are now under the trusteeship of trust companies, there is an understanding that the local superior of the congregation, or the trust company, will put forward nominees for the Board of Management and recommend a chairperson for appointment by the patron.

D. Types of Secondary Schools

(i) Vocational Schools

49. Under the Vocational Education Act 1930, vocational schools were established and were placed under the management of local vocational education committees ('VECs'). In the early 1940s, certain guarantees were given by the then Minister for Education to the Catholic bishops that general education would not be provided in VEC schools, lest this pose a challenge to the existing denominational schools.⁴¹
50. While the VEC schools were non-denominational upon establishment, the Archbishop of Dublin, John Charles McQuaid, negotiated with the State to permit the introduction of a system of religious instruction, given by salaried clergymen-teachers, in all technical and vocational schools in Dublin, without any recourse to legislation. Over time, denominational practices, mainly Catholic, became normalised in VEC schools nationwide.⁴²

41 O'Buachalla, *Educational Policy in the Twentieth Century* (Wolfhound Press, 1998), p. 64.

42 Glendenning, [6.04].

51. By 1963, VECs had fourteen members; between five and eight of these were members of the local rating authority (who were normally elected councillors). The remaining places were allocated to persons who were representative of employers or employees, having regard to their interest and experience in education. Local priests were sometimes appointed to a VEC in view of their special interest in education, and they in some instances acted as a chairman.⁴³
52. VECs were dissolved and replaced by ETBs under the Education and Training Board Act 2013.

(ii) Comprehensive Schools

53. Comprehensive schools were first established in or about 1966, in areas where the Department of Education considered post-primary education to be inadequate.⁴⁴ Trusts for education were established and the schools were built and maintained out of state funds. These were managed by committees representing the diocesan religious authority, the local VEC, and the Minister. While the schools were vested in the State in fee simple, they were leased to trustees under a deed of trust for educational purposes.⁴⁵
54. These were also known as ‘denominational schools’, there being both Catholic comprehensive schools and Protestant comprehensive schools. Fifteen comprehensive schools were established before a decision was taken in 1974 that no new comprehensive schools would be opened.⁴⁶ In 2012, there were five comprehensive schools under Church of Ireland patronage and nine such schools under Catholic patronage.⁴⁷
55. A draft deed of trust, prepared by the Department of Education in 1966, provided that the Board of Management of a comprehensive school would consist of three members: a nominee of the Bishop of the Diocese in which the school was situated, who would act as Chairman; a nominee of the Minister; and a nominee of the relevant VEC.⁴⁸

43 O’Flaherty, *Management and Control in Irish Education: The Post-Primary Experience*, p. 5.

44 See background information provided in the judgment of Costello P. in the High Court in *Campaign to Separate Church and State Ltd v Minister for Education* [1998] 3 IR 321, at 326-328.

45 Glendenning, 2nd edn., [2.73].

46 *Campaign to Separate Church and State Ltd v Minister for Education*, at 327.

47 Glendenning, 2nd edn., [2.73].

48 O’Flaherty, p. 31. O’Flaherty, writing in 1994, notes, that while it was not readily ascertainable whether this particular version of the lease was the same as that signed in relation to the initial comprehensive schools, he was advised that it was at least close to the final version in all major respects.

56. In the years following 1966, several comprehensive schools were established with some variations in their management model; while it is not possible to establish the precise articles of management which existed in each comprehensive school, there appeared to be two distinct models by 1983:
- The Catholic model, which had a three-person board, as proposed in the draft deed of trust;
 - The Protestant/Jesuit model, which had a five-person board, consisting of three nominees of the Protestant Bishop or the Jesuit Provincial; a nominee of the Minister, and a nominee of the VEC.⁴⁹
57. Chaplains were appointed to these schools by the relevant religious authority and their salaries were paid by the State.⁵⁰
58. The majority of comprehensive schools fall outside our Terms of Reference by reason of their patrons being a secular body, the Minister for Education, and a Catholic diocese.
59. However, there is one comprehensive school in respect of which a religious order is a co-patron, namely a Jesuit comprehensive school in Limerick. That school is regarded by the Jesuits as a Jesuit-run school and is included in the figures provided by the Jesuits in respect of the number of allegations of historical sexual abuse associated with their schools.

(iii) Community Schools

60. Community schools were first proposed by the Department of Education as a model of post-primary comprehensive education for all children irrespective of ability and without the use of selection procedures. This envisaged the amalgamation of existing private, denominational voluntary secondary schools and public vocational schools,⁵¹ and the development of individual community schools in lieu of the traditionally separate secondary and vocational schools.⁵² The schools would also provide adult education facilities. The capital cost would be paid out of public funds, subject to an agreed local contribution, and the running costs would be funded directly by the Department.⁵³

49 *ibid.*, p. 36 and p. 41.

50 *Campaign to Separate Church and State Ltd v Minister for Education*, at 326-327.

51 Walsh, 'Creating a Modern Educational System? International Influence, Domestic Elites and the Transformation of the Irish Educational Sector, 1950-1975', in Walsh (ed.) *Essays in the History of Irish Education* (Palgrave MacMillan, 2016).

52 See background information provided in the judgment of Costello P. in the High Court in *Campaign to Separate Church and State Ltd v Minister for Education* [1998] 3 IR 321, pp. 326-328.

53 *ibid.*

61. The first community school was opened informally in 1972.⁵⁴ While they were intended to be governed by the terms of a model trust deed, difficulties arose between the relevant stakeholders and 12 community schools were established before any formal deed of trust was published.⁵⁵ Academics have described the legal ownership of these schools and the contractual position of their staff members as ‘vague’.⁵⁶
62. A draft Deed of Trust was first circulated in 1974. The final Deed of Trust in 1981 represented a compromise between the Department, the different managerial authorities, and the teaching unions, and effectively regularised the status of pre-existing community schools.
63. It should be noted that the secular co-patron of a community school was originally the VEC. ETBs replaced VECs pursuant to legislation in 2013.
64. The final Deed of Trust provided for Boards of Management with ten members:
- Three nominees of the religious authorities
 - Three VEC nominees;
 - Two elected representatives of the parents;
 - Two teachers selected by the permanent teaching staff of each school; and,
 - The principal of the school was also a non-voting member of the board.⁵⁷
65. *In O’hUallacháin and Others v Burke and Others*⁵⁸ the High Court found that the Deed of Trust was a binding legal instrument. The relationship between the Board of Management and the principal and the other staff of the college or indeed between the students and the Board of Management were matters to be determined in accordance with private law.

54 Glendenning, [4.101].

55 Walsh, ‘Creating a Modern Educational System? International Influence, Domestic Elites and the Transformation of the Irish Educational Sector, 1950-1975’, in Walsh (ed.) *Essays in the History of Irish Education* (Palgrave MacMillan, 2016).

56 O’Flaherty, p. 58.

57 O’Flaherty, p. 74.

58 [1988] ILRM 693.

66. The Association of Community and Comprehensive Schools ('ACCS') helpfully provided background information in relation to the patronage of community and comprehensive schools, providing a breakdown of the 97 community and comprehensive schools in Ireland:

Protestant Comprehensive Schools	Catholic Comprehensive Schools	Community Schools with Catholic Joint Patrons	Community Schools with Catholic Patrons Only	Community Schools with Educate Together Joint Patrons	Total
5	9	80	1	2	97

67. As is apparent from the foregoing, in the case of community schools, the joint patrons are either:

- the local ETB and a religious order(s), and/or the Bishop; or,
- the local ETB and Educate Together.

68. Some 80 community schools and 9 comprehensive schools operate under a joint patronage model with the Catholic Church whereby the Deed of Trust for each school was typically signed by the Minister on behalf of the ETB and the local Catholic Bishop and/or a representative of a religious order. Some community schools can have more than one religious order as a patron. This is most common where there has been an amalgamation of local schools.

69. Comprehensive schools are denominational schools typically under the patronage of the Minister and the bishop of the local diocese. For this reason, comprehensive schools do not appear to fall within the Terms of Reference. However, the ACCS noted that in one case, that of Crescent College Comprehensive in Limerick, the Deed of Trust was signed by the Minister and a representative of the Jesuit Order. This school would therefore be capable of coming within the Inquiry's Terms of Reference.

70. The ACCS information indicates that, of the 80 community schools with Catholic joint patrons, 58 schools had a religious order as one of their patrons:

Diocese	Religious Order(s)	Both Diocese and Religious Orders	Total
22	38	20	80

71. The ACCS also indicated that of those 58 schools, there is one community school, the Holy Child community school, which is not under joint patronage and is under the sole patronage of the Holy Child Sisters who are members of the Le Chéile Trust. This would most clearly fall within the Inquiry's Terms of Reference.
72. The remaining 57 community schools have religious orders as one of two or three joint patrons. A question arises as to whether these schools can be considered to have been run by a religious order because they are under the joint patronage of an ETB.
73. Since 1998 the role of religious orders as community school patrons has largely been delineated by statute. Section 8 of the Education Act 1998 recognises that whoever stands as trustees of community schools are the patrons of the schools. The 1998 Act clearly identifies that the Board of Management of each school is in charge of the day to day management of the school: Section 15(1) of the 1998 Act states that 'It shall be the duty of a board to manage the school on behalf of the patron for the benefit of the students and their parents ...'. However, under s 14 of the 1998 Act, the responsibility for appointing each successive Board of Management rests with the patrons of the community school in common with the patrons of all other schools.
74. Moreover, in circumstances where it appears from our inquiries to date that the vast majority of allegations of sexual abuse in schools relate to events transpiring prior to 1998, the reality of control exercised by patrons prior to the 1998 Act is a more relevant factor.

(a) Case law concerning chaplaincy in Community Schools

75. In *Campaign to Separate Church and State v Minister for Education*,⁵⁹ the plaintiffs challenged the constitutionality of the State's payment of the salaries of chaplains in community schools. In the High Court, Costello P. found that the salaries of chaplains had been paid since the establishment of community schools. He held that it was obviously the intention that in Catholic community schools the chaplain would be a priest, but there were at that stage several lay persons and nuns fulfilling the role of chaplain. In the three Protestant comprehensive schools, the chaplains were lay persons.
76. As of January 1996, the court found that there were 76 chaplains in 75 comprehensive and community schools. The constitutionality of such an arrangement was affirmed in the Supreme Court, where it was held that the system was a manifestation of the principles recognised and approved by Articles 44 and 42 of the Constitution.

59 *Campaign to Separate Church and State v Minister for Education* [1998] 3 IR 321.

77. Before the High Court in-depth consideration was given to the provisions of the Model Trust Deed by which a new, as opposed to amalgamated, school was established, although the court noted that the 'essential features' of the deeds were the same. The court outlined each of the clauses of the Model Trust Deed, which provided *inter alia* that the two religious congregations and the VEC were required to contribute specified amounts towards the estimated building cost of the school, with the balance to be provided by the Minister, and the trustees were to hold the trust property upon trust for the purposes of the school (Clause 4).
78. Pursuant to the Articles of Management, the Board is responsible for the 'government and direction of the school' (Clause 2). The Board appoints staff having followed specified selection procedures, but provision is made for the appointment to the staff of teachers nominated by the religious orders involved in establishing the school, provided they are qualified and are approved by a selection committee (Clause 7). Subject to the provisions of the Minister as to the general educational character of the school, the Board shall have control of the 'general direction of the conduct and curriculum' of the school (Clause 10). Religion teachers are required to be acceptable to the appropriate religious authority (Clause 11).
79. In view of these provisions of the Model Trust Deed the High Court made a number of observations (it should be noted that these were neither expressly affirmed nor disapproved in the judgments of the Supreme Court).⁶⁰ It found that pursuant to the Deed the legal ownership of the schools vest in the trustees and their staff are appointed under contracts with the Board of Management. Although built by state funds (apart from a limited local contribution) and run and maintained by state funds, they are not in the legal ownership of the State or any state authority, nor in the legal ownership of a religious order or the diocese of any church.
80. The Court found that the trustees have a legal responsibility to ensure that the school is managed and organised in accordance with the trust deed. The Minister and the Board of Management have a legal responsibility to manage the school in accordance with the trust. In addition, the Minister controls all the schools' expenditure and has a supervisory role over the school curriculum.
81. The Court found that the trustees and the Board of Management have a legal obligation to provide religious worship and religious education in community schools and the teacher of religion may be a priest. It is to be implied that the religious worship in the school will be that of the Roman Catholic Church and that the religious teaching in the school will be in accordance with the doctrines of that church.

60 [1998] 3 IR 321, at 331.

82. The Court concluded that a community school established under a deed of trust which adopts this model can therefore be regarded as (a) a denominational school, in that it provides religious worship and religious instruction according to the tenets of one of the churches which espouse the Christian faith, and (b) as a Catholic community school, in that the religious worship and religious instruction it provides are those of the Roman Catholic Church.
83. Thus, although community schools are described as multi-denominational, it seems that the Model Trust Deed considered by the High Court was found to be Catholic in ethos, and not multi-denominational, since the terms of the Deed suggested that the religious teaching in the school was Roman Catholic. In addition, members of staff of the school could be nominated by the religious order concerned, and those staff were to be employed by the school, subject only to having the necessary qualifications and being approved by the selection committee.

(b) The historical position in relation to the ethos of community schools

84. It may be that, in all practical terms, community schools are multi-denominational in ethos and have been for some time. Indeed, the Scoping Inquiry has been informed by their representative body, ACCS, that this is the case. It seems, however, that the Model Trust Deed, certainly up until 1994, allowed for the ethos of the religious order establishing the school to constitute the ethos of the school.
85. In answer to this point, the ACCS has emphasised that the involvement of religious orders in community schools is solely as joint patrons. The role of a joint patron is defined in the Education Act 1998, which provides that the day to day running of the school is devolved to the Board of Management as appointed by the joint patrons. They also emphasise the core principle of partnership amongst the secular and religious patrons in the Deed of Trust and the commitment to provide an education for all the children of the community. They have emphasised that in the early 1960s and 1970s this was in itself very significant.

86. The ACCS further point to the evolution of community school ethos over the last 25 years as highlighting the core principle of partnership between secular and religious patrons, referring in particular to:

- The establishment of the National Trustee Forum which has subsequently evolved into the Association of Joint Patrons of Community and Comprehensive Schools ('AJP').
- The agreed Characteristic Spirit Statement for Community Schools under the Joint Patronage of ETBs and Catholic religious patrons.⁶¹

The ACCS point out that the joint patrons, including the Catholic religious order joint patrons, identify their community schools as multi-denominational in accordance with the agreed Characteristic Spirit Statement.

87. Community schools generally have joint patrons, although as discussed in a later chapter, the Scoping Inquiry understands that there is one instance where this is not so, and a religious order is the sole patron of a community school. Save for this instance, one of the co-patrons of a community school will generally be an ETB. In 2019, the Department of Education reported that 80 of 82 community schools in Ireland were under Catholic joint patronage. The two remaining community schools had joint patronage arrangements with an ETB and Educate Together.⁶²

88. As it stands, there are currently 58 community schools with religious order co-patrons and one community school with a religious order as its sole patron.

89. Patronage of a school may transfer from one religious order to another or from a religious order to a diocese: For example, in 2017 two religious orders, the Sisters of Mercy Northern Province and the Brigidine Sisters divested themselves of their patronage/trustee interest in some 8 Community Schools; 4 schools are now under the joint patronage of various dioceses and 4 schools are now under the joint patronage of other religious orders.

61 The Characteristic Spirit Statement identifies the ethos of community schools as multi denominational. A copy of the 'Template Characteristic Spirit of a Community School under the joint patronage of Catholic and ETB Patrons' issued by the AJP was provided to the Scoping Inquiry which states that the ethos of the schools is multi-denominational.

62 See Teach Don't Preach, 'The Constantly Shifting Ethos of ETB Schools and Colleges' (19 February 2020) at <https://www.teachdontpreach.ie/2020/02/shifting-etb-ethos/>.

(iv) Do Community Schools Fall within the Scoping Inquiry's Terms of Reference?

90. Clearly, religious orders were involved in the running of community schools to some extent as joint patrons. It is the understanding of the Scoping Inquiry that at an earlier stage in the evolution of community schools, particularly where the school comprised of an amalgamation of existing schools in a locality, it was not uncommon that the principal and teaching staff of the existing schools, some of whom were members of religious orders, remained on in that capacity in the newly formed community school. The precise extent of the involvement the religious orders had in the running of any community schools in respect of which they were co-patrons is not something that the Scoping Inquiry are in a position to determine at this remove, and indeed may have varied from school to school.
91. ACCS have emphasised the evolution of the ethos of community schools, and the contemporary multi-denominational ethos of community schools with religious order co-patrons. ACCS do acknowledge, however, that religious orders were involved in running community schools in the past, at least to some extent. *The Campaign to Separate Church and State* case discussed above finds that the Model Trust Deed allowed for a Roman Catholic ethos where the co-patron of the school was a Catholic religious order.
92. The ACCS has indicated that it is of the view that community schools are not schools run by religious orders, stating that they are multi-denominational schools, not run under any specific religious ethos and operated by Boards of Management reflecting a wide representation from the community concerned. The ACCS highlighted that religious education rather than religious instruction is taught in community schools and provided documentation concerning the characteristic spirit of community schools, which espoused a multi-denominational approach. Many community schools have adopted this document as a statement of their ethos.
93. Nonetheless, the fact remains that there are currently some 59 community schools in the State that have a religious order as a patron or co-patron. Assessing whether these schools are, or were, religious order-run schools is not clear-cut. The caselaw discussed above certainly suggests that the Model Trust Deed implicitly allowed for a Roman Catholic ethos where the co-patron of the school was a Catholic religious order. It also seems that members of religious orders may have taught in the schools or were principals of the schools in the early years of community schools. It may well be the case that such schools now fully embrace the multi-denominational ethos.

94. However, the Scoping Inquiry is concerned with assessing historical sexual abuse. From the other work carried out by the Scoping Inquiry it appears that a large degree of historical sexual abuse in schools run by religious orders occurred in the 1970s and 1980s. It is therefore likely that the earlier periods in the evolution of community schools will be relevant to a future inquiry's work rather than the modern position. In the circumstances, the Scoping Inquiry considered the co-patronage of the religious orders in community schools sufficient to meet its Terms of Reference.
95. As discussed elsewhere in this chapter, many religious orders have transferred the patronage of their schools into various trust structures. In the case of community schools, some trusts are ostensibly the trustees of community schools. However, at a meeting between APTCS and the Scoping Inquiry, at which a number of CEOs of the trusts were present, it was clarified that in the case of community schools, the trusts are not themselves co-patrons in the community school, but act as agents for the religious order. Thus, in a community school setting, it appears that the religious orders are still *de facto* co-patrons in those circumstances and the schools would therefore still fall within the Scoping Inquiry's Terms of Reference.

(v) Community Colleges/Vocational Schools

96. In response to a concern that community schooling was eroding VEC's traditional role in providing non-denominational vocational schools, the VECs sought an initiative whereby secondary schools would be run on community school lines and be termed 'community colleges'.⁶³
97. However, it has been suggested that VECs sought to invite representatives of the Catholic bishops to participate on the Boards of Management of these community colleges in order to lend status to them.⁶⁴
98. There is no single model for management for community colleges. However, in a number of VEC areas an accepted model developed, agreed between the VEC and representatives of Catholic dioceses.⁶⁵ In light of this distinction, community colleges have been categorised as designated and non-designated community colleges.⁶⁶
99. Non-designated community colleges do not involve religious orders in the governance and therefore fall outside the Scoping Inquiry's Terms of Reference.

63 Coolahan, p. 220-221.

64 McManus, 'The Transformation of Irish Education: The Ministerial Legacy, 1919-1999', in Walsh (ed.) *Essays in the History of Irish Education* (2016, Palgrave MacMillan), p. 283.

65 O'Flaherty, p. 79.

66 Glendenning, [4.115].

(a) *Designated Community Colleges*

100. Designated Community Colleges ('DCCs') are designated multi-denominational schools who have binding legal agreements with the Catholic Church in relation to aspects of their management and ethos.⁶⁷
101. It appears that the majority of these schools emerged in the 1970s when some multi-denominational VEC schools were merged with one or more denominational schools in which the majority of students were Catholic. To allay concerns of denominational school owners, certain assurances for Catholic students and their parents were agreed by the parties in written legal agreements.⁶⁸
102. Education and Training Boards Ireland ('ETBI') is the representative body of the 16 ETBs which run 30 community national schools and 252 post-primary schools.
103. ETBI has confirmed that there are currently 52 DCCs. Of these, 19 schools involve Catholic diocesan bodies in their organisation and management. 14 schools have religious orders involved under such Model Agreements. In total, it appears that 8 religious orders are party to Model Agreements in respect of 14 DCCs.
104. ETBI's Board of Management Handbook, published in 2015, describes DCCs as ETB schools where the management of the school is governed by a specific agreement between the ETB (formerly VEC) and a 'Trustee Partner', who is the local diocese and/or a religious congregation or other recognised school patron.⁶⁹ The Handbook defines a Trustee Partner as a recognised school patron who is a party to a model agreement with an ETB for the management of a DCC, has an explicit role in the management of the school (representation on the Board of Management and teacher selection panels), and a role in determining the characteristic spirit of the DCC.⁷⁰
105. ETBI published an updated handbook in January 2024 entitled 'ETBI Post-Primary Board of Management Terms of Reference'. The handbook defines DCCs as follows: DCCs are under the sole patronage of the ETB. However, they are established by the signing of a Model Agreement between an ETB and the local Catholic Bishop/religious congregation. The Model Agreement provides for the participation of the local bishop/religious congregation in the organisation and management of the DCC on an ongoing basis.⁷¹ The 2024 manual goes on to state that a Model Agreement is a legal agreement between an ETB and another body

67 *ibid.*

68 Glendenning, [6.16].

69 ETBI, Board of Management Handbook for Education and Training Boards and Boards of Management of ETB Schools and Community Colleges, October 2015, p. 6.

70 *Ibid.*, p. 7.

71 ETBI Post-Primary Board of Management Terms of Reference, p. 2.

participating in the organisation and management of the DCC.⁷² The term ‘Trustee Partner’ is no longer used to refer to any diocesan or religious order partner. Rather, they are simply referred to as ‘other bodies’ involved in the organisation and management of the DCC.

106. The original Model Agreement, between the County Dublin VEC and the Archbishop of Dublin, required that the Board of Management would be composed of ten members as follows:⁷³
- 3 members nominated by the appropriate religious authority;
 - 3 members nominated by the VEC;
 - 2 parent representatives, and;
 - 2 teacher representatives.
107. The Model Agreement also set out that minority religious representation on Boards of Management would be considered by the VEC where requests for representation were received, and that a person nominated to represent a minority religious group would fill an additional place.⁷⁴
108. The Model Agreement provided that the Board of the relevant college shall be responsible for the ‘government and direction’ of the College; that the Board shall have the ‘general direction’ of the conduct and curriculum of the College, that it shall ensure there is religious worship and religious instruction for all pupils in the College except those who are exempted; and that a Chaplain nominated by the relevant religious authority will be appointed. A Selection Board, comprised of two representatives of the relevant religious authority, two representatives of the VEC and an inspector nominated by the Minister, would be responsible for the appointment of teaching staff, subject to the prior approval of the VEC. However, the ETBI confirmed that the Minister no longer nominates an inspector to selection boards in DCCs.
109. ETBI informed the Scoping Inquiry about the role of the religious orders in DCCs, and confirmed that the role of Catholic Church bodies under the Model Agreement was in relation to:
- Staff appointments (via representation on the selection board);
 - Nominees to the board of management of the DCC;
 - Nomination of a chaplain, and;
 - Confirmation of the religion teacher’s suitability.

72 Ibid, p. 3.

73 As discussed by Hyland and Milne, *Irish Educational Documents* Vol. 2 (1992) at pp. 278-279.

74 See also, O’Flaherty, p. 92.

110. ETBI, however, informed the Scoping Inquiry that while the original Model Agreement was often used as a template for agreements between the DCCs and other bodies who were involved in the organisation and management of the schools, including Catholic religious orders, that was not always the case.
111. Whilst ETBI were of the view that the above bullet points concerning the role of the religious orders in DCCs were likely to be standard in all agreements between an ETB and religious orders, ETBI could not definitively state that that was the case, since it did not have sight of the agreements for all DCCs.
112. The Scoping Inquiry queried whether the religious orders had a role in determining the characteristic spirit of the DCCs. The Model Agreement was silent on this issue, but the 2015 Handbook suggested that the religious orders had such a role. ETBI responded to say that it understood that it had previously been the case in some DCCs that the religious order involved influenced the characteristic spirit of the school, whether arising out of the entitlements from the Model Agreement or otherwise.
113. However, ETBI stated that characteristic spirit was not clearly defined, or indeed compelled to be addressed, until such time as the Education (Admission to Schools) Act 2018 required a statement setting out the characteristic spirit of the school to be included in the admissions policy for every school; from then, all ETB schools, including DCCs, were confirmed as being multi-denominational.
114. ETBI also stated that it is likely that there are Model Agreements in existence where a religious order has been given an express role in determining the characteristic spirit of the DCC concerned.
115. ETBI provided the Scoping Inquiry with a list of all DCCs where there was a Model Agreement with a religious order for the organisation and management of the DCCs. This describes the DCCs listed as multi-denominational or inter-denominational, save for one DCC which is described as Catholic, where the diocese of Cloyne is the 'other body'.

(b) *Appointment of Chaplains to DCCs*

116. The 2024 manual provides that the ETB will appoint a chaplain to a DCC in accordance with the Model Agreement for DCCs and nationally agreed procedures for such appointments.⁷⁵ The ETB appoints the chaplain who is employed in an *ex-quota* capacity in the DCC. The chaplain is a full-time member of the staff and must fulfil the requirements of the ETB and abide by the regulations of the Minister for Education.

75 ETBI Post-Primary Board of Management Terms of Reference, pp. 22 and 27.

117. The duties of the chaplain and the appointment process have been agreed nationally between the relevant management bodies, the second-level teacher unions, and the Department of Education.⁷⁶ The religious order concerned is entitled to nominate the chaplain.

(c) *Religious worship/instruction and appointment of teachers of religion*

118. The original Model Agreement provides that the religious worship or religious instruction given to any pupil will be in accordance with the denomination to which the pupil belongs.⁷⁷ Religious instructions of 2 hours per week is to be given to all pupils, unless parents request in writing that the pupil be withdrawn from religious instruction. The principal is responsible for arranging the religious worship and instruction and ensuring pupils attend.

119. The Committee and the Board of Management are required to ensure that there are sufficient teachers in the school to give religious instruction. Teachers of religious instruction can be priests or lay people who are suitably qualified for the purpose.

120. The original Model Agreement provides for a 5-persons selection board made up of 2 religious representatives, two VEC (now ETB) representatives, and a Department of Education inspector nominated by the Minister.⁷⁸ The selection board interviews and ranks the candidates. The VEC make the appointments in accordance with the shortlist, unless there is good and sufficient reason not to do so.

(vi) *Are DCCs Religious Order Run Schools?*

121. The above section sets out the general framework for the involvement of religious orders in DCCs, which may be subject to variation.

122. In particular, it may be the case that the terms set out in the original Model Agreement are not included in other Model Agreements between the religious orders and the ETBs or are varied in such agreements.

123. What is clear is that:

- (i) The religious orders are not patron bodies of DCCs; the ETB is the sole patron.
- (ii) Religious orders are entitled to 3 nominees on the Board of Management pursuant to the original Model Agreement, but this may vary in accordance with individual Model Agreements entered into between various ETBs and religious orders.

76 *ibid*, p. 27.

77 *ibid*, para 12 (ii) – (xi).

78 *ibid* para 6.2 (i) to (vi).

- (iii) Some religious orders may have an express entitlement to influence the characteristic spirit of the school, depending on the terms of the Model Agreement concerned; however, it is not known whether and how many Model Agreements contain such terms. It seems to have been the case that although the original Model Agreement does not reference characteristic spirit, in some DCCs at least, where a religious order was involved, the religious order had an influence on the determination of the characteristic spirit of the school, although characteristic spirit was not clearly defined. It seems that, since 2018, all ETB schools, including DCCs are expressly multi-denominational or inter-denominational schools (with one exception), notwithstanding continuing religious order/diocesan involvement on foot of agreements with the ETB.
 - (iv) Religious orders are entitled to representation on the selection committee in appointing staff to DCCs under the original Model Agreement, and this may be a common term across other Model Agreements.
 - (v) The only functions over which religious orders appear to have sole control, under the original Model Agreement, is the appointment of a chaplain and the approval of Catholic religion teachers for DCCs. It seems likely that this will be a common term across all Model Agreements.
124. Ultimately, the Scoping Inquiry decided to include in the category of religious order run schools only those schools where a religious order or a trust body established by a religious order, is or was a patron or co-patron of that school.
125. It may well be that there is a case to be made that various religious orders' involvement in DCCs was such as to justify the view that they were 'running' the school in a practical sense, in some form of partnership, legally formalised or otherwise, with the relevant ETB. This may have been particularly the case where a VEC and a Catholic religious order-run school merged, when DCCs first began to be formed in the 1970s. However, we simply have no evidence of what occurred in individual schools beyond the terms of the handbooks and manuals that have been made available to the Scoping Inquiry. It is not apparent, on their face, that the degree of religious involvement went so far as to allow DCCs to be fairly described as religious order run schools.
126. However, given the timeframe for the Scoping Inquiry's work, and the possibility that varied arrangements pursuant to Model Agreements may exist between the ETBs and the religious orders in respect of the DCCs, it was not possible to definitively determine that all DCCs should be regarded as religious order run schools.

127. The Scoping Inquiry did not therefore include DCCs in its information-gathering exercise regarding the numbers of allegations of historical sexual abuse arising in religious order-run schools. The status of DCCs and the extent of religious order involvement in such schools is, however, an issue that may need to be reconsidered by a future inquiry.

(vii) Voluntary Schools

128. Voluntary schools were, and continue to be, in the private ownership of:⁷⁹

- Religious orders or diocesan authorities, in the case of Catholic schools;
- Boards of governors, in the case of Protestant schools; and
- Private individuals, in the case of some privately-run schools.

129. The historical position of voluntary schools was certainly one of private religious control. One author, writing in 1981, observed that the majority of secondary schools were owned by religious groups and were run under the auspices of religious authorities.⁸⁰ The management of secondary schools was also said to have been exercised in the main by religious orders or by denominational boards, each controlling its own network of schools.⁸¹

130. Of the 531 secondary schools in existence in the State in 1979, 443 were owned by Catholic religious orders and 31 by Catholic diocesan colleges; 33 were owned and controlled by lay Catholics; 23 were Protestant schools; and a small amount of schools were said to cater for other denominations.⁸²

131. O’Flaherty, writing in 1994, noted that in response to the declining number of religious in teaching from the 1970s onwards, religious managers of Catholic voluntary schools began to devise new management strategies to perpetuate the Catholic Church’s role in secondary schools. This required that a devolved system of management be introduced in order to guarantee the denominational character of the schools into the future should the religious clergy withdraw from schools.⁸³

79 Glendenning, (2nd ed), [2.66].

80 Coolahan, p. 215.

81 *ibid.*

82 *ibid.*

83 O’Flaherty, p. 93.

132. By 1985, a Board of Management structure for Catholic voluntary schools had been agreed between the relevant stakeholders. This provided that a Board would have eight members:
- Four members nominated by the patrons of the school;
 - Two parent representatives; and
 - Two teacher representatives.
 - The principal of the school is also entitled to attend Board meetings as a non-voting member.⁸⁴
133. Management of voluntary Catholic secondary schools, being the day-to-day operation of the school, is carried out by the Board of Management/Manager and Principal of each school.
134. Governance of such schools is, on the other hand, the responsibility of a range of private religious and lay bodies. One author, writing in 2012 on the governance of voluntary Catholic secondary schools, summarised the governance as such schools in the following terms:⁸⁵
- Bearing in mind both the provisions of Canon Law and Civil Law, governance relates to the functions of patrons or trustees as the final decision-making authority of the owners or holders of the title deeds of the property or enterprise. Patrons and trustees have both a moral and legal responsibility to maintain schools in accordance with a particular ethos or founding intention. In the case of diocesan Catholic secondary schools, governance or patronage of these schools is exercised by the bishop of the diocese in conjunction with diocesan trust boards where such exist. The higher superiors of religious congregations, as trustees of the school property and education enterprise, exercise governance in schools owned by congregations where Education Trust Companies have not been established. Where Education Trust Companies exist, governance is exercised by the Board of Directors appointed by the members of the Company. The Board of Directors may delegate many of their functions to personnel working from an education office established specifically for the purpose of exercising governance. In lay owned Catholic secondary schools the function of governance is carried out by the owners or representatives of the owners.
135. As is clear from the foregoing, Catholic voluntary secondary schools, whether fee-paying or otherwise, if run by a religious order (or formerly run by a religious order) are squarely within the Scoping Inquiry's Terms of Reference.

84 O'Flaherty, p. 112.

85 Madigan, [3.33].

E. Current role of the Religious Orders: Educational Trust Companies

(i) Designation of a Catholic School

136. In order to be designated as a Catholic school within the eyes of the Catholic Church, Canon law requires that schools must be acknowledged as Catholic by the relevant ecclesiastical authority or operate under the jurisdiction of an ecclesiastical *Public Juridic Person* ('PJP'), which is a legal entity under Canon law.⁸⁶

(ii) Educational Trust Companies

137. Educational trust companies were created in the context of steadily declining religious vocations;⁸⁷ from 1999 religious orders began to set up trusteeships to ensure that the religious ethos of their schools would be protected in the future. These trusts were in the form of companies, with the directors being a number of lay Catholics who would carry out the patron's functions. Boards of Management would then report to these companies.⁸⁸
138. The Scoping Inquiry is grateful to APTCS for confirming the number of schools trusts and the date of the establishment of each as follows:

Name	Year Created
Spiritans Educational Trust (formerly Des Places Educational Association)	1999
Loreto Education Trust	2003
Ceist	2007
Mount Anville Education Trust	2007
Edmund Rice Schools Trust	2008
Le Chéile	2008
Presentation Brothers Schools Trust	2009

86 Madigan, [4.3].

87 McManus, at p. 283, states that in the 1960s almost half of teachers in secondary schools were priests or members of religious orders, but by the 1990s this figure had fallen to 12%.

88 McManus, p. 283.

139. Separately, a Jesuit Education Trust is in the process of incorporation. While a company is registered, it is in the process of seeking charitable status and, at present, the Jesuit Order remain the trustees of their schools.
140. It appears that in voluntary secondary schools there is currently a wide variety of trust models in operation, but concerted efforts are being made to consolidate a number of these trusts under the Association of Patrons and Trustees of Catholic Schools Ltd.⁸⁹
141. The APTCS very helpfully offered to assist in liaising with the patrons and trustees of secondary schools which are currently or were previously run by religious orders in respect of information concerning the number of allegations of historical sexual abuse that had arisen in their schools. The APTCS explained that the primary repository of any allegations of sexual abuse would be the individual Boards of Management of each school. While they are required to confirm to the trustees that they are keeping the records and policies of the school up to date, they do not typically provide information about abuse allegations to the trustees. The Board would only send an allegation of abuse to the trust concerned if the allegation was against a member of the Board of Management. However, they accepted that in practice the trust might well be aware of such an allegation if they were providing support to the school in responding to it.
142. The APTCS advised the Scoping Inquiry that most trusts had not taken over congregation records and that schools hold records in their own right. It was emphasised that there is no ultimate repository of such information. Generally, schools do not have historic records, with the exception of roll books. The APTCS further advised that allegations are often made to the congregation but that, if the allegation does not relate to a member of a congregation, it may go to the school instead.
143. The APTCS accepted that most of the trusts have a legal link to their founding congregations, with the founders of the schools' trusts being members of the relevant congregations. Limited powers are reserved to the members of the school trust, and the Board of Directors exercises the day-to-day control over the trusts. The Directors have the role of managing the organisation, running it, and directing funds. In contrast, members of the trust have the aim of continuing the religious ethos of the school. However, the members appoint the Directors of the trust. In some cases, land formerly held by the founding religious order has been handed over to a school's trust, in which case the trust has control of anything pertaining to the land.

89 Glendenning, [1.28].

144. An exception is the Presentation Brothers School Trust, who stressed in a June 2023 meeting that they have no legal link to the Presentation Brothers. They noted that on the very rare occasions where the Presentation Brothers School Trust received an allegation from an individual, they referred allegations relating to the period after the formation of the trust to the individual Boards of Management concerned. If the allegation related to a period predating the establishment of the trust, they would explain this to the person concerned and refer them to the Presentation Brothers.
145. It appears that the transition from direct governance of schools by religious orders to the education trust company model has involved a growing lay involvement. One author described the process as follows:⁹⁰
- Prior to the setting up of Education Trust companies on the part of a number of religious congregations, governance of all religious owned schools was exercised by the higher superiors for the time being who acted as trustees of the school property and educational enterprise. They appointed members of the congregation as managers and principals of the secondary schools. Sometimes the same person filled both roles. When Boards of Management were introduced, the religious trustees continued to exercise their right of governance by formally appointing the individual Board members including the teacher and parent nominees as well as their own Trustee nominees, one of whom would be chairperson. With the passage of time, some congregations set up education offices and delegated many of the functions of governance to these offices.
146. Certain trust bodies are established as ecclesiastical PJPs and have also registered as companies under Irish law. Other trusts, because they continue to have close links with their congregations, have not become PJPs but are nonetheless registered as companies. Such companies are then eligible for charitable status, being an education trust. In such education trusts, the Memorandum and Articles of Association of the company identifies it as a 'Company Limited by Guarantee and Not Having a Share Capital'.⁹¹
147. The extent of religious order control of these educational trust companies varies, with some remaining closely controlled by their congregations.⁹²

90 Madigan, [3.35].

91 Madigan, [3.41].

92 Madigan, [8.10-8.14].

148. The CEO of CEIST, writing in 2018, explained that its sister company, the Educena Foundation, which holds the ownership of the properties of the schools, has the primary objective of ensuring that CEIST has the properties it requires to deliver second level education and to provide CEIST with the annual funding it needs to allow it fulfil its trustee obligations.⁹³ The two-company structure was put in place as different expertise would be required for both entities, and also so that, if Educena held surplus funds over and above those required to fund CEIST operations, they could be gifted back to the founding congregations.
149. Generally, the members of the educational trust company appoint the board of directors, and delegate most of their power to the directors.⁹⁴ Members may retain their powers in relation to matters such as dismissal of members and/or directors, amendment to the Memorandum and Articles of Association, sale of property or other financial transactions of a high value, amalgamation or closure of schools, or change in the use of property or education facilities operated, owned or controlled by the company.⁹⁵
150. The directors of the company are responsible for the governance of schools, including the appointment of Boards of Management, the determination of school policies, and the management of a school's finances. The directors may also be considered the administrators of the PJP under Canon law.
151. Separately, the regulatory regime imposed by the Charities Act 2009 on all charitable bodies applies to almost all schools in Ireland, except for ETB schools and private schools.⁹⁶

93 Griffin, 'CEIST: the first 10 years of a lay Catholic educational trust in Ireland', *International Studies in Catholic Education* (2018) 10:1, 66-80.

94 Madigan, [8.18].

95 Madigan, [8.19].

96 Glendenning, [5.10].

152. Some 75% of school are now within a trust structure. The remaining 25% of schools are still held by individual religious orders. The Department of Education provided the following breakdown of the current patronage of schools in Ireland:

Patron	Number of schools
Carmelite Order (Irish Province)	1
CEIST Company Limited by Guarantee	110
Coláiste Thuar Mhic Éadaigh Teoranta	1
Conference of the Methodist Church in Ireland	1
Congregation of the Missions (Vincentians)	2
Congregation of the Most Holy Redeemer (Redemptorist Fathers)	1
Council of Alexandra College	1
Des Places Educational Association Company limited by guarantee	6
Dominican Fathers	1
Edmund Rice Schools Trust	59
Glenstal Abbey School	1
Handmaids of the Sacred Heart	1
Incorporated Society for Promoting Protestant Schools in Ireland	3
La Sainte Union Sisters	1
Le Chéile Schools Trust Company Limited by Guarantee	51
Loreto Education Trust	16
Marianist Community	1
Marist Brothers (Province of West Central Europe)	3
Marist Education Authority	3
Mount Anville Sacred Heart Education Trust Company Limited by Guarantee	1
Order of Cistercians of the Strict Observance (Trappist Monks)	1
Order of Friars Minor (Franciscan Fathers) Irish Province	1
Order of St Augustine (Augustinians)	2
Presentation Brothers Schools Trust	5
Regina Mundi (Cork) Ltd	1
Religious Sisters of Charity	6
Salesian Fathers of Don Bosco	2
Society of Jesus (Jesuits)	4
St Conleth's Ltd	1
Teresian Association Ireland	1
The John Scottus Education Trust Company Limited by Guarantee	1

(iii) Potential Difficulties for litigants arising from the transfer of assets to trusts

153. Religious orders are unincorporated associations and do not have a legal existence separate and distinct from their members. As such, religious orders cannot hold property in their own name,⁹⁷ and assets are generally held by trustees for the benefit of the religious order and/or their members. The creation of school trusts has led to the largescale transfer of school property into these trusts, which can potentially create difficulty for survivors of abuse seeking to recover damages awarded in civil litigation.
154. Trustees are limited by the terms of the trust deed (or the terms of the arrangement between members where no formal trust is in place) when determining what can be done with trust property. Where trust property is held for the general purposes of an unincorporated association, whether trustees may access trust assets to meet liabilities associated with civil damages claims by victims of sexual abuse will be dependent on the terms of the trust deed. Thus, assets held by a charitable trust may be out of reach of plaintiffs.
155. It should also be noted that suing unincorporated associations can be very difficult, as unincorporated associations cannot sue or be sued in their own name, rather individual members at the time of the relevant wrongdoing have to be identified. The Supreme Court's judgment in *Hickey v McGowan*⁹⁸ means that unincorporated associations cannot be held liable for wrongful acts committed by their representatives while acting on behalf of the unincorporated association. Instead, liability falls to the individual personally responsible and, depending on the circumstances, on the other members of the association at the time of the wrongdoing, who may be found to be vicariously liable.
156. The Law Reform Commission has published a consultation paper which suggests that the company limited by guarantee (CLG) mechanism, provided for by the Companies Act 2014,⁹⁹ may be used, *inter alia*, to protect third parties with potential claims against unincorporated associations.

F. Unrecognised or Independent Schools

157. As set out above, parents are entitled to educate their children as they see fit, subject to the child concerned being provided with a certain minimum education, as required by the Constitution. Thus, parents may send their children to any school of their choosing, or to no school, subject to that proviso.

97 See, for example, *Bray Boxing Club and Taylor v Wicklow County Council* [2021] IEHC 182.

98 [2017] 2 IR 196.

99 'Liability of Clubs, Societies and Other Unincorporated Associations' LRC CP 68 – 2022 (15 December 2022): https://www.lawreform.ie/_fileupload/consultation%20papers/LRC%20-%20CP%2068%202022%20Full%20Text%20W%20Cover.pdf.

158. A non-recognised or independent school is any school which is not recognised under s. 10 of the Education Act 1998. Such schools do not receive any funding from the State, given their unrecognised status.
159. The criteria for the recognition of a school are set out in 1998 Act and include an assessment by the Department of Education that there are sufficient schools in the particular area and it is not necessary to fund another similar school. Many of the private primary schools run by religious orders are unrecognised schools.
160. The National Educational Welfare Board had oversight of non-recognised schools under the provisions of the Education (Welfare) Act 2000 (**'the 2000 Act'**).¹⁰⁰ However, that function was transferred to Tusla under the Child and Family Act 2014 (**'the 2014 Act'**).
161. The functions of Tusla arising from the 2000 Act are to ensure that each child attends a recognised school or otherwise receives a certain minimum education, and to assist in the formulation and implementation of the Government's policies and objectives concerning the education of children. The 2000 Act requires parents to register, and Tusla to maintain a register, of all children in receipt of education in a place other than a recognised school. Tusla is also obliged to assess whether the child being registered is receiving a certain minimum education, as required by the constitution. Tusla retains a discretion to refuse to register a child.
162. The 2000 Act permits Tusla, or a person authorised by Tusla,¹⁰¹ (**'an authorised person'**) to assess the education that is, or is proposed to be, provided including the materials to be used, and the time that is to be spent educating the child. If Tusla is unable to determine the matter following a report from the authorised person, it may, with the consent of the parent, cause the authorised person to attend the place where the child is being educated to observe the education the child is receiving, inspect the premises where the child is being educated and the equipment and materials being used in the education of the child. Tusla may also carry out an assessment of the emotional, physical, and intellectual development of the child including assessing the child's knowledge of certain subjects, and proficiency in certain exercises or disciplines as the authorised person considers appropriate.
163. Once Tusla is satisfied that a non-recognised school is providing a certain minimum level of education to its students, Tusla may register the students without any further assessment of the school, provided the school notifies Tusla of the students concerned. The section also permits Tusla to carry out assessments of a registered child at such intervals as may be required.

100 Section 10(1) of the Education (Welfare) Act 2000.

101 Section 14(5) of the Education (Welfare) Act 2000.

164. Tusla has confirmed that there are 59 unrecognised schools in the State. A list of these schools is set out at Appendix 11. Some nine schools run by religious orders/educational trusts set out on Tusla's list of unrecognised schools are within the remit of the Scoping Inquiry.
165. However, the historical picture in relation to private primary schools may be far broader. One author, writing in 1982, noted that 'In 1978/9 there were 110 private primary schools with an enrolment of 19,105 pupils. Most of the schools are situated in the urban districts of Dublin and Cork. Such schools are frequently run by religious orders and are linked to state-supported secondary schools run by these communities'.¹⁰²

G. Conclusions on categories of schools 'run by religious orders'

166. In considering what is meant by schools 'run by religious orders', regard must be had to the complex nature of religious involvement in education since the inception of state-funded education in Ireland.

(i) The inclusion of educational trusts

167. Many religious orders, whether their schools are held by trusts or otherwise, say that they no longer have any active role in the running of their schools due to small numbers remaining in their order or the age profile of their members. The introduction of Boards of Management, which started in the mid-1970s, affects the question of what person or entity can be said to be running schools, particularly in relation to day-to-day management. More recently, there have been significant changes in the legal ownership of schools, and thus the patronage of schools because of the creation of educational trusts.
168. It seems to the Scoping Inquiry that an investigation into schools run by the religious orders must encompass circumstances where the religious orders concerned were the patrons or co-patrons of the school, regardless of the extent to which that order was actually involved in the day-to-day running of the school, or whether the principal or staff were members of the religious orders concerned. Given the primacy of the patron bodies in the governance structure of schools, and the continuing influence of the religious orders on those patron bodies and schools, the Scoping Inquiry views schools where a religious order had been the patron of a school in the past or was currently a patron/co-patron of a school, as within its remit.

102 Coolahan, p. 182.

169. In this regard, it should be noted that it will be necessary that both the orders and the educational trusts/companies limited by guarantee be asked to co-operate with any future inquiry into schools, given that there will likely be an issue of obtaining records concerning historical allegations made to schools after the creation of such trusts. In the experience of the Scoping Inquiry, complaints were sometimes made to the schools directly, sometimes to the Gardai and/or Tusla, and sometimes to the religious order concerned. However, often the complaints were not made to all of these bodies.
170. When the Scoping Inquiry sought information from the religious orders about the numbers of allegations of sexual abuse made in day and boarding schools they run or formerly ran, we were informed by many of them that, since their schools were now vested in educational trust companies, they had no access to information held by their schools. It was necessary for the Scoping Inquiry to approach the patron association, APTCS, to seek their co-operation in obtaining the information sought. APTCS is made up of patrons and trustees of Catholic second level schools, including representatives of Catholic schools' trusts. Some 267 Catholic voluntary secondary schools are now held in trusts. The APTCS represent both these school trusts and the remaining patrons and trustees of Catholic voluntary secondary schools. The Scoping Inquiry is very grateful to APTCS for their assistance in this regard.
171. In order to obtain information in respect of primary schools formerly run by the religious orders, the religious orders informed us that it was necessary for them to seek this information through the relevant bishops, who in turn passed on the Scoping Inquiry's questionnaire to the schools.
172. This situation underlines the reality of the legal position that the schools themselves are in many cases no longer under the direct control of the religious orders.

(ii) The distinction between patronage and other forms of involvement by religious orders

173. In some cases, the extent of religious orders' involvement or control in particular categories of schools was uncertain in light of the mixed secular and denominational governance of those schools.

174. Community schools, as highlighted by their representative association ACCS, are multi-denominational in nature,¹⁰³ where religious education as opposed to religious instruction is taught. On the other hand, community schools have Catholic religious co-patrons, in the form of religious orders, Catholic dioceses, or sometimes both. Nonetheless, having considered the details of community schools' current policies, guidance to patrons, and staff appointment processes, kindly provided by ACCS, it is fair to conclude that the present-day position is not one where community schools could be properly described as run by their religious co-patrons. In contrast, the historical position is uncertain, and in all likelihood varied between different schools depending on the religious orders involved. It seems that, certainly in the early years of the establishment of such schools, particularly where the school was formed as a result of the amalgamation of existing schools in the locality, the members of the relevant religious orders sometimes continued as principals or teachers in such schools. Given the case law establishing that community schools clearly required Catholic religious instruction, and for staff to be nominated by the religious order patrons, the Scoping Inquiry took the view that on balance community schools fell within its Terms of Reference. We therefore included such schools when gathering information regarding the number of allegations of historical sexual abuse in such schools.
175. In the case of Designated Community Colleges, they are formally non-denominational schools and do not have religious order patrons. Catholic religious orders were still involved in the governance of such schools as 'other bodies'. What this distinction meant in practice historically is difficult to determine at this remove without sight of the individual model agreements for each school. Ultimately, the Scoping Inquiry decided to only include those schools where a religious order (or an educational trust established by a religious order) is or was a patron or co-patron of that school. A future inquiry may wish to revisit this with the benefit of access to further information.

103 Pursuant to the agreed Characteristic Spirit Statement for Community Schools under the Joint Patronage of ETBs and Catholic Religious Patrons.

(iii) Consideration of the categories of schools to be included in a future inquiry

(a) *The exclusion of non- religious order run schools*

176. The limits of the Scoping Inquiry's remit in considering only historical sexual abuse in schools run by religious orders was a source of dissatisfaction amongst some survivors, many of the religious orders, and certain other denominations, in particular the Methodist Church in Ireland who approached the Scoping Inquiry in this regard. A frequently expressed view was that the Terms of Reference of the Scoping Inquiry were too narrow and that confining the consideration of historical sexual abuse in schools solely to schools run by religious orders was illogical and unfair.
177. In relation to Catholic schools, the absence of diocesan schools from the remit of a future inquiry may give rise to anomalous situations. There are a number of schools, particularly primary schools, which historically were run by religious orders, but were transferred to diocesan control. Where a diocese takes over the running of a school from a religious order, it is likely that the staff in the school will remain in place. This could lead to circumstances where an alleged lay abuser (and possibly an alleged clerical abuser) may continue to abuse after the transfer of the school to the diocese. Any allegations arising after the transfer, even concerning a survivor abused pre-transfer would risk falling outside the scope of a future inquiry by virtue of the transfer, even though both the survivor and the alleged abuser may have remained in the school. In addition, information about how allegations of abuse were handled post-transfer, what was known to the diocesan authorities when they took over the school, and other such issues could also be rendered outside the Terms of Reference of a substantive inquiry confined to solely looking at religious order-run schools.
178. These types of difficulties beg the question as to whether the distinction in considering solely schools run by religious orders is in truth logically sustainable.

(b) *Objections to the exclusion of non- religious order run schools*

179. Survivors who alleged that they had been subjected to clerical sex abuse in schools run by Catholic dioceses or in schools run under the auspices of other religious denominations expressed concern and sometimes anger at the fact that allegations of historical sexual abuse in those schools were outside the Scoping Inquiry's Terms of Reference.

180. A number of religious orders also objected to what they saw as the narrow Terms of Reference of the Scoping Inquiry because they felt that they were being singled out for scrutiny and that it was inherently unfair to look only at their schools, and to exclude other Catholic-run schools, and schools run by other religious denominations. This view has been expressed directly to the Scoping Inquiry during meetings that it had with the religious orders in May 2023 and January 2024, and it was evident from the views expressed in the course of the Scoping Inquiry's religious order engagement process that this sentiment was widely held amongst the religious orders consulted.
181. In addition, the Methodist Church in Ireland expressed its concern to the Scoping Inquiry that the Inquiry's Terms of Reference were confined to allegations of historical sexual abuse in schools run by the religious orders. The Methodist Church contacted the Scoping Inquiry directly on this issue stating that it was the view of the Methodist Church that all schools having a relationship with a religious body or church, and not just those run by a religious order, should be included in the Scoping Inquiry, or indeed in any future inquiry concerning historical sexual abuse in day or boarding schools.

(c) Consequences of a wider remit in a future inquiry

182. The Scoping Inquiry's view is that it is very difficult to objectively justify the exclusion of other Catholic-run schools and schools run by other denominations. In this regard it should be recalled that the number of primary and secondary schools run by religious denominations other than the Catholic Church is relatively small.¹⁰⁴
183. If any future inquiry were tasked with examining sexual abuse in schools where a Catholic bishop was the patron, this would include national schools, diocesan secondary schools, as well as community schools and comprehensive schools under the patronage of a Catholic bishop.
184. Based on data provided by the Department of Education and ACCS of current school patronage, an indicative list of the additional schools that would be considered were Catholic diocesan patron schools included in the Terms of Reference of a substantive or future inquiry are as follows:
- 2,714 Catholic diocesan primary schools;
 - 40 Catholic diocesan secondary schools;

104 The Department of Education's statistical bulletin for 2021 sets out that by the end of 2020 Catholic schools still comprised the vast majority of primary schools in the country with 88.7% of primary schools having a Catholic ethos in 2020: Department of Education Statistical Bulletin July 2021, Overview of Education 2000 – 2020, p.4.

- 22 Community schools with diocesan patrons (in addition to those schools with a religious order co-patron);
 - 14 Comprehensive schools with diocesan patrons.
185. This would represent a large number of additional schools. In addition, were schools run by other denominations to be included, this would involve a smaller number of additional schools. The Department of Education's statistics indicate that currently there are some 230 schools in this category:
- 191 Primary schools;
 - 29 Secondary schools.
186. Again, these numbers are indicative only, being based on the numbers of schools currently in existence. In particular, these figures do not take account of schools that have now closed or been amalgamated within each category.
187. In addition, there would also be schools with no religious patron, such as community colleges, community national schools, and Educate Together schools.
188. The Scoping Inquiry, of necessity, has not been in a position to inquire into the numbers of allegations of sexual abuse in any of the above schools, or been able to form a view as to the prevalence of abuse in a such schools. Nor has it sought the views of survivors of such schools. It is not therefore in a position to offer any view as to the scale of the problem, the preferences of such survivors as to what should be done, or the likely timescale and cost involved if a future inquiry were to be set up to investigate such issues.
189. Nonetheless, the Scoping Inquiry is of the view that it is unfair to those survivors who have suffered sexual abuse in such schools to exclude them from any investigation of the extent and scale of such abuse or how it was handled. As part of our Terms of Reference, the Scoping Inquiry is to set out a potential framework for a Government response into historical sexual abuse in day and boarding schools run by religious orders 'that could also form a template for future inquiries'.
190. In this regard, it is our view that the framework we propose in this Report can also form the basis for an inquiry into historical sexual abuse in schools run by the Catholic Church more broadly as well as schools run by other denominations. We are of the view that an inquiry into all schools, denominational or otherwise, is the fairest approach to take.

Chapter 13:

The Position of Special Schools

- A. Introduction
 - (i) The Status of Special Schools
- B. Previous Consideration of Sexual Abuse in Special Schools
 - (i) CICA's Inclusion of Special Schools
 - (a) Consideration of mainstream schools by CICA
 - (b) The extent of investigation of certain residential special schools
 - (ii) Other Processes Considering Sexual Abuse in Special Schools
 - (iii) Lessons from CICA: The Context of Abuse in Special Schools
- C. The High Incidence of Sexual Abuse in Special Schools
- D. Conclusion

A. Introduction

1. The Scoping Inquiry has given separate consideration to the position of special schools run by religious orders. The records of allegations of historical sexual abuse in special schools run by religious orders are set out separately in this Report to highlight the particularly high figures of recorded allegations in relation to these schools.
2. From the statistics provided by the Department of Education it appears that there were 135 special schools in the 2020/2021 school year.¹ Historically, as occurred with mainstream education, the provision of education for persons with disabilities was exclusively provided by religious orders and voluntary bodies.² By the foundation of the Irish Free State in 1922, 8 private voluntary charitable institutions had been established, mostly by religious orders.³
3. A White Paper on The Problem of the Mentally Handicapped was published by the Department of Health in 1960.⁴ It stated that the number of residential places for people with intellectual disabilities needed to be doubled from the 3,200 then available to about 7,000.
4. The Commission of Inquiry on Mental Handicap Report in 1965 ('the 1965 Report')⁵ reflects a mixture of day and residential schools operating at that time, along with special classes in 'ordinary' national schools. It noted that:⁶

There are, at present, twenty special national schools for the mentally handicapped. The average number on the rolls totalled 1,434 pupils in 1964. Ten of these schools are part of residential centres and ten are day schools. Some of the residential schools admit day pupils and pupils whose homes are sufficiently near may attend on a five day residential basis, returning home each weekend. In addition to the 1,434 pupils mentioned there are in hospital schools and in other special schools for the physically handicapped a considerable number of pupils who suffer also from mental handicap. There are 28 special classes in ordinary national schools, mainly in Dublin, which cater for slow learning pupils ... The total number of mentally handicapped

1 As noted elsewhere, the Scoping Inquiry is concerned with the historical position in relation to non-recent incidents of abuse in living memory, which we have taken to be incidents involving school pupils between 1927 and March 2013, 10 years prior to the establishment of the Scoping Inquiry.

2 D. Glendenning, *Education and the Law* (3rd edn. Bloomsbury, 2023), [7.03].

3 M. Shevlin, 'Historical Overview of Developments in Special Education in Ireland' in B. Walsh (ed.) *Essays in the History of Irish Education* (2016, Palgrave MacMillan), p. 184-185.

4 Department of Health, *The Problem of the Mentally Handicapped* (Dublin: Stationery Office, 1960), available at <https://www.lenus.ie/handle/10147/593379>.

5 The Commission of Inquiry on Mental Handicap, *Report* (Dublin: Stationery Office, 1965), available at <https://www.lenus.ie/handle/10147/243761>

6 *Ibid.*, at p. 34, para. 34.

children for whom special education is provided is, therefore, in the region of 1,600. Special schools are allowed the same holidays as ordinary national schools.

5. The 1965 Report provides a table of services available for persons with intellectual disabilities, with reference to whether the centre was recognised as a special school and whether it was a residential or day school. Some 14 of the 30 special schools listed in the 1965 Report are recorded as being administered by religious orders.⁷
6. The Commission of Inquiry on Mental Illness was established 1961 and its report in 1966 ('the 1966 Report') noted that there were a limited number of schools for children in need of psychiatric care:⁸

Most children in need of psychiatric care can receive education in the normal school system. Some, however, fail to learn or to keep up with their contemporaries and require a special form of education. As yet, the provision made for such education is limited. There are schools at the Child Guidance Clinic, Rathgar, Dublin (average enrolment 26.6), at Benincasa, Sion Hill, Dublin (average enrolment 26.9), at St. Declan's, Northumberland Road, Dublin (average enrolment 32.9) and at St. Loman's Hospital, Ballyowen, Dublin (average enrolment 29.8). These special schools accept children who are emotionally disturbed, or have severe learning disorders and cannot be catered for in the normal school system. The Department of Education makes provision for schools at residential centres for the mentally handicapped. The Commission assumes that it will make similar provision for schools at the residential centres recommended in paragraph 93.

7. A High Court case relating to educational provision in 1996 recorded some 117 special schools in operation at that date.⁹ The Association of Parents and Friends of Mentally Handicapped Children (later, St. Michael's House), opened their own special school in Rathmines in 1960, which was the first special school founded, funded and managed by an association of parents. It appears that this was the first national school recognised by the State that was not managed by a religious authority.¹⁰

7 Commission of Inquiry on Mental Handicap, *Report* (Dublin: Stationery Office, 1965), 35-42.

8 Commission of Inquiry on Mental Illness, *Report* (Dublin: Stationery Office, 1966), p. 72. Available at <https://www.lenus.ie/bitstream/handle/10147/45690/8634.pdf?sequence=1&isAllowed=y>.

9 In *O'Shiel and ors v Minister for Education and Science and ors* [1999] 2 ILRM 241, Laffoy J notes that 'There are approximately 3,200 recognised schools in the State catering for about 460,000 pupils. There are 117 special schools catering for about 7,500 pupils. The recognised schools are private in the sense that they are not publicly owned, but they are funded by the State and they must operate an open enrolment policy. The established schools, of which there are nine, are owned by the State and were established as Model schools prior to 1922'.

10 M. Shevlin, 'Historical Overview of Developments in Special Education in Ireland' in B. Walsh (ed.) *Essays in the History of Irish Education* (2016, Palgrave MacMillan), p. 186.

(i) The Status of Special Schools

8. The 1965 Report also provides information as to the status of special schools as national schools and the role of the State in funding such organisations:¹¹

Special residential and non-residential schools which provide suitable education for the mentally handicapped are recognised by the Minister for Education as national schools and special arrangements in regard to staffing, time-table and curriculum apply to them. As in the case of ordinary national schools, the Minister pays teachers' salaries and allowances and makes grants towards the cost of erecting and furnishing new schools, of reconstructing, painting, heating and cleaning existing schools and of transporting pupils to schools. In addition, he bears the cost of providing special training for teachers of the mentally handicapped and he makes grants towards the cost of providing teaching aids and materials. (emphasis added)

B. Previous Consideration of Child Sexual Abuse in Special Schools

(i) CICA's Inclusion of Special Schools

9. In considering the position of special schools as part of the Scoping Inquiry's work, one issue that arose was whether special schools should be included in any future inquiry or investigative process where a number of those schools had already been the subject of review by the Commission to Inquire into Child Abuse ('CICA'). One might reasonably contend that to investigate the same institutions would not be a good use of public resources.
10. It is certainly the case that some special schools run by religious orders were the subject of the CICA's investigation committee report. The final published CICA investigation committee reports refer to a number of special schools:
- (i) *CICA Investigation Committee Report Vol. I* Chapter 13 addresses St Joseph's School for Deaf Boys, Cabra, and refers to allegations of sexual abuse by lay teachers, brothers, and peer sexual abuse.
 - (ii) *CICA Investigation Committee Report Vol. II* Chapter 15 addresses St Mary's School for Deaf Girls, Cabra, and refers to allegations of sexual abuse by visiting priests.
 - (iii) *CICA Investigation Committee Report Vol. II* Chapter 16 addresses Mary Immaculate School for Deaf Children, and does not refer to allegations of sexual abuse.

11 Commission of Inquiry on Mental Handicap, *Report* (Dublin: Stationery Office 1965), p. 33-34.

(a) *Consideration of mainstream schools by CICA*

11. However, to some extent the same can also be said to be the case in relation to mainstream schools. The CICA Investigation Committee Report includes a chapter on abuse by a former Christian Brother in a series of mainstream schools including national schools and a Presentation Sisters' convent.¹²
12. Chapter 7 of the Third Interim Report records 4 hearings into national schools as having taken place, and 2 complaints of sexual abuse investigated in national schools at that date.¹³ It notes that there are other complaints into national schools pending investigation. The Christian Brothers are the subject of a chapter of the Investigation Committee's Report, albeit primarily in relation to their industrial schools.¹⁴ Chapter 17 of the Confidential Committee's report presented evidence given by 70 witnesses of their experiences of abuse in schools in Ireland between 1932 and 1992.¹⁵
13. Substantial numbers of pupils of non-residential mainstream residential primary and secondary schools also made complaints to CICA. For example, Table N of CICA's Third Interim Report refers to 29 complaints involving 6 special schools and 165 complaints regarding 123 primary or secondary schools:

Type of Institution	No. of institutions in each class	Number of Complaints	Approximate Percentage %
Foster Care	11	11	0.5
Hospital	24	41	2
Industrial School	52	1,423	67.7
Magdalene Laundry	7	7	0.3
Orphanage	16	92	4.4
Place Of Detention	2	15	0.7
Primary/Secondary	123	165	7.9
School	4	165	7.9
Reformatory School	6	129	6.1
Residential Home	1	3	0.1
Secure Unit	6	29	1.4
Special School	15	21	1
Other			
TOTAL		2,101	100

12 CICA Investigation Committee Report Vol. I, p. 583.

13 CICA, Third Interim Report (December 2003), p. 86. Available at <https://childabusecommission.ie/wp-content/uploads/2022/04/abuse.pdf>.

14 CICA Investigation Committee Report Vol. I, Chapter 6.

15 CICA Report Vol. III Confidential Committee, Chapter 17, para [17.04].

14. However, as noted in the Third Interim Report, many of the allegations involved only one complaint for each school and were therefore not capable of being investigated by the Investigation Committee. Due to section 13(2)(c) of the Commission to Inquire into Child Abuse Act 2000, the Investigation Report was limited to considering cases where there was more than one allegation of abuse by a named individual because the legislation provided that its report 'shall not contain findings in relation to particular instances of alleged abuse of children'.
15. This meant that though national schools with one complaint could be investigated, no findings from the investigations of national schools could be reported because they predominantly involved single complaints in relation to single abusers.¹⁶

(b) The extent of investigation of certain residential special schools

16. As occurred in the case of national schools, a number of special schools came within the CICA's remit, but were not investigated because there were insufficient complaints.
17. In addition, of those special schools where there were sufficient numbers of complainants, there were practical difficulties in respect of hearing witnesses arising from both ongoing Garda investigations and disagreements with legal representatives that prevented full hearings taking place.
18. These issues resulted in the chapters on Our Lady of Good Counsel, Lota, Glanmire, Co Cork ('Lota'), and the Schools for the Deaf being primarily based on discovered documentation, submissions made by relevant parties, and evidence from a limited number of witnesses (in the case of Lota). The findings that could be made in the absence of full hearings were necessarily limited. The issues limiting the investigations in relation to those institutions are recounted in the CICA Investigation Committee report as follows:¹⁷

5.07 ... the discovered documentary materials were examined for information as to abuse during the relevant period. Significant documents were sent to appropriate parties for comment, where those parties had not produced the discovered material, and any comments received by way of submission were then taken into account in the chapters on these two institutions.

5.08 A similar method was adopted in investigating Our Lady of Good Counsel, Lota. This institution was the subject of a series of six separate Garda inquiries, which were continuing while the Committee was pursuing its work. A limited number of witnesses had already been heard by the Investigation Committee prior to 2003, and that testimony, together with documentary evidence, formed the basis of the chapter on the institution.

16 CICA, Third Interim Report (December 2003), p. 87.

17 CICA Investigation Committee Report Vol. I, Chapter 5.

5.09 One category of institution that was not included in full Investigation Committee hearings comprised three schools for deaf children. It was clear that members of the deaf community wanted to participate. In the consultation period that took place in early 2004, Mr Kevin Stanley and other officials of the Irish Deaf Society attended meetings and offered assistance, and were enthusiastic about their members' desire to be part of the investigation process. The numbers of persons (109 in total) who notified the Investigation Committee that they wished to participate in its proceedings in respect of deaf schools were as follows:

- St Joseph's School for Deaf Boys, Cabra – 65
- St Mary's School for Deaf Girls, Cabra – 23
- Mary Immaculate School for the Deaf, Beechpark, Stillorgan – 21.

5.10 Unfortunately, it proved impossible to arrange full hearings for these institutions. The principal difficulty was in getting statements from a sufficient number of former residents of these institutions. There had been a protracted and unproductive correspondence between the Committee and solicitors representing the great majority of the deaf complainants about the taking of statements, and the period of time that was necessary for that purpose, and the cost of doing so. The result was that little had been achieved even by late 2005. It was impracticable to prepare all the necessary materials and to arrange hearings in these cases. Obtaining statements from complainants was only the first step in putting all the pieces together to enable full investigative hearings to take place. **Since that first step was not satisfactorily completed in a reasonable time, there was no question of all the other necessary procedures being completed so as to enable hearings to take place.**

5.12 In the circumstances, limited investigation of these institutions was also carried out by way of analysis of documentary material. (emphasis added)

19. In respect of those institutions into which there was no hearing of evidence, interviews were taken. Subsequent parts of the CICA Investigation Committee report describe the process whereby complainants were interviewed by a member of the CICA legal team as follows:

5.15 For those institutions which the Committee was not investigating by way of hearings, all the complainants were invited for interview.

...

5.18 The interviews had two primary purposes: first, to furnish a means of checking or cross- referencing, to ensure that all relevant topics arising in an institution had been properly considered; and, second, to give everyone who wished to do so a means of participating in the work of the Investigation Committee.

5.19 The interview process was greatly valued, and witnesses participated in substantial numbers. A total of 552 people ultimately attended for interview.

20. Thus, the question of whether special schools run by religious orders have already been investigated in a public inquiry must be considered in the context of the limitations of CICA's consideration of this category of school, namely:
- (i) Only residential special schools fell within CICA's remit;
 - (i) CICA could only investigate and report findings for schools where it had received more than one complaint;
 - (i) While there were special schools with high numbers of complaints, ongoing Garda investigations and difficulties with legal representation and the taking of statements from witnesses prevented full hearings of those institutions.

(ii) Other Processes Considering Sexual Abuse in Special Schools

21. There have been other previous reports into specific services for persons with disabilities. There may be some consideration of whether there is merit in the same territory being covered again by an eventual inquiry.¹⁸ This would ultimately be a matter for the eventual inquiry to consider in determining which schools should be investigated as part of particular modules.
22. Some persons abused in special schools may have applied for redress under the Residential Institutions Redress Board ('RIRB'). The RIRB was a compensation scheme for former residents of certain residential institutions that fell within CICA's remit.¹⁹

18 For example, see the Western Health Board report on an inquiry into the Holy Family School and Brothers of Charity Services in Galway, published in November 2007, available at <https://www.hse.ie/eng/services/publications/disability/mcoy-boc.pdf>

19 The Residential Institutions Redress Board Act 2002.

23. Notably, the RIRB was limited to compensation for abuse of students in residential institutions. The Minister for Education and Science at the time, Dr Michael Woods TD, stated that the scheme was intended to address a very particular circumstance, namely abuse in residential care and was ‘not, and was never intended to be, a panacea for every injustice committed on children’.²⁰ Regarding the exclusion of non-residential institutions, the Minister stated:²¹

... public authorities had formal, and in most cases statutory responsibility both for the placing of the children in the institutions and the regulation of the operation of the institutions. To a significant degree the State, through these public bodies, replaced parents as the natural protector and carer of the children concerned. This placed a heavy responsibility on public bodies for their welfare. A similar responsibility did not apply in the case of children who attended ordinary schools and for the most part continued to live in their homes and communities.

24. As a result, while residential pupils of special schools were entitled to redress from the RIRB, day pupils in special schools had no such right.

25. Persons who received RIRB awards would have signed a statutory waiver.²² The entitlement of such persons to be part of a potential future redress process in those circumstances would require close consideration.

26. One potential issue for a future inquiry is that certain statutory provisions restricting the use of information provided to the RIRB may mean persons who applied to the RIRB may feel they cannot provide evidence to a future inquiry.²³ However, it appears that documentation relating to an RIRB application could be shared with a future inquiry notwithstanding the restriction contained in section 28(1) of the 2002

20 Dáil Debates 7 November 2001, Vol 543 No 3 Col. 940.

21 *ibid*, Cols. 940–941.

22 Every person who received a RIRB award would have signed a waiver when accepting the award, as required by s. 13(6) of the 2002 Act, to waive their right of action and to discontinue their proceedings in relation to the relevant institution: ‘Where an applicant accepts an award (including an award reviewed under section 15 the applicant shall agree in writing to waive any right of action which he or she may otherwise have had against a public body or a person who has made a contribution under section 23(5) and to discontinue any other proceedings instituted by the applicant, against such public body or such person, that arise out of the circumstances of the application before the Board’. Section 13(12) of the 2002 Act also provides that persons who received RIRB awards shall not institute civil proceedings concerning an institution covered by the RIRB arising out of substantially the same facts as complained of to the RIRB.

23 Section 28 of the Residential Institutions Redress Board Act 2002.

Act.²⁴ Such information could be shared, where appropriate, with a future inquiry because sections 28(5A) and (5B) of the 2002 Act exempts the giving of documents, information or evidence to a body/person 'conducting a hearing, enquiry or investigation in relation to, or adjudicating on, any matter' from the prohibition contained in section 28(1).²⁵

27. Section 28(6) of the 2002 Act separately prohibits a person publishing information concerning an application or an award that refers to any other person by name or which could lead to the identification of any other person including an applicant, a relevant person or an institution:

(6) A person shall not publish any information concerning an application or an award made under this Act that refers to any other person (including an applicant), relevant person or institution by name or which could reasonably lead to the identification of any other person (including and applicant), a relevant person or an institution referred to in an applicant under this Act.

28. In *MB v Collins*,²⁶ the Court of Appeal held that s 28(6) would not prevent an applicant to the RIRB disclosing their own information regarding the making of an award as part of a discovery process. The Court emphasised that the prohibition in section 28(6) was on publication as opposed to disclosure:²⁷

However, subs. (6) unlike subs. (1) is a prohibition against publication of information – not simply disclosure. The prohibition against publication is not a bar to disclosure as part of a discovery process, and is in any event concerned in these proceedings only with the plaintiffs' own information.

29. From this preliminary review, it would appear that a person who made an application to the RIRB could share their own information with a future inquiry.

24 In *F McK v OL* [2011] 1 IR 263, at 270, the Supreme Court confirmed that a Circuit Family Court conducting a hearing into the provision of maintenance could require the respondent to disclose details of an award made under the 2002 Act, given the provisions of s. 28(5B).

25 Introduced by s 34(h) of the Commission to Inquire into Child Abuse (Amendment) Act 2005.

26 [2018] IECA 146.

27 [2018] IECA 146, para 10.

(iii) Lessons from CICA: The Context of Abuse in Special Schools

30. Many persons abused in special schools run by religious orders came forward to CICA's Confidential Committee. The CICA Confidential Committee Report notes that the Confidential Committee heard 58 witnesses in relation to complaints of abuse at 14 institutions.²⁸ It refers to hearing evidence of 36 reports of sexual abuse in special needs schools and residential services.²⁹
31. Evidence was heard regarding 28 named staff and 9 unnamed staff who sexually abused witnesses in special need facilities.³⁰
32. The Confidential Committee's report included the following breakdown of the category of alleged abusers arising in relation to complaints by pupils of special schools:

Position of reported sexual abusers	Males	Females
Religious		
- Authority figure	1	0
- Care staff	16	0
- Teacher	1	0
- Ancillary workers	1	0
- External clergy	1	0
Lay		
- Care staff	1	1
- Ancillary worker	6	1
Visiting professional	1	0
Weekend or holiday placement carer	1	0
Volunteer worker	1	0
General public	1	0
Co-resident	23	4
TOTAL	54	

28 CICA Report Vol. III Confidential Committee, Chapter 13, 'Special needs schools and residential services', para 13.03.

29 *ibid*, para 13.26.

30 *ibid*, para 13.54-55.

C. The High Incidence of Sexual Abuse in Special Schools

33. The figures set out in relation to records of historical sexual abuse in special schools indicate a high prevalence of alleged abusers in particular special schools.
34. As referred to elsewhere in this Report, a number of religious orders that ran special schools have indicated that their records of allegations of historical sex abuse in their schools show that across 17 special schools there are some 528 recorded allegations of historical abuse recorded in relation to 190 alleged abusers.³¹
35. This high prevalence of child sexual abuse in schools for children with disabilities is unfortunately reflective of the general trend of persons with disabilities being more likely to suffer sexual abuse in childhood. The Central Statistics Office ('CSO') has recently reported a widespread survey of sexual violence, the results of which *inter alia* indicate that 'people with a disability experienced sexual violence as a child at a higher rate (35%) than those without a disability (26%)'.³²
36. International studies similarly indicate that disabled children and young people appear much more likely to be sexually abused than the wider population. The Crime in England and Wales Survey of 2019, reported that disabled participants were twice as likely as non-disabled participants to describe experiences of child sexual abuse.³³ More than one in eight (13.4%) respondents who were disabled said that they had been sexually abused in childhood.³⁴ Other studies have similarly reported disabled people as being more likely to be abused.³⁵
37. When considering the figures in the table above, it goes without saying that 190 alleged abusers in relation to 17 special schools is a very high number of alleged abusers. Moreover, one must consider that the tendency in previous inquiries has been to uncover individuals with multiple allegations made against them.³⁶

31 See Chapter 9 and Appendix 7.

32 The Central Statistics Office 'Sexual Violence Survey 2022 – Childhood Experiences' report of 22 June 2023, available at: [https://www.cso.ie/en/releasesandpublications/ep/p-svsce/sexualviolencesurvey2022childhoodexperiences/keyfindings/#:~:text=People%20with%20a%20disability%20experienced,without%20a%20disability%20\(26%25\).](https://www.cso.ie/en/releasesandpublications/ep/p-svsce/sexualviolencesurvey2022childhoodexperiences/keyfindings/#:~:text=People%20with%20a%20disability%20experienced,without%20a%20disability%20(26%25).)

33 Report of the Centre of Expertise on Child Sexual Abuse, *The scale and nature of child sexual abuse: Review of evidence* (June 2021).

34 *ibid*, p. 21.

35 P. Sullivan and J. Knutson, 'Maltreatment and disabilities: a population based epidemiological study' (2000) 24(10) *Child Abuse and Neglect* 1257–1273. This study reports disabled people as 3.4 times more likely to be abused.

36 This is discussed in Chapter 23.

38. In CICA it was noted that 36 individuals were each named in more than 20 allegations:³⁷

Number of Allegations	Number of Individual Respondents	Approximate Percentage %
1	757	63.35
2-10	353	29.54
11-20	49	4.10
20+	36	3.01
TOTAL	1,195	100

39. Similarly the Dublin Archdiocese report³⁸ refers to one individual who admitted abusing over 100 children and another who abused countless more. The Commission therefore indicated that it was important not to equate the number of known complaints of abuse with the total number of actual instances of abuse.³⁹
40. As such, the fact that there are allegations in relation to 190 alleged abusers in special schools may ultimately mean that far more than 528 allegations of historical child sexual abuse may emerge in the event of a full inquiry.

D. Conclusion

41. The Scoping Inquiry has given particular consideration to the position of special schools in circumstances where some special schools were considered as part of CICA and as part of the RIRB. It might therefore be suggested that a future inquiry should not consider such schools again.
42. However, as appears from the above, it is evident that only a limited number of such schools were considered as part of CICA. Further, even where some special schools were considered, it appears that the investigations conducted were limited in light of practical difficulties in respect of hearing witnesses arising from both ongoing Garda investigations and disagreements with legal representatives that prevented full hearings taking place.

37 CICA, Third Interim Report, p. 192.

38 Report of the Commission of Investigation into the Catholic Archdiocese of Dublin (2009), Part 1, [1.9].

39 *ibid.*

43. In light of that limited consideration of special schools in CICA, and the sheer volume of allegations recorded by the religious orders in respect of such schools, the Scoping Inquiry considers that special schools should be within the scope of a future inquiry.
44. In particular, it is the view of the Scoping Inquiry that given the high concentration of allegations in a limited number of schools, consideration should be given to a module of a future inquiry considering allegations of historical child sexual abuse in special schools.

Volume 3

Chapter 14:

Functions, Powers and Procedures of Tribunals of Inquiry and Commissions of Investigation

- A. Introduction

- B. Types of Inquiries
 - (i) Tribunals of Inquiry
 - (ii) Commissions of Investigation
 - (iii) A Bespoke Statutory Inquiry
 - (iv) Non-Statutory Inquiries

- C. The Requirements of Fair Procedures Before Inquiries
 - (i) Who is Entitled to Fair Procedures Before a Tribunal?
 - (ii) Prejudice Caused by Passage of Time in Historical Abuse Inquiries
 - (iii) Aspects of the Guarantee of Fair Procedures
 - (a) Interpretation of terms of reference
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 - (e) The right to be given notice and/or the right to make submissions
 - (f) The right to be furnished with draft findings of the inquiry

- D. Can Tribunals Hear Evidence in Private?

A. Introduction

1. This section of the Report deals with inquiries. It sets out a description of the various types of inquiries, with an explanation of their respective powers and procedures under Irish law. It then discusses the constitutional rights of individuals who may be the subject of an inquiry's investigation, and in respect of whom adverse findings may be made by an inquiry.
2. The following chapters in this section examine previous sexual abuse inquiries in Ireland, looking at their methodology, terms of reference, and analyse the issues that arose for those inquiries, and how they were resolved. This section also examines a sample of international inquiries.

B. Types of Inquiries

3. There are a number of different types of public inquiry available under Irish law as follows:
 - (i) A tribunal of inquiry;
 - (ii) A commission of investigation;
 - (iii) A bespoke statutory inquiry; and,
 - (iv) A non-statutory inquiry.
4. In addition, confidential committee processes have operated concurrently alongside both bespoke statutory inquiries and commissions under the Commissions of Investigation Act 2004.

(i) Tribunals of Inquiry

5. The principal function of a tribunal of inquiry is to ascertain the facts in relation to some matter of public interest which has been identified by its terms of reference and, where appropriate, to make recommendations as to how to prevent future incidents of the same nature.

6. It is important to state at the outset that tribunals of inquiry are not courts. As the Supreme Court held in *Goodman International v Hamilton*,¹ they are not involved in the administration of justice and they have no power to determine civil or criminal liability. The Supreme Court also held that tribunals should not, however, be inhibited from making recommendations or findings merely because of a potential impact on civil or criminal proceedings.² Tribunals have been described as unusual in our legal system, as inquisitorial and as not having an adversarial format.³
7. There is an important difference between court proceedings and a tribunal of inquiry to which a person is called to give evidence. The tribunal hearing is not a criminal or civil trial and the person is not a party; rather, the tribunal hearing is an inquiry to which the person is a witness.⁴
8. The findings of a tribunal have sometimes been described as 'legally sterile', which is an allusion to the fact that the findings of a tribunal are only the conclusions of the tribunal's chairperson and/or its members, and in no sense have the status of a judicial finding, whether civil or criminal.⁵ Persons who are the subject of inquiry by a tribunal are not charged with an offence nor are they on trial. A tribunal can never be seen as a substitute for or an alternative mode of a criminal trial.⁶ Nevertheless, the Supreme Court has recognised that adverse reputational consequences can flow from both the hearings and the findings of a tribunal, acknowledging that while the finding may be 'legally sterile' that does not take away from the fact that 'adverse findings of grave wrongdoing can have devastating consequences for the standing and reputation of a person in the community'.⁷
9. Notably, in considering the positions of public inquiries, the Law Reform Commission concluded that they should only be established in the most serious cases where no other alternative means of protecting the public interest is available.⁸
10. The Government typically appoints the members of tribunals.⁹ Generally, judges (sitting or retired) are appointed to chair or be panel members of a tribunal of inquiry. In circumstances where the 1921 Act gives tribunals many of the powers, privileges and immunities of the High Court, judges are generally appointed as persons who are familiar with making rulings and following fair procedures.

1 [1992] 2 IR 542.

2 *ibid*, paragraph 2.03.

3 *Boyhan v Beef Tribunal* [1993] 1 IR 210, 222 per Denham J.

4 See comments of Denham J. in *Lawlor v. Flood* [1999] 3 IR 107, 137.

5 *Goodman International v. Mr. Justice Hamilton* [1992] 2 IR 542.

6 *Lawlor v. Planning Tribunal* [2010] 1 IR 170, 183. per Murray C.J.

7 *ibid*. See also *Maguire v. Ardagh* [2002] 1 I.R. 385, 576 and 689.

8 The Law Reform Commission, *Consultation Paper on Public Inquiries Including Tribunals of Inquiry* (LRC CP 22 – 2003) ('LRC 2003 Consultation Paper'), at paragraphs 1.27 – 1.31.

9 The Tribunals of Inquiry (Evidence) (Amendment) Act 1979 deals with the membership of the tribunals of inquiry. Section 2(1) provides that a tribunal may consist of more than one person sitting with or without assessors.

11. The Tribunals of Inquiry (Evidence) Acts, 1921 to 2004, as amended, (**'the 1921 Act'**) do not lay down any detailed model of procedures to be adopted by a tribunal in carrying out its functions. A tribunal may enforce the attendance of witnesses before it, and compel the production of documents.¹⁰ It is an offence to fail to comply with an order of a tribunal. For example, if a witness fails to appear before a tribunal without just cause, or fails to produce documents, or answer questions put by the tribunal, that person is guilty of an offence.¹¹ A tribunal may make such orders as it considers necessary for its functions, and has all the powers rights and privileges that are vested in the High Court for this purpose.¹²
12. In some inquiries the granting of legal representation will require that the person be represented at all stages of the inquiry. In other inquiries, this will require that the person be represented only at certain stages of the inquiry, where their rights are at risk.¹³
13. The Tribunals of Inquiry (Evidence) (Amendment) Act 2002 deals with the procedure to be followed if, on receipt of an interim or final report, the relevant Minister takes the view that publication of the report in full or in part might prejudice criminal proceedings. Section 3(1) of the 2002 Act provides that in such circumstances the Minister should apply to the court for directions concerning publication. The Attorney General, the Director of Public Prosecutions and the person affected must be notified of the application and given an opportunity to make submissions. Having heard submissions the court may direct that the report or a specified portion of it may not be published for a specified period or until the court directs. The application can be heard in public or private at the discretion of the Court.

(ii) Commissions of Investigation

14. The Commissions of Investigation Act 2004 (**'the 2004 Act'**) provides that a commission of investigation may be established by the Government, based on a proposal by a Minister, with the approval of the Minister for Finance, to 'investigate any matter considered by the Government to be of significant public concern' (s 3(1)(a)). The Houses of the Oireachtas must consent to the establishment of a commission of investigation.
15. The 2004 Act gives the commission the power to conduct its investigation in any manner it considers appropriate, subject to the provisions of the Act and the commission's rules and procedures.

10 Tribunals of Inquiry (Evidence) Act 1921, s. 1.

11 Tribunals of Inquiry (Evidence) (Amendment) Act 1979, s 3 amends s I of Tribunals of Inquiry (Evidence) Act 1921.

12 Tribunals of Inquiry (Evidence) (Amendment) Act 1979, s.4.

13 *Boyhan v Beef Tribunal* [1993] 1 IR 210, 219.

16. Section 7(2) of the 2004 Act provides that the members of commissions are to be appointed by the specified Minister or by the Government where there is no specified Minister. Section 7(4) of the 2004 Act requires that appointees should be persons who, having regard to the subject matter of the investigation, have the appropriate experience, qualifications, training or expertise.
17. Section 11(1) of the 2004 Act provides that:

A commission shall conduct its investigation in private unless

 - (a) a witness requests that all or part of his or her evidence be heard in public and the commission grants the request, or
 - (b) the commission is satisfied that it is desirable in the interests of both the investigation and fair procedures to hear all or part of the evidence of a witness in public.
18. Thus, in contrast with tribunals, the default is that commissions occur in private, and the exception is for evidence to be given in public. However, as is clear from the above, a public hearing can be granted on a case-by-case basis upon request.
19. The 2004 Act also clearly sets out the rights of interested parties at private sessions. Section 11(2) of the 2004 Act states:

Where the evidence of a witness is heard in private –

 - (a) the commission may give directions as to the persons who may be present while the evidence is heard,
 - (b) legal representatives of persons other than the witness may be present only if the commission –
 1. is satisfied that their presence would be in keeping with the purposes of the investigation and would be in the interests of fair procedures, and
 2. directs that they be allowed to be present,
 - (c) the witness may be cross examined by or on behalf of any person only if the commission so directs, and
 - (d) any member of the commission or a person who has been appointed under section 8 and is authorised by the commission to do so may, orally or by written interrogatories, examine the witness on his or her evidence.
20. Section 14 of the 2004 Act provides that a commission may receive evidence given orally before the commission, by affidavit, or as otherwise directed by the commission or allowed by its rules and procedures. This may include by means of a live video link, a video recording, a sound recording or any other mode of transmission.

21. Section 15 confers on commissions the power to establish their own rules and procedures in relation to evidence and submissions received. In addition, the commission is entitled to compel witnesses to give evidence whether under oath or by means of interrogatories or to direct a witness to answer questions it believes to be relevant to its investigation. A failure, without reasonable excuse, to comply with a direction to attend before a commission is an offence, and may be punishable as either a contempt or as an offence.¹⁴ A commission also has powers to direct a witness or any other person to produce documents in their possession or power relevant to the investigation. A commission may apply to the High Court to compel compliance with its directions. A commission also has a power to enter premises, including private residences, in accordance with the provisions of the 2004 Act, to secure documents.
22. The 2004 Act provides that a commission has a duty to disclose to a person who gives evidence, or about whom evidence is given before the commission, the substance of any evidence the commission has that, in its opinion, the person should be aware of for the purposes of the evidence that person may give, or has given, to the commission. The source of the evidence or document does not have to be disclosed, unless the commission considers that it should be, in the interests of fair procedures or for the purposes of the commission's investigation.¹⁵
23. The commission must send a copy of the draft report, or a portion thereof, to any person who is identified or identifiable in it prior to submitting it to the specified Minister.¹⁶ The draft report must be accompanied by a notice setting out the periods for making submissions or applying to the court for an order amending the draft report. If it is proposed that the draft report is to be amended in a manner that materially affects another party, further submissions on the relevant amendments may be sought.¹⁷
24. An application to amend a draft report may be made where the information contained is (a) commercially sensitive and (b) disclosure is not necessary for the purposes of the investigation.¹⁸

14 Commissions of Investigation Act 2004, s. 16(8) & (9).

15 *ibid*, s. 12(1) & (2).

16 Section 34(1) of the 2004 Act. Section 34(3) provides that 'A person will be regarded as being identifiable if the report contains information which could reasonably be expected to lead to the person's identification'. Section 37 imposes a duty of confidentiality on those to whom the draft report is sent.

17 This process is described, for example, in the Dublin Archdiocese Report, at para [2.40].

18 Section 36(1) of the 2004 Act.

25. On receipt of a commission's report, the specified Minister can do one of two things, publish it or, where the Minister believes that the report or a specified part of it might prejudice criminal proceedings, apply to the High Court for directions concerning publication. Having heard submissions the High Court may direct that the report or some portion of it may not be published for a specified period or until the court directs.¹⁹
26. The 2004 Act also envisages that in certain circumstances it may be deemed appropriate to establish a tribunal of inquiry to inquire into a matter which was within the commission of investigation's terms of reference. In such circumstances, the specified Minister or the commission, if it has not been dissolved, shall make available to the tribunal all the commission's evidence and documents.²⁰

(iii) A Bespoke Statutory Inquiry

27. A bespoke statutory inquiry is an inquiry set up under a specific legislative provision. The Commission to Inquire into Child Abuse ('CICA') is an example of a bespoke statutory inquiry. It was established by the Commission to Inquire into Child Abuse Act 2000 ('the 2000 Act'). The terms of reference of CICA and its powers are discussed in detail elsewhere in this Report, but it is notable that CICA was an unusual form of inquiry, in that it provided for both an Investigative Committee and a Confidential Committee, with the intention that the latter would have a primarily therapeutic function. The Investigative Committee heard evidence and had the power to make findings about whether an institution or an individual was responsible for abuse and other such matters pursuant to its terms of reference. However, CICA's terms of reference were amended in 2005 so that, while it retained the power to investigate and report on abuse in institutions, it was not permitted to name any person responsible for abuse unless that person had a criminal conviction relating to abuse of children.
28. The purpose of the Confidential Committee, on the other hand, was therapeutic. It was not empowered to make findings. It permitted survivors to speak of their experiences in an informal, non-adversarial setting, with no lawyers or other parties present. The accounts were recorded and set out in anonymised form in the Confidential Committee Report of CICA. This model of inquiry was adopted by a number of other jurisdictions in investigating sexual abuse.

19 Section 38(3) of the 2004 Act.

20 Section 45 of the Commissions of Investigation Act 2004.

29. CICA is referred to as a commission, and it might be thought that its powers under the 2000 Act were identical to those to be found under the later Commissions of Investigation Act 2004, referred to above. However, there are in fact some material differences between the two Acts. The default position of the Investigation Committee of CICA was that evidence of child abuse was to be heard in private. Subsequently, the 2000 Act was amended to give the Investigation Committee a discretion to hear such evidence in public or to allow other parties to attend private hearing of such evidence, at CICA's discretion.²¹ In respect of all other evidence, the default position was to hear that evidence in public, but 'having regard to the desirability of holding such meetings in public', there was also a discretion to hear that evidence in private. CICA thus differed from either a tribunal or a commission, in that different statutory provisions governed the different types of evidence it dealt with.
30. CICA's legislation, similar to that in relation to tribunals, did not make specific provision concerning the requirements of fair procedures. In contrast, as set out above, the 2004 Act governing commissions of investigation does make such provision. Rather, it was provided by CICA, in its Third Interim Report, that a person whose conduct was impugned as part of the investigation was entitled to fair procedures, including: the grant of legal representation; an entitlement to a statement of the allegations made against him or her; permission to cross-examine by counsel his or her accusers; permission to testify in his or her own defence and permission to address, by counsel, the Committee in his or her own defence.²²
31. In contrast, a commission under the 2004 Act is granted statutory powers to deal with fair procedure rights in a more flexible manner than was expressly conferred on CICA, or indeed is conferred on a tribunal pursuant to the 1921 Act. The case law on the fair procedures rights of persons who appear before various types of inquiries is considered below.

21 The Commission to Inquire into Child Abuse (Amendment) Act 2005, s 6 amended s 11 of the Commission to Inquire into Child Abuse Act 2000.

22 Commission to Inquire into Child Abuse, Third Interim Report (December 2003), p. 71; following *Re Haughey* [1971] IR 217. See also Commission to Inquire into Child Abuse, Investigation Committee: Final Ruling of the Investigation Committee (18 October 2002), p. 36.

(iv) Non-Statutory Inquiries

32. A non-statutory inquiry is not established pursuant to legislation, in contrast with commissions, tribunals, and bespoke statutory inquiries. Thus, such an inquiry possesses no statutory powers in aid of its investigation and relies on the co-operation of those concerned in its investigation to achieve its objectives. It cannot hear sworn evidence and witnesses appearing before it do not have the same privileges as witnesses appearing before a statutory inquiry. As such, it has no powers of compellability of witnesses or documents. The Ferns Inquiry, referred to in greater detail in the next chapter, is an example of a successful non-statutory inquiry.
33. Further, since the advent of the General Data Protection Regulation ('GDPR')²³ and the Data Protection Act 2018, there is a requirement for a statutory basis upon which personal data may be given to an inquiry and processed by an inquiry in furtherance of its investigation. A statutory power to require the provision of relevant documentation allows for the sharing of data which might otherwise not be disclosable because of data protection concerns. In the absence of such a power, a non-statutory inquiry could be greatly impeded in its work.

C. The Requirements of Fair Procedures Before Inquiries

34. The decision of the Supreme Court in *Re Haughey* [1971] IR 217 established that Article 40.3 of the Constitution provided 'a guarantee to the citizen of basic fairness of procedures'. Where, in proceedings before any tribunal, (in that case the 'tribunal' was an Oireachtas committee) a party to the proceedings is at risk of having his or her good name, or his or her person or property, or any of his or her personal rights jeopardised, then those proceedings may be correctly classed as proceedings which may affect his or her rights. In that case, the Court held that the affected party should be afforded the following minimum protections:
- (i) that he should be furnished with a copy of the evidence which reflected on his good name;
 - (ii) that he should be allowed to cross-examine, by counsel, his accuser or accusers;
 - (iii) that he should be allowed to give rebutting evidence; and
 - (iv) that he should be permitted to address, again by counsel, the Committee in his own defence.

23 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, OJ L 119, 4.5.2016, p. 1–88.

35. The Supreme Court has subsequently identified that this constitutional guarantee of fair procedures encompasses the principles of natural justice, that is, an obligation to hear the other side to a dispute and not to be a judge in one's own cause.²⁴ For the purpose of this chapter, we refer to constitutional guarantee of fair procedures and natural justice, as 'procedural rights' or 'fair procedures'.
36. While the tribunal that the court was considering in *Re Haughey* was an Oireachtas committee, a tribunal of inquiry, established under the 1921 Act is similarly obliged to conduct its inquiry in accordance with the principles of constitutional justice and in particular with regard to fair procedures.²⁵ A commission of investigation pursuant to the 2004 Act also has to act in accordance with fair procedures and constitutional justice. However, it has a discretion, pursuant to the provisions of the 2004 Act, to apply a less stringent version of *Re Haughey* rights, in that it may decide not to permit cross-examination and to instead afford the person concerned a right to respond to a witnesses' evidence by way of submission.
37. Further, the courts have made clear in the context of litigation concerning tribunals of inquiry, that the requirements of fair procedures may vary according to the character of the proceedings and the gravity of the findings being made.²⁶
38. In *Lawlor v Flood*, a case concerning the Flood tribunal, Murphy J, speaking in the context of the right to cross-examine, stressed that the constitutional rights flowing from *Re Haughey* are 'not a ritual or a formula requiring a slavish adherence'.²⁷ Rather, he suggested that the constitutional entitlement of a particular individual will vary according to the position in which he is placed, a position that he acknowledged might well evolve during the course of proceedings.
39. Similarly, in *O'Callaghan v Mahon*, Geoghegan J stated that:²⁸
- Given the clear public interest from time to time in having matters investigated by a 1921 Act tribunal, it may well be that the requirements of the constitutional obligation to vindicate as far as possible the good name of the citizen are in that context somewhat less stringent than in other circumstances. For that reason, I would prefer not to express any view on whether all the rules relating to evidence and cross-examination etc. fashioned by the courts or derived from the Common Law Procedure Acts are necessarily and in all circumstances equally applicable to a 1921 Act tribunal.

24 *Goodman International v. Hamilton* [1992] 2 IR 542, 609.

25 See, for example, *Haughey v. Moriarty* [1999] 3 IR 1, 60.

26 *Murphy v. Flood* [2010] 3 IR 136, 226.

27 [1999] 3 IR 107, 143.

28 [2006] 2 IR 32, 80.

(i) Who is entitled to fair procedures before a tribunal?

40. The Supreme Court in *Re Haughey* makes clear that where a person who is a party to proceedings is at risk of having his personal rights affected by the proceedings, then that person is entitled to fair procedures as a means of protecting and vindicating their rights.
41. Thus, where a witness to a tribunal may be prejudicially affected by the evidence given at the hearings, or by any of the inquiry's findings, they will be likely to be entitled to the full panoply of procedural rights set out in *Re Haughey*. However, full representation before a tribunal may be refused if there is no evidence that the party concerned is likely to be prejudicially affected by the findings of the inquiry or where no allegations are made against them.²⁹
42. In the context of a bespoke statutory inquiry, there is authority for the proposition that members of a religious congregation should be granted full representation rights to defend the name of their deceased members who are alleged to be abusers. In *Murray v Commission to Inquire into Child Abuse*,³⁰ the High Court (Abbott J.) held that, while in general the law does not protect the reputation of a deceased person, the reflection on the reputation of living members of a congregation of an adverse finding against one of their deceased members meant that a distinction could be made.³¹ The test for naming those accused of abuse is described as follows:³²

155 From the foregoing authorities, I am of opinion that, **in the absence of other convincing evidence, the courts would be very reluctant, as a matter of prudence, to allow a claim against a deceased person unless it was corroborated in relevant material respects.**

...

159 The question is whether that standard is one of a requirement of corroboration which is mandatory in all cases or one analogous to the standard in the Criminal law Rape (Amendment) Act 1990 and the so-called rule of prudence or practice of the courts in relation to civil claims against the deceased to leave the decision as to the requirement of corroboration to the tribunal deciding the facts, to cases where the evidence is not found to be otherwise convincing. I find that the proper construction and interpretation of the Act of 2000 is that **the investigating committee should exercise its discretion, in relation to corroboration, on the same basis as the courts have done in relation to the claims against the estates of deceased persons.** (emphasis added)

29 *Boyhan v Beef Tribunal* [1993] 1 IR 210.

30 [2004] 2 IR 222.

31 *ibid*, at 289.

32 *ibid*, at 296-7.

43. It should be borne in mind that the challengers to CICA in the *Murray* case expressly argued that if the 2000 Act establishing CICA allowed for the naming of deceased or incapacitated persons, then the Act was unconstitutional. Importantly, the High Court rejected this claim. While the judgment was under appeal to the Supreme Court, CICA made the decision not to name anyone in their findings, save where the individual concerned had been convicted of abuse. On that basis, the appeal did not proceed and the issue of the constitutionality of the CICA legislation, allowing the naming of individuals found to be responsible for abuse, was not determined by the Supreme Court.
44. In considering the decision in *Murray*, it is relevant that the fact that ‘the congregation of the Christian Brothers is a congregation which is perceived in the State as having a distinct charism and tradition and has a distinct reputation which adheres to its members’ was conceded by the CICA Investigation Committee.³³ The point was therefore not contested. A future case might take issue with this position.
45. Moreover, the reputational rights of a congregation is put in question by the Supreme Court’s decision in *Hickey v McGowan*.³⁴ In that case, the Court that a religious order cannot be treated as if it were a body corporate and therefore a single entity capable of being sued or, on the facts of that case, vicariously liable for the acts of its members.³⁵ The Supreme Court found that since orders are unincorporated associations, members of the religious order who were not members at the time of an incident of sexual abuse by another member were not sufficiently connected to be vicariously liable for such a tortious act.³⁶ Absent the nomination of a representative defendant, the only way that the religious order could be sued was to sue all the Brothers who were members at that time individually. It could well be argued that if a religious order does not exist as a legal person for the purpose of being sued, it cannot exist as a legal person for the purpose of having a reputation.
46. In any event, *Murray* was decided in the context of a bespoke statutory inquiry and the specific terms of the 2000 Act, which at the time of the hearing expressly permitted the making of findings of abuse against named individuals. Finally, one would have to consider the extent to what a right of living members of a congregation to defend the congregation’s reputation through defending claims of sexual abuse against deceased members could be relied upon where members of a particular order have already been convicted of sexual abuse or such abuse is admitted by the order.

33 [2004] 2 IR 222, 263.

34 [2017] 2 IR 196.

35 *ibid*, at 230, per O’Donnell J: ‘I cannot accept that, by some process of unexplained alchemy, a group of individuals such as that involved in this case, which is in law an unincorporated association, can come to be treated for the purposes of these proceedings only as if it were a corporate entity’.

36 [2017] 2 IR 196, 241.

(ii) Prejudice caused by passage of time in historical abuse inquiries

47. The issue of prejudice to those being investigated caused by delay and the passage of time since the sexual abuse complained of was alleged to have taken place arose for consideration in the *Murray* case. It was argued that those accused of wrongdoing could not properly defend themselves as the events complained of had happened a long time ago. The Investigation Committee ruled that it would deal with the issue of the lapse of time since the events complained of had occurred, on the basis of considering the prejudice caused by the passage of time and considering whether it was unsafe to make a determination as to whether a respondent was responsible for abuse.³⁷ The High Court upheld the Investigation Committee's ruling in this regard.³⁸
48. A future inquiry concerning historical sexual abuse, if tasked with making findings as to whether abuse occurred, and identifying those responsible, is likely to be confronted with the same issues. However, it should be noted that in *Murray* the Christian Brothers seem to have conceded that 'in instances where there had been a confession or conviction for abuse in respect of complaint, the arguments [regarding the impact of delay on infirm priests] would not apply'.³⁹

(iii) Aspects of the guarantee of fair procedures

(a) Interpretation of terms of reference

49. Fair procedures can require that a tribunal or commission provide an explanation of its interpretation of its terms of reference in early course to persons likely to be affected by the inquiry.⁴⁰ It may be necessary for the tribunal or commission to explain any further interpretation it may have placed on the terms of reference in the light of the facts that emerge.⁴¹

(b) The right to legal representation

50. In *Re Commission to Inquire into Child Abuse*,⁴² the High Court found that the assistance of counsel was as an 'essential part of due process before tribunal' to vindicate a citizen's right to his good name. Notably, this case concerns the powers of CICA and not a tribunal of inquiry. CICA had ruled that legal representatives attending hearings on behalf of complainants and respondents should be limited to

37 [2004] 2 IR 222, 301.

38 *ibid.*

39 [2004] 2 IR 222, 289-290.

40 *Haughey v Moriarty* [1999] 3 IR 1, (Hamilton CJ).

41 *ibid.*, per Hamilton CJ, at p. 56.

42 [2002] 3 IR 459.

one solicitor and one counsel to give effect to the CICA's statutory obligation to provide an atmosphere which was as sympathetic and as understanding as possible to persons who alleged that they were abused.⁴³ The High Court nonetheless found that CICA had no jurisdiction to limit the right to legal representation, holding that to do so was a 'substantial interference' with the right and was *ultra vires* its powers.

(c) *The right to cross-examination*

51. The right to cross-examination is well-established as a facet of the right to fair procedures under the Constitution. As set out above, CICA in its Third Interim Report, had stated that a person whose conduct was impugned before the commission was entitled to fair procedures, including permission to cross-examine by counsel his or her accusers. CICA had a procedural requirement that a statement from a person accused of wrongdoing had to be provided in response to allegations of a survivor as a precondition for the right to cross-examine the survivor. The Christian Brothers in the *Murray* case argued that this requirement effectively curtailed the ability of the representatives of the congregation and of deceased and incapacitated members of the congregation to cross-examine. The High Court found that cross-examination on behalf of the deceased and incapacitated (by representatives of their congregation) of a general nature ought to be allowed in accordance with fair procedures.⁴⁴ Again, the question of whether this aspect of *Murray* could be relied on by congregations in a future inquiry is subject to the overarching point, discussed above, as to whether congregations and fellow members properly have a right to represent deceased or infirm members before an inquiry to defend their reputation.
52. Under the 2004 Act, the Chair can decide that providing a draft report to affected parties with an opportunity to comment is sufficient to meet the requirements of fair procedures for affected persons, and to decline any cross-examination by such parties.⁴⁵ This is discussed in greater detail below.

43 Section 4 of the Commission to Inquire into Child Abuse Act 2000.

44 *Murray v The Commission to Inquire into Child Abuse* [2004] 2 IR 222, 304.

45 See comments of Charleton J in *Shatter v Guerin* [2019] IESC 9, at para 24.

(d) *The right to be furnished with a copy of relevant evidence*

53. In *O’Callaghan v Mahon*,⁴⁶ the applicant was a witness to the Mahon tribunal and had sought disclosure of all documents concerning allegations made against him by another witness to the tribunal to allow him to cross-examine that witness. The tribunal refused disclosure on the basis that the statements had been furnished to them in confidence, save that it agreed to disclose statements that revealed a significant, gross or glaring contradiction. The Supreme Court held that this failed to comply with the requirements of fair procedures and that confidentiality cannot undermine those requirements. Confidentiality can only apply to information that was not necessary to be used at oral hearings. If the information is essential for the purposes of a cross-examination then fair procedures mean the tribunal is not entitled to maintain confidentiality and could be judicially reviewed for doing so.⁴⁷

(e) *The right to be given notice and/or the right to make submissions*

54. There have been several judgments of the Irish courts which have determined that, in the discrete circumstances of the relevant tribunal or commission, a witness or party to the inquiry ought to have been afforded notice of a course of action taken by the inquiry and, relatedly, an opportunity to make submissions on the same. The Supreme Court in *Caldwell v Mahon Tribunal*,⁴⁸ for example, held that fair procedures required that affected parties should have some opportunity of addressing the respondent tribunal on the question of whether to commence or proceed any further with the investigation of a module of the tribunal proceedings. The courts have similarly held that where a finding is made that a witness to a tribunal is obstructive or non-cooperative, that witness ought to be given notice of that intended finding and afforded an opportunity to make submissions.⁴⁹

(f) *The right to be furnished with draft findings of the inquiry*

55. In *O’Callaghan v Mahon*,⁵⁰ O’Neill J observed that the applicants had access to the evidence given by witnesses in the course of the public hearings, had the opportunity to cross-examine witnesses where appropriate, and to provide written submissions to the Mahon tribunal, and as such there was no requirement that they were to be provided with the provisional findings of the tribunal insofar as they affect them, notwithstanding the voluminous evidence involved. The High Court contrasted the proceedings of a public tribunal of inquiry with other inquiries, such as a non-

46 [2006] 2 IR 32.

47 [2006] 2 IR 32, Geoghegan J at p. 81.

48 [2011] IESC 21.

49 See *Murphy v Flood* [2010] 3 IR 136 and *Chawke v Mahon* [2014] 1 IR 788.

50 [2009] IEHC 428.

statutory private inquiry or an inquiry under the Companies Acts, where evidence was initially assembled in private and without cross-examination. The same contrast can be drawn in relation to a commission of investigation under the 2004 Act, where the furnishing of a draft report to affected parties for comment is a key procedural protection, and can be of itself a sufficient minimum standard of fair procedures for affected persons.⁵¹

D. Can Tribunals Hear Evidence in Private?

56. One potential approach that might alleviate the difficulty of survivors facing cross-examination is to hear their evidence in private. As discussed above, commissions of investigation generally sit in private, while tribunals of inquiry generally sit in public.
57. As a tribunal of inquiry is not a court, the duty imposed on the courts by Article 34.1 of the Constitution that justice shall be administered in public has no application. However, section 2 of the 1921 Act clearly establishes that the default position is that a tribunal is to sit in public.
58. It appears that it is possible for tribunals to sit in private during the evidence-gathering stage⁵² and also for hearings where, as provided by section 2 of the 1921 Act, 'in the opinion of the tribunal it is in the public interest expedient so to do for reasons connected with the subject matter of the inquiry or the nature of the evidence to be given and in particular where there is a risk of prejudice to criminal proceedings'.
59. A number of cases examining section 2 of the 1921 Act have arisen in circumstances where a tribunal has refused an application to sit in private, and that decision was been challenged in the High Court.

51 See comments of Charleton J in *Shatter v Guerin* [2019] IESC 9, at para 24.

52 In *Haughey v Moriarty* [1999] 3 IR 1 Hamilton CJ, at 74, stated that the evidence-gathering stage must occur in private because '[i]f these inquiries in this investigation were to be held in public it would be in breach of fair procedures because many of the matters investigated may prove to have no substance and the investigation thereof in public would unjustifiably encroach on the constitutional rights of the person or persons affected thereby.'

60. In *Haughey v Moriarty* [1993] 3 IR 1, Hamilton CJ outlined the procedural phases of a tribunal of inquiry as follows:
- (1) A preliminary investigation of the evidence available;
 - (2) The determination by the Tribunal of what it considers to be evidence relevant to the matters into which it is obliged to enquire;
 - (3) The service of such evidence on persons likely to be affected thereby;
 - (4) **The public hearing of witnesses in regard to such evidence and the cross-examination of such witnesses by or on behalf of persons affected thereby;**
 - (5) The preparation of a report and the making of recommendations based upon facts established at such public hearing. (emphasis added)
61. The Court concluded that section 2(a) applied only to the fourth stage, the public hearing of evidence and cross-examination.⁵³
62. In *O’Callaghan v Mahon*, the Supreme Court considered the evidence-gathering stage of a tribunal’s work. The Dáil Éireann resolution establishing the tribunal requested the tribunal to ‘carry out such preliminary investigations in private as it thinks fit using all the powers conferred on it under the Acts, in order to determine whether sufficient evidence exists in relation to any of the matters referred to above to warrant proceeding to a full public inquiry in relation to such matters’.⁵⁴ Hardiman J accepted that tribunals had the authority to engage in a preliminary investigation to identify issues meriting further investigation at public hearings.⁵⁵
63. In *Murphy v Flood*,⁵⁶ it was emphasised by Hamilton CJ that:⁵⁷
- ... a private session is an exception to the general mode of procedure contemplated for hearings before the Tribunal: The Tribunal must be conducted in public and it may not refuse to allow the public to be present “unless in the opinion of the Tribunal it is in the public interest expedient so to do” ... It is purely a matter for the Tribunal to decide whether it be in the public interest expedient to refuse to allow the public or any portion of the public to be present at any of the proceedings of the Tribunal.

53 [1999] 3 IR 1, 74-75.

54 Quoted in [2006] 2 IR 32, 72.

55 *ibid*, at 74.

56 [2000] 2 IR 298.

57 *ibid*, at 305.

64. The court ultimately determined that since there was no evidence that the decision not to exclude the public from the hearing of evidence was in any way unreasonable or irrational, the Court was ‘not entitled to interfere with the ruling made by the Sole Member thereof as there was no breach of the Applicant’s constitutional rights ...’⁵⁸

65. A number of cases have addressed whether a tribunal has the discretion to require a public sitting. In *Flood v Lawlor (Planning Tribunal)*⁵⁹ and *O’Brien v Moriarty Tribunal*,⁶⁰ the Supreme Court held that it would not interfere with the tribunal’s discretion to require a public hearing unless its decision was irrational or against common sense. In *Flood v Lawlor*, Keane CJ noted that:⁶¹

As has been frequently pointed out, one of the objects and indeed probably the main object of an Inquiry, is to seek to allay public concern arising from matters comprised in the terms of reference of the Tribunal and affecting in general, although not exclusively, the conduct of public life at various levels and the conduct of public administration at various levels. That object of course will be defeated if the Inquiry as a general rule is to be conducted in private rather than in public.

66. However, the inverse proposition, being a challenge to a tribunal deciding to hear evidence in private, does not appear to have been considered by the courts. What can be said is that tribunals have a general discretion in determining their own procedures. In *O’Brien v Moriarty Tribunal*,⁶² Denham J reiterated that:

... the interpretation of the terms of reference is a function of the Tribunal and primarily is not a matter to be determined by the Court ... Tribunals should be afforded a significant level of discretion as to the manner in which they carry out the important work which has been given to them by the Houses of the Oireachtas.

67. While the standard of review suggested in the cases where applicants have challenged a tribunal’s decision not to hear their evidence in private, considered above, is the low *O’Keeffe* irrationality/unreasonableness standard (that the decision making authority had before it no relevant material which would support its decision) in the aftermath of subsequent cases such as *Meadows v Minister for Justice*⁶³ and *Burke v Minister for Education*,⁶⁴ which held that government or legislative action interfering with constitutional rights should be subjected to a more rigorous

58 [2000] 2 IR 298, 305.

59 [2000] IESC 76.

60 [2005] IESC 32.

61 [2000] IESC 76, p. 4.

62 [2006] IESC 6.

63 [2010] 2 IR 701.

64 [2022] 1 ILRM 73.

proportionality analysis, the likelihood is that a proportionality standard of review would be applied to a decision to hear evidence in private.

68. The Law Reform Commission has previously recommended that uncontested evidence should be 'read into' the record where all the interested parties consent, with a written account of the evidence being, 'where appropriate, posted on a tribunal's website or circulated to parties present at the hearing', on the basis that this would satisfy the requirement imposed on tribunals of inquiry by section 2(a) of the 1921 Act to conduct proceedings in public.⁶⁵
69. There have been tribunals that have primarily held hearings in private. The CervicalCheck Tribunal is not governed by the 1921 Act, but by the CervicalCheck Tribunal Act 2019, as amended ('the 2019 Act'). The CervicalCheck Tribunal was not investigatory, but rather was established to determine liability, subject to the consent of all parties, in respect of claims arising from the CervicalCheck scandal. Unlike tribunals under the 1921 Act, section 20 of the 2019 Act provided that the CervicalCheck Tribunal 'shall conduct its hearings otherwise than in public' unless 'a claimant requests the Tribunal to hold a hearing or part of a hearing in public and the Tribunal agrees that it would be appropriate to do so'. Thus, the CervicalCheck Tribunal provides an outlier example of a Tribunal which, due to its content and the focus on confidential medical information, was predominantly conducted in private.
70. The Lindsay Tribunal, often referred to as the Blood Tribunal, also took measures to preserve the anonymity of witnesses, including by pseudonymisation.⁶⁶
71. The Morris Tribunal heard evidence in private from a witness who was subject to criminal prosecution and prevented publication of that evidence until the conclusion of the criminal case to prevent prejudice to an accused. The report in respect of that module of the tribunal's work was prepared in the normal way and submitted to the Minister. If criminal proceedings were still pending at that stage, the tribunal found that it would be a matter for the Minister under section 3 of the 1921 Act to proceed as he thought fit.⁶⁷

65 LRC 2003 Consultation Paper, at paragraph 7.52.

66 Report of the Tribunal of Inquiry into the Infection with HIV and Hepatitis C of Persons with Haemophilia and Related Matters (the "Lindsay Tribunal"), available at <https://www.gov.ie/pdf/?file=https://assets.gov.ie/42662/ea2b2faad3434d4fa7afed177c1bbb0f.pdf#page=null>.

67 <https://www.gov.ie/en/collection/539ba-morris-tribunal/>.

72. There is no case law on the provisions of the 2004 Act which establish the default position that in general a commission sits in private, but may sit in public if requested by a witness to do so, and the commission accedes to that request, or alternatively, the commission is satisfied that sitting in public is in the interests of the investigation and procedural fairness.
73. The main difference, however, between the procedures of a tribunal and those of a commission, apart from the fact that one sits mainly in public and the other in private, is that a commission enjoys much greater flexibility in the procedural rules it may apply. While there is some judicial commentary, including from the Supreme Court, that a tribunal does not have to apply the full extent of procedural rights to every person its findings may affect, it seems a departure from those procedural rights is much more likely to lead to legal challenges, as the position is uncertain. Further, in practice, case law suggests that generally the entitlement to full procedural rights before a tribunal will be upheld.

Chapter 15:

Methodology and Procedures of Previous Inquiries

- A. The Ferns Report
 - (i) Methodology of Ferns
 - (ii) Findings and Impact

- B. The Commission of Investigation into the Dublin Archdiocese
 - (i) Methodology
 - (ii) Findings
 - (iii) Criticisms of Methodology Utilised

- C. The Commission of Investigation into the Diocese of Cloyne
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- D. The Commission to Inquire into Child Abuse ('CICA')
 - (i) Introduction
 - (ii) Establishment
 - (a) The Investigation Committee
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 - (iv) Problems Encountered by the Investigation Committee in Carrying out its Work
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 - (v) Changes to CICA's Methodology
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 - (b) Ryan J's New Scheme of Procedure for CICA
 - (c) Further Changes Made Following the Position Paper
 - (d) Naming Individuals
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- (g) Revised Hearing Process
- (h) Expert Evidence
- (vi) Methodology of the Confidential Committee
- (vii) Associated Redress Schemes
 - (a) The Residential Institutions Redress Board
 - (b) Caranua

A. The Ferns Report

1. The BBC documentary 'Suing the Pope' aired on 19 March 2002 and documented allegations of clerical child abuse in the diocese of Ferns. The documentary caused considerable public disquiet and in April 2002, the Minister for Health and Children appointed Mr George Birmingham SC to carry out a preliminary investigation into the matter and identify the central issues for any inquiry. The Birmingham Report was published on 1 August 2002.¹
2. On foot of the recommendations of the Birmingham Report, in March 2003 the Ferns Inquiry was established as a non-statutory inquiry. The Birmingham Report recommended a non-statutory inquiry in light of the desire to hold proceedings in private, and because there was not a wide dispute as to the facts to be established.² It was felt that a non-statutory inquiry 'would be able to answer the basic question of who knew what when'.³ The relevant church authorities had also confirmed they would cooperate with an inquiry in the absence of any powers of compellability or discovery. The terms of reference, however, made clear that, if there was a lack of cooperation, this would result in the Government granting the inquiry statutory powers.⁴
3. The Ferns Inquiry was tasked with identifying allegations of child sexual abuse made against clergy in the diocese of Ferns, and the church and authorities' response to those complaints. The Inquiry examined not only the response of the diocese, but also the response of the Southeastern Health Board and An Garda Síochána to the allegations of abuse. The Ferns Report was presented to the Government on 25 October 2005 and was published on the following day.⁵

(i) Methodology of Ferns

4. The Inquiry's aim was to establish the factual background to child sexual abuse in the diocese by reviewing all relevant documentation and by inviting statements from witnesses, at oral hearing, in written form, or both.⁶ Survivors were given the option to write a statement, speak in person/by telephone or attend an oral hearing. Most survivors gave oral evidence, and many made a written statement also.

1 Report of George Birmingham SC, 'Proposed Inquiry into the Handling of Allegations of Child Sex Abuse Relating to the Diocese of Ferns' (August 2002) ('**Birmingham Report**').

2 Birmingham Report, p. 90.

3 The Ferns Inquiry was established prior to the coming into effect of the Commissions of Investigation Act 2004, ('**the 2004 Act**') so that at the time of the Birmingham Report the options available were a tribunal of inquiry, a non-statutory inquiry, or to enact special legislation setting up a specific statutory inquiry.

4 This was stated at para. h of the terms of reference.

5 Murphy, Francis D, Buckley, Helen, Joyce, Laraine. 1995. The Ferns Report: presented to the Minister for Health and Children, October 1995. Dublin: Stationery Office. ('**Ferns Report**').

6 Ferns Report, p. 3.

5. As the Inquiry was non-statutory, those appearing before it did not give sworn testimony, were not cross-examined, and were not entitled to legal representation. Where the Inquiry conducted oral hearings, this evidence was unsworn, and witnesses were guided through their testimony by senior counsel engaged by the Inquiry. Persons against whom allegations were made were not entitled to cross-examine witnesses.⁷
6. The Ferns Report records the extensive cooperation of Bishop Eamon Walsh. On accepting his appointment as Apostolic Administrator of the Diocese of Ferns, Bishop Walsh stated:

In my caretaker capacity I will fully co-operate with whatever instrument of inquiry is deemed most appropriate in our search for the truth. It is only when the truth has been established that all of us can move on from the crimes that were committed, and the responses made.⁸
7. The Ferns Report also included research on the areas of child sexual abuse, paedophilia, and the management structures of the church, the Health Board, and An Garda Síochána.
8. Unlike later inquiries, no ‘sampling’ approach was taken, and the Inquiry appears to have assessed the responses to all the complaints and allegations it discovered. Oral evidence was heard from 90 survivors and the Inquiry received a further 57 written submissions. In addition, it also heard over 100 witnesses from church authorities, representatives of the Southeastern Health Board, and the Gardaí.
9. The Inquiry identified more than 100 allegations of child sexual abuse made between 1962 and 2002 against 21 priests.⁹ Over 40 of those complaints related to two priests. 10 of the priests against whom allegations were made were deceased, 3 had been laicised and the remaining 8 priests were no longer in active ministry at the time of the report.¹⁰

7 *ibid*, pp. 246-7.

8 Birmingham Report, p. 6.

9 Ferns Report, p. 6.

10 *ibid*.

10. The Inquiry's terms of reference were directed towards the response to complaints or allegations of child sexual abuse, including *inter alia* identifying what complaints or allegations had been made prior to April 2002, and the nature of the response to the complaints by the church authorities and any public authorities to which the complaints were reported.¹¹ The Inquiry was also to identify the reasons for the inadequate or inappropriate responses and whether any shortcomings had been addressed, and to look at communications between the relevant authorities, and make any necessary recommendations, including recommendations to improve child protection.
11. In circumstances where its Terms of Reference were directed towards responses to allegations, rather than allegations themselves, the Report contained an important caveat:¹²

The Inquiry has identified approximately 100 allegations or complaints of child sexual abuse ... **It is no part of the function of the Inquiry to form any view as to whether those complaints or allegations are, or anyone of them is, well founded.** The primary task of the Inquiry is to identify the response by the Church and public authorities to such complaints whether they are true or false.

... The Inquiry emphasises that the contents of this chapter consist of allegations or complaints substantially in the terms of the history provided directly or indirectly by the complainants. **With the exception of the two priests who pleaded guilty to certain charges brought against them and to certain specific and limited admissions referred to in Chapter 5, all of those allegations and complaints are and were vehemently denied by all of the priests living at the time when the allegations were made against them.** The priests who were dead at the time when the allegations were made did not have the opportunity to refute such allegations. **Again, it must not be assumed that the Church or lay authorities accept that the allegations set out in this Chapter were made to them at all or were made in the terms recorded in this Chapter save to the extent that it is expressly so admitted elsewhere in the Report.** The failure to repeat the phrase "it is alleged" throughout every paragraph of this Chapter **must not be taken as indicating that the Inquiry has accepted that the allegations or complaints are, or any of them is, true.** (emphasis added)

11 *ibid*, p. 2.

12 *ibid*, p. 70. Similarly, in the Conclusion it is stated: The persons against whom the allegations were made were not given an opportunity to confront or cross-examine the complainants in the course of this Inquiry. The Terms of Reference of the Inquiry require it to identify the allegations of child sexual abuse as reported and to consider the response to those allegations by the appropriate authorities. Such response could not be predicated on proving the truth or otherwise of such allegations. The Inquiry does not express and was not required to express any view as to the truth or otherwise of any allegation. (p. 246-7)

(ii) Findings and Impact

12. The Inquiry identified more than 100 allegations of child sexual abuse made between 1962 and 2002 against 21 priests.¹³ The report found that the church authorities failed to act to protect children and placed the interests of individual priests ahead of those of the community in which they served.¹⁴ The Inquiry found that the bishops consistently failed to appropriately respond to allegations of child sexual abuse in failing to have the accused priest to step aside from active ministry pending a determination of the allegation. The Inquiry found complaints were inappropriately investigated because they required that complaints be corroborated or substantiated by convincing evidence before suspending the accused priest.¹⁵
13. In total, some 20 recommendations were made in the Ferns Report, including recommending a national publicity campaign about child sexual abuse; that legislation and publicity preserve and strengthen the more open environment of reporting child sexual abuse; that organisations which employ people to work with children should have codes of conduct; and that all complaints should be detailed in written record and that records be accurately kept.¹⁶
14. However, while the Inquiry was required to identify any ‘complaints and allegations’ and to further assess the adequacy of responses to such complaints and allegations, the matter-of-fact manner in which such allegations were set out could fairly be taken as suggestive of an actual finding of wrongdoing. This approach appears to be borne out of the recommendations of the Birmingham Report as to how the Inquiry should be conducted which suggested that, while the focus of the inquiry should be on responses, the Inquiry should not be ‘artificially’ constrained in its reporting of complaints and allegations and that the ‘inquiry should be able to deal with situations where it was established that there was actual knowledge, or strong and clear suspicion, of abuse’.¹⁷
15. The great majority of allegations were reported using anonymisation of both the victim and the alleged perpetrator. While there may have been concerns as to potential legal challenges underlying these choices, it also appears from the Birmingham Report that the decision to anonymise alleged perpetrators may have been motivated, in part, by a concern for the welfare of the family members of alleged abusers. The Birmingham Report speaks of the distress experienced by

13 Ferns Report, p. 6.

14 *ibid*, p. 254.

15 *ibid*, p. 255.

16 Ferns Report, p. 263.

17 Birmingham Report, p. 93.

family members of persons accused of abuse during public revelations of such abuse, and suggests that 'any inquiry should be structured so as not to increase their pain'.¹⁸

16. The Ferns Report named two clerics as being the subject of child sexual abuse allegations, on the basis that they had previously been convicted of offences.¹⁹ The notorious paedophile Fr Sean Fortune, who was awaiting prosecution at the time of his death by suicide, was also named. While the majority of other priests were anonymised and referred to by letters of the Greek alphabet, a number of others were named, it seems on the basis that they were deceased by the time of the publication of the report.²⁰ One living priest who had not been convicted of offences is named as having allegation against him, although the Report set out his unequivocal denial of the allegations.²¹ There has been some criticism of the Ferns Report not naming the majority of priests involved.²²
17. In contrast, the Ferns Report takes a more liberal approach to the naming of individuals involved in responding to allegations and complaints, including in particular Bishop Comiskey, in respect of whom a number of very serious findings are made, including that he had failed to appropriately respond to allegations of child sexual abuse in failing to have the accused priest step aside from active ministry pending investigation of the complaint, and requiring that complaints be corroborated by convincing evidence before suspending an accused priest.²³ Bishop Comiskey is noted to have co-operated fully with the Inquiry. Bishop Comiskey was himself the subject of an allegation by Fr Sean Fortune that he had abused him, which was recorded in a letter made shortly before his death by suicide.²⁴ The Ferns Inquiry heard from a number of persons in relation to this allegation. In the Report, it is noted that Bishop Comiskey said he 'would have welcomed an opportunity to actually cross-examine people who made allegations against him at a public inquiry because from his perspective, it was unsatisfactory that he was being questioned about unsworn evidence'.²⁵

18 *ibid*, p. 89-90.

19 Ferns Report, p. 70.

20 Ferns Report, p. 70.

21 *ibid*, p. 102. Monsignor Ledwith was dismissed from the clerical state by the Pope: 'Monsignor Ledwith dismissed from priesthood by the Pope' *Irish Independent* (27 October 2005) <https://www.independent.ie/regionals/wexford/enniscorthy-news/monsignor-ledwith-dismissed-from-priesthood-by-the-pope/27182838.html>.

22 Paul Michael Garrett, 'A "Catastrophic, Inept, Self-Serving" Church? Re-examining Three Reports on Child Abuse in the Republic of Ireland', (2013) 24(1) *Journal of Progressive Human Services*, 43-65, p. 47.

23 Ferns Report, p. 255.

24 *ibid*, p. 169.

25 *ibid*, p. 170.

18. The then Attorney General, Rory Brady SC, appears to have raised concerns about the naming of particular individuals immediately prior to the publication of the report, but the report was nevertheless published in an unredacted format.²⁶
19. The Ferns Inquiry's Terms of Reference were criticised by some as being unduly narrow insofar as they did not contain an express mandate to make findings of fact in relation to particular instances of abuse so that, at least in part, the investigatory process failed to establish who was responsible and provide a measure of accountability for the perpetrators.²⁷
20. The ability of the non-statutory Ferns Inquiry to name individual clergy as responsible for serious failings in the handling of abuse allegations, in circumstances where its findings could adversely affect the good name and reputation of the clergy concerned, and where no right to cross-examine was afforded to those clergy to defend their good name and reputation, is in retrospect surprising. It seems that the clergy in question did not challenge the entitlement of the Inquiry to proceed on that basis. However, the Ferns Inquiry also had documentary evidence obtained from the diocese about the handling of abuse allegations which assisted it in arriving at conclusions without the necessity for cross examination of the complainants.
21. The Ferns Inquiry was not required, and specifically noted that it did not make, findings as to the truth or otherwise of the allegations made, as opposed to the manner in which those allegations were handled. Thus, accounts of abuse given by complainants was fully set out, and arguably in a manner which suggested acceptance of the truth of the allegations made, without specific findings to that effect. Further, in the vast majority of cases, the names of alleged abusers were anonymised, unless the cleric concerned was deceased or a convicted child abuser. One living cleric, with no convictions, was named and his unequivocal denial of the allegation was also set out. A future inquiry, held in private, which like Ferns, adopted more limited procedural rights, and named individuals accused of abuse in the same manner, could find itself subject to legal challenge. The *Murray* judgment found that the Commission to Inquire into Child Abuse could not name deceased religious order members as responsible for abuse, without full procedural rights afforded to the congregation to defend their good names. On the other hand, there is more recent comment, albeit *obiter*, from a member of the Supreme Court, suggesting that it is permissible to name individuals as responsible for serious wrongdoing while affording those individuals more limited procedural rights, in the context of Commissions of Investigation.²⁸

26 Liam Reid and Patsy McGarry, 'Legal concerns as Ferns sex abuse report to be published' *The Irish Times*, (25 October 2005), available at: <https://www.irishtimes.com/news/legal-concerns-as-ferns-sex-abuse-report-to-be-published-1.509880>.

27 Anne-Marie McAlinden, 'An Inconvenient Truth: Barriers to Truth Recovery in the Aftermath of Institutional Child Abuse in Ireland' (2013) 33(2) *Legal Studies*, 189-214, p. 11.

28 *Shatter v Guerin* [2019] IESC 9, para. 24.

B. The Commission of Investigation into the Dublin Archdiocese

22. The Dublin Archdiocese Commission of Investigation was established in March 2006 pursuant to the 2004 Act.²⁹ Its mandate was to report on the handling by church and state authorities of a representative sample of allegations and suspicions of child sexual abuse against clerics operating under the aegis of the Archdiocese of Dublin over the period 1975 – 2004.
23. It seems that the broadcast by RTE of the Prime Time programme *Cardinal Secret* in October 2002 concerning the handling of clerical sexual abuse allegations in the Dublin Archdiocese was a spur to the establishment of the Commission. Following the programme, the Minister for Justice, Equality and Law Reform introduced the Commissions of Investigation Bill which was intended to provide a new form of inquiry into the child sexual abuse scandals of the Catholic Church. Subsequently, on 18 July 2004, the Commissions of Investigation Act 2004 was enacted.

(i) Methodology

24. The Terms of Reference of the Commission did not mandate it to establish whether or not child sexual abuse had occurred, but rather it looked at the manner in which complaints were dealt with by church and state authorities.³⁰
25. As well as looking at the handling of complaints/allegations of abuse, the Commission was mandated to ‘select a representative sample of cases where the archdiocesan and other Catholic Church and public and State authorities had in the period 1 January 1975 to 1 May 2004 knowledge of or strong and clear suspicion of or reasonable concern regarding sexual abuse involving Catholic clergy operating under the aegis of the Catholic archdiocese of Dublin’³¹ and to assess the response of church and state authorities to those cases.³²
26. This part of the Commission’s terms of reference necessarily involved some consideration of the nature of allegations made by survivors who came forward to the Commission, and an assessment of whether the facts alleged were such that it would at least create a reasonable concern of sexual abuse.

29 Murphy et al, *Report by Commission of Investigation into Catholic Archdiocese of Dublin* (29 November 2009) Dublin: Stationery Office (**‘the Dublin Archdiocese Report’**).

30 Dublin Archdiocese Report, [1.4].

31 S.I. No. 137/2006 – Commission of Investigation (Child Sexual Abuse) Order 2006, art. 2(d).

32 The Cloyne Inquiry has similarly worded terms of reference: S.I. No. 117 of 2009 Commission of Investigation (Child Sexual Abuse) Amendment Order 2009, art. 2(fa)(iv).

27. Crucially, identifying cases where the church and state authorities had at least a reasonable concern of sexual abuse involving clergy and to assess the response of those authorities did not require the Commission to make a finding as to whether the abuse had in fact happened. Thus, the Commission could conclude the failure to address a reasonable concern about sexual abuse was wrongful regardless of whether the complaint had ever been proved in a court process or before the Commission.
28. It appears that in some cases the documentary and oral evidence was such that the Commission felt comfortable concluding not only that there was direct knowledge of the abuse by the priest concerned, but that there were likely far more victims than had come forward to the Commission. Thus, in the case of a Fr Gallagher, the Commission concludes:
- There are 14 complaints of child sexual abuse against Fr Gallagher known to the Commission. It is likely, on the basis of evidence reviewed by the Commission, that he abused many more children.³³
29. The Commission interpreted its terms of reference as requiring it to ascertain the full extent of complaints and allegations, knowledge, suspicions, or concerns of child sexual abuse, and to select therefrom a representative sample to examine in detail, in order to report on the response to the allegations by the archdiocese and other church authorities and by the public and state authorities.
30. The Commission considered the responses of church and state authorities to complaints in respect of over 320 children against 46 priests accused of abuse.³⁴ These 46 priests were selected as a representative sample of the 102 priests that the Commission established were within its remit.³⁵ The Commission obtained the assistance of a statistician to carry out the sampling exercise.³⁶ In selecting samples, the Commission decided to include all cases in which there had been a criminal conviction as there was likely more available information on such cases. Of the 46 priests in the sample, 11 had pleaded guilty to or were convicted in the criminal courts of sexual assaults on children.

33 Dublin Archdiocese Report, [22.2].

34 Dublin Archdiocese Report, [1.10].

35 *ibid*, [1.8].

36 This process is described in Chapter 11 of the Report.

31. The Commission noted that it took seriously the direction in the 2004 Act that information and documents should be sought voluntarily in the first instance and held preliminary meetings with church and state authorities, as well as with individuals whom it considered might have evidence relevant to its work.³⁷
32. The Commission issued formal orders of discovery against the Dublin Archdiocese, the HSE, An Garda Síochána, the Director of Public Prosecutions (DPP), and a number of religious orders whose priests worked under the aegis of the Catholic Archdiocese of Dublin.³⁸ The Commission considered that it would be unreasonable to expect people to furnish such confidential information without giving them the statutory protection afforded by section 16 of the 2004 Act.³⁹
33. The discovery process yielded almost 100,000 documents,⁴⁰ with the Dublin Archdiocese providing over 70,000 documents. Documents over which privilege and/or confidentiality were claimed were provided to the Commission and were read by the Commission members in order to ascertain whether privilege applied. Cardinal Connell was granted injunctive relief in relation to the Commission's review of 5,000 documents over which privilege was asserted by the Dublin Archdiocese. This case was later withdrawn by the Cardinal but was a cause of some delay to the Commission's work.⁴¹
34. The HSE files were searchable only by reference to the name of the abused person, and were not in any way cross-referenced to the alleged abuser. To assess whether an alleged abuser was a priest in the Dublin Archdiocese would have involved manually searching some 180,000 files, a process which it was estimated would take 10 years.⁴² The Commission instead heard from employees of the HSE employed in the Dublin Archdiocese area as to their knowledge of complaints of child sexual abuse by clerics. The Gardaí had extensive documentation for the period after 1995. However, prior to 2002 complaints of child sexual abuse were handled locally, and there was no co-ordinated approach taken by the Gardai in relation to the complaints of child sexual abuse by clerics.⁴³

37 Enquiries were made of the Archbishop of Dublin, former bishops of the Dublin Archdiocese, a number of other diocesan authorities, 38 religious orders operating within the area of the Dublin Archdiocese, the Health Service Executive ('HSE'), An Garda Síochána, the Director of Public Prosecutions, Our Lady's Hospital for Sick Children, Crumlin, Children's University Hospital, Temple St., the Department of Education and Science, the Department of Health and Children and a number of individuals who the Commission considered might have information relevant to its work.

38 Dublin Archdiocese Report, [2.17].

39 *ibid*, [2.17].

40 *ibid*, [2.22].

41 *ibid*, [2.33].

42 *ibid*, [2.19].

43 Dublin Archdiocese Report, [5.42].

35. All persons who appeared to be within the Commission's remit were interviewed by the Commission's counsel and many gave formal evidence to the Commission. Where the complaints made were beyond remit, the Commission nevertheless listened to the complaints and referred people on to support services.⁴⁴
36. The Commission decided that it would be necessary to hold formal hearings to fully establish the relevant facts and thus heard oral evidence on how complaints, allegations or suspicions of child sexual abuse were handled generally by the various authorities throughout the relevant period,⁴⁵ and heard from an expert in canon law.
37. The Commission conducted its investigation by means of oral evidence and analysis of the documentation supplied. Where gaps in the evidence were apparent, the Commission filled them, where appropriate, with questionnaires and follow-up interviews.⁴⁶ The Commission held some 145 hearings as part of its inquiry and a stenographer recorded all hearings. In addition to the formal hearings, a significant number of informal hearings took place.⁴⁷ It appears that victims were primarily heard at these informal hearings.
38. Following the conclusion of the formal hearings, as required by the 2004 Act, a draft of the report was sent to those who were identified or identifiable in the report.⁴⁸ Many submissions were received from the relevant parties and amendments were made as the Commission considered appropriate. A second draft was then sent to the parties who had made submissions and to others affected by any amendments made. All relevant parties were then invited to provide any further information or make any further submissions which they considered appropriate. This process took some 7 months. The final draft was completed in July 2009.

(ii) Findings

39. The Commission's report detailed the canon law and the procedures set out by the Roman Catholic Church for dealing with complaints of child sexual abuse, and the significant uncertainty regarding the power to conduct a canonical investigation into an accused priest or require them to step aside from active ministry.⁴⁹ However, the Commission concluded that canon law was used selectively when dealing with offending clergy, to the benefit of the cleric and the consequent disadvantage of his victims.⁵⁰

44 *ibid*, [2.12].

45 *ibid*, [2.14].

46 Dublin Archdiocese Report, [2.37].

47 *ibid*, p. 35.

48 *ibid*, p. 42.

49 Dublin Archdiocese Report, [4.11].

50 *ibid*, [4.2].

40. The Commission strongly recommended that canon law should provide for a clear, unequivocal power available to bishops to require priests to stand aside.⁵¹ The Commission noted as a matter of grave concern that as a matter of canon law paedophilia may constitute a defence to a claim of child sexual abuse.⁵²
41. The Commission further found that, while procedural rules issued by the Vatican in relation to child sex abuse existed since 1922, these were circulated only to bishops and under terms of secrecy such that virtually no one knew anything about them.⁵³ The Commission determined that child sexual abuse was covered up over much of the period investigated by the Commission and that the structures and rules of the church facilitated that cover up.⁵⁴ The Commission concluded that Church authorities were much more concerned with the scandal that would be created by revealing abuse rather than any concern for the abused.⁵⁵
42. Like the Ferns Report, the Dublin Archdiocese Report named clerics accused of wrongdoing in handling of complaints. In addition, 10 clerics accused of abuse were named. Of these, 7 clerics were previously convicted. However, some convicted priests were not named,⁵⁶ and 3 priests were named who had not been convicted: Fr McNamee, who had been widely named in the media;⁵⁷ Fr Reynolds, who admitted abusing 20 girls but was not prosecuted due to dementia,⁵⁸ and; Fr Gallagher, where a flawed Garda investigation resulted in no prosecution.⁵⁹

(iii) Criticisms of Methodology Utilised

43. The Dublin Archdioceses Inquiry proceeded on a similar basis to the non-statutory Ferns Inquiry, in criticising named members of the clergy for their role in the handling of child sexual abuse allegations and predominantly naming convicted clerics accused of abuse.

51 *ibid*, [4.92].

52 Dublin Archdiocese Report, [4.59].

53 *ibid*, [4.21].

54 *ibid*, [1.113].

55 *ibid*, [12.42].

56 For example, the Report refers, at [58.22], to 'the conviction of Fr Edmondus* for the child sexual abuse of Mrs Collins and others in the criminal courts'.

57 Dublin Archdiocese Report, [12.36]

58 *ibid*, [35.49].

59 *ibid*, [22.22].

44. It should be recalled that the Dublin Archdiocese Inquiry was a statutory inquiry established under the 2004 Act. Following publication, the report was praised by some as representing an effective use of the 2004 Act and was lauded as a model of how such a commission of investigation can operate effectively.⁶⁰
45. However, the procedures were criticised by others. Fergal Sweeney criticised the Commission for criticising individual clerics handling of particular cases, rather than solely being concerned with the wider institutional response.⁶¹ Sweeney particularly criticises the Commission as having no mandate to consider such individual wrongdoing in the handling of complaints and that, even if it had such a mandate, 'it was under an obligation to warn those clerics taking part in their investigation where it was heading and to give each of them a fair and balanced hearing before coming to any such conclusions'.⁶²
46. Dr Marie Keenan has also noted a concern that the methodology adopted by the Commission in 'naming and shaming' particular clerics. Amongst other points, she criticised this approach as allowing the Archbishop and the Vatican to distance themselves from the events that had occurred.⁶³ Dr Keenan and others⁶⁴ have also criticised the sampling methodology of the report for not being a representative sample, but rather 'a biased sample from the available files in the Dublin Archdiocese that they were reviewing'.⁶⁵

C. The Commission of Investigation into the Diocese of Cloyne

47. In March 2009, the Government amended the terms of reference of the Commission of Investigation into the Dublin Archdiocese to extend its ambit to include the Catholic diocese of Cloyne.
48. These additional terms of reference were very similar to those with respect to the investigation into the Dublin Archdiocese.⁶⁶ The Commission commenced its investigation in April 2009, just as its investigation into the Dublin Archdiocese was concluding.⁶⁷

60 Pádraig McCarthy, 'The Murphy Report Revisited', (2013) Vol. 102, *Studies: An Irish Quarterly Review*, p. 388.

61 Fergal Sweeney, 'Commissions of Investigation and Procedural Fairness' (2013) Vol. 102 *Studies: An Irish Quarterly Review* pp. 377-387, p. 381 – 382.

62 *ibid*, p. 382.

63 Marie Keenan, 'Masculinity, relationships and context: Child sexual abuse and the Catholic Church', (2015) Vol. 15(2) *Irish Journal of Applied Social Studies*, p. 72.

64 John McDonagh, 'The representative sample in the Murphy Report'. *Studies: An Irish Quarterly Review*, (2013) Winter, 456-467, p. 464.

65 *ibid*, p. 73.

66 Commission of Investigation Report into the Catholic Dioceses of Cloyne (December 2010) (the 'Cloyne Report'), p. 25.

67 Cloyne Report, p. 24.

49. The extension of the remit of the Commission followed a number of developments; in July 2008, the National Board for Safeguarding Children in the Catholic Church in Ireland ('NBSCCCI') delivered a report which strongly criticised the handling of child abuse allegations in the Cloyne diocese. This report was published in December 2008.
50. In November 2008, the HSE issued the 'Report on allegations of child sexual abuse in the Diocese of Cloyne and complaints that the investigations of these cases were inadequate'. It noted that the actions taken by the Cloyne diocese had not been compliant with the Catholic Church's Framework document of 1996, in that the diocese had failed to notify the HSE of a number of the allegations.⁶⁸

(i) Methodology

51. Similar to the Dublin Archdiocese Report, the Cloyne Report was directed to adopt a sampling approach and to assess the manner in which those representative allegations were responded to, in the period from 1 January 1996 until 1 February 2009. This timeframe was significantly later than that considered in the Ferns and Dublin Archdiocese inquiries and dealt with the period after the adoption of the Framework Document by the Catholic Church in 1996.⁶⁹ This meant that the 'learning curve' in relation to paedophilia, which church authorities had previously said explained the poor handling of complaints in other dioceses, had no applicability in the Cloyne inquiry.⁷⁰
52. As it had done during the Dublin Archdiocese Inquiry, the Commission first sought the voluntary cooperation of church and state authorities. The Commission next sought discovery of documentation, which was largely completed by August 2009. It noted that the Department of Health claimed privilege over a number of documents. The Commission also wrote to the Papal Nuncio asking him to submit any information in his possession. The Papal Nuncio refused, and the Commission noted it had no powers to compel the Papal Nuncio. However, the Commission noted general cooperation with its requests for discovery from other parties.⁷¹

68 Cloyne Report, p. 111. In January 2009, the HSE also published the 'Audit of the Catholic Church's current child protection Policy, Practices and Procedures & compliance with Ferns Report Recommendations report', which noted that the HSE had become aware of a case of non-compliance with child protection procedures in Cloyne.

69 The Framework Document directed new Catholic Church procedures to deal with complaints of child sexual abuse, including a clear direction that such complaints should be referred to the civil authorities.

70 Carole Holohan, *In Plain Sight: Responding to the Ferns, Ryan, Murphy and Cloyne Reports* (Amnesty International, 2011), p. 129.

71 Cloyne Report, [2.12].

53. Following an advertising campaign by the Commission, it received information about complaints, suspicions, concerns, or knowledge of child sexual abuse in respect of 32 named clerics. The Commission considered 19 of these clerics were operating under the aegis of the Cloyne diocese and hence were within its remit to investigate. While the terms of reference directed that only a sample of the total allegations should be investigated, the Commission received advice that the total number was too small to extract a representative sample, and therefore investigated all 19 clerics that were within remit.
54. The Commission did not seek to establish whether or not child sexual abuse occurred or whether or not there was a basis for the suspicions and concerns addressed. All complainants and all clerics, bar one, were anonymised in the report. Bishop Magee was named in the report in relation to concerns raised about his interaction with a 17-year-old boy. This identification was explained as unavoidable since he was clearly identifiable as a bishop. It appears that there were legal challenges that influenced the decision not to name particular clerics and delayed the publication of the report: in one case the High Court ordered that references in the report to an accused priest awaiting trial for child sexual abuse be deleted to avoid prejudicing his trial.⁷²
55. The Commission conducted 55 formal hearings in relation to how complaints and concerns of child sexual abuse were handled generally by church and state authorities and how specific complaints were handled.⁷³ The Commission received some 12,000 documents from the diocese.⁷⁴ The Commission used questionnaires, follow up interviews and affidavits from relevant parties to address gaps in the evidence received.⁷⁵ In addition, a significant number of informal hearings took place.⁷⁶ The Report notes that very similar procedures to those used in relation to the Dublin Archdiocese investigation were used in the investigation into Cloyne, and indeed notes that the formal book of procedures used for the Dublin Archdiocese investigation was adopted, with some amendments where appropriate.⁷⁷ The oral hearings were completed in the first half of 2010, and a final draft of a report completed in November 2010.

72 Justine McCarthy, 'Further delay to Cloyne report as lawyers seek return to court', *The Sunday Times* (19 June 2011), available at <https://www.thetimes.co.uk/article/further-delay-to-cloyne-report-as-lawyers-seek-return-to-court-pstg93wpg6b>.

73 Cloyne Report, [2.24].

74 *ibid*, [2.22].

75 *ibid*, [2.22].

76 *ibid*, [2.24].

77 *ibid*, p. 29.

(ii) Findings

56. The Commission found that there had been a failure of the diocesan authorities to deal properly with complaints of abuse and this had placed children at risk of further harm within the Diocese of Cloyne. Bishop Magee and Monsignor O’Callaghan were particularly criticised for failing to implement the Church’s own Framework Document on responding to complaints of abuse. Bishop Magee was criticised for leaving the management of child sexual abuse cases to Monsignor O’Callaghan until 2008.⁷⁸
57. Monsignor O’Callaghan was found to have failed to follow the Church’s 1996 Framework Document on handling sexual abuse, and particularly failed to comply with the Framework Document’s requirement to report complaints of abuse to the Garda⁷⁹ and health authorities.⁸⁰ The Commission further found that the inter-diocesan case management advisory committee, charged with considering complaints of abuse, was not given the information it required in order to give informed advice.⁸¹ The Commission also found that there was a failure to cooperate with Garda investigations.⁸²
58. The Commission found that diocesan records of complaints of abuse were of poor quality and some were deliberately misleading.⁸³ It further found that persons investigating the handling of abuse were deliberately misled about the facts as known to Bishop Magee.⁸⁴

D. The Commission to Inquire into Child Abuse (‘CICA’)

(i) Introduction

59. In May 1999, the Government apologised on behalf of the State to the victims of historical childhood abuse and announced a package of measures to be introduced in relation to institutional child abuse, including the establishment of a Commission to Inquire into Child Abuse.⁸⁵

78 Cloyne Report, [1.17].

79 Cloyne Report, [1.22].

80 *ibid*, [1.17].

81 *ibid*, [21.92].

82 *ibid*, [15.49].

83 *ibid*, [21.91].

84 *ibid*.

85 McGarry, ‘Bertie Ahern: State’s 1999 apology to abused children was ‘absolutely necessary’, *The Irish Times* (11 May 2019).

60. In the immediate aftermath of the State apology, the Commission to Inquire into Child Abuse ('CICA') was established, initially on a non-statutory, administrative footing. CICA had broad terms of reference, including the requirement to identify and report on the causes, nature and extent of physical and sexual abuse, with a view to making recommendations for the present and future.⁸⁶

(ii) Establishment

61. Under the chairmanship of Ms Justice Laffoy, CICA issued reports in September and October 1999 outlining how its terms of reference could be implemented. Following these reports, CICA was established as an independent statutory body pursuant to the Commission to Inquire into Child Abuse Act 2000 ('the 2000 Act') in May 2000.

62. CICA investigated the treatment of thousands of children in residential institutions, over many decades, including industrial schools run by various religious orders and congregations. The 2000 Act envisaged that CICA would carry out its functions through two committees, the Investigation Committee and the Confidential Committee.

(a) The Investigation Committee

63. The role of the Investigation Committee under the 2000 Act was to inquire into the abuse of children in relevant institutions, and if satisfied that abuse had occurred, to determine the nature, causes, circumstances, and extent of such abuse.

64. The Investigation Committee, pursuant to the 2000 Act, was also to determine the extent to which the institutions concerned contributed to the abuse, including in how they were managed, supervised, and regulated. The Committee was also required to determine whether the way those functions were performed by the relevant persons or bodies contributed to the abuse.

(b) The Confidential Committee

65. The Confidential Committee, on the other hand, heard evidence from persons who were victims of abuse who did not wish their abuse to be investigated by the Investigation Committee. Evidence heard by the Confidential Committee was heard in an informal and sympathetic setting, without lawyers. The Confidential Committee under the 2000 Act could make general findings in respect of abuse, and the nature and extent of same, but was prohibited from identifying, or publishing information that leading to the identification, of any persons or institutions in making those findings.

⁸⁶ Ryan et al, *Report of the Commission to Inquire into Child Abuse* (2009) ('hereinafter 'CICA Report'), Volume 1, p. 1.

(iii) Methodology

66. The 2000 Act provided that CICA was to afford persons who had suffered abuse in childhood an opportunity to recount the abuse suffered, and to make submissions to a Committee. CICA was thus under a statutory obligation to hear the accounts of abuse from any person who wished to give such accounts, whether through the Investigation Committee or the Confidential Committee, at the option of the person. This provision was amended by subsequent legislation,⁸⁷ so that CICA's obligation to hear every account was limited to those attending the Confidential Committee. CICA said that it would take many years to deal with the number of applicants before the Investigation Committee if each person's complaint had to be investigated.
67. The 2000 Act defined 'abuse' widely as referring to the infliction of physical injury, sexual abuse, neglect, and emotional abuse. An 'institution' referred to a school, an industrial school, a reformatory school, an orphanage, a hospital, a children's home and any other place where children are cared for other than as members of their families.
68. The 'relevant period' for the purposes of CICA's work was from 1940 to 1999 but could be extended in either direction. The Investigation Committee determined that the relevant period in relation to its functions as being from 1936 to 1999, while the Confidential Committee determined the relevant period as between 1914 and 2000.

(iv) Problems Encountered by the Investigation Committee in Carrying Out its Work

(a) Operational Challenges

69. Difficulties arose in progressing the work of the Investigation Committee of CICA soon after its establishment. Disputes about the payment of legal costs to those appearing before the Investigation Committee and the establishment of a redress scheme for the victims of the institutions led to non-cooperation with the Investigation Committee by solicitors acting on behalf of victims. These difficulties persisted from the establishment of CICA in 2000 until April 2002, when the Residential Institutions Redress Board Act 2002 was enacted, establishing a redress scheme for victims of abuse in residential institutions. That legislation also resolved the dispute concerning the legal costs of survivors who were participating in CICA.

87 Commission to Inquire into Child Abuse (Amendment) Act 2005.

70. In June 2002, CICA applied to the Government for further resources to enable it to deal reasonably expeditiously with the volume of complaints to be investigated by the Investigation Committee. CICA indicated at that time that without additional resources, it would take between 7 to 10 years to complete the first phase of the Investigation Committee's work. At that point, the Government announced a review of CICA's terms of reference by the Attorney General. CICA was able to continue to operate during the review by the Attorney General.

(b) *Legal Challenges to CICA's Power to Name Individuals and Institutions*

71. In October 2002, an issue arose as to whether the Investigation Committee was entitled to name individuals and institutions as responsible for abuse, as provided by the 2000 Act. Some of the religious orders argued that members of their congregations who were deceased, incapacitated through age or infirmity, or otherwise unavailable, could not be named as responsible for abuse. They also argued that the institutions or the persons who managed those institutions could not be named. They argued that the lapse of time since the events complained of meant that the religious orders and their members could not properly defend themselves, including by reason of the fact that numerous accused persons or persons who had worked in the institutions concerned were deceased, elderly or infirm or otherwise unavailable. The religious orders asserted that in those circumstances the Investigation Committee was not entitled to make findings against those members or their institutions.

72. The Investigation Committee rejected those submissions. The Investigation Committee ruled that it would deal with issues such as alleged prejudice due to the lapse of time since the events complained of on a case-by-case basis.

73. The Christian Brothers challenged that ruling in *Murray v Commission to Inquire into Child Abuse*.⁸⁸ In January 2004, the High Court held that deceased persons did not have a constitutional right to their good name or reputation. However, the Court held that by reason of their positive association with those accused of abuse, members of the congregation had a right to a good name and a right to protect their reputations against adverse findings, including adverse findings against their deceased, incapacitated or otherwise unavailable members who were accused of abuse.⁸⁹

88 [2004] 2 IR 222.

89 *ibid*, at 289.

74. Notably, the High Court found that in the absence of other convincing evidence, the court would be very reluctant to allow a claim against a deceased or incapacitated person unless the claim was corroborated.⁹⁰
75. On the issue of delay and the lapse of time and the ensuing prejudice to persons accused of wrongdoing, the Court agreed that the test was whether it would be unsafe in all the circumstances to make a determination against a respondent.⁹¹
76. Amongst other matters, the High Court held that the representatives of the deceased and incapacitated members of the congregation and the representatives of the congregation itself, should be entitled to cross-examine witnesses in the interests of fair procedures and constitutional justice, and procedures should be in place to allow them to do so.⁹²
77. While the Christian Brothers had challenged the constitutionality of the 2000 Act, the High Court held that they did not have standing to do so because their rights were not denied by the Act.⁹³
78. The Investigation Committee suspended its work between September 2003 and March 2004 pending the delivery of judgment in *Murray*.⁹⁴ The decision was appealed to the Supreme Court by the Christian Brothers, with cross-appeals by CICA and the State, though the proceedings were rendered moot before the Supreme Court heard the case.⁹⁵
79. Separately, a number of witnesses successfully challenged an attempt by the Commission to limit the number of legal representatives present at the evidentiary hearings of the Investigation Committee as a breach of the parties' constitutional right to fair procedures in *Re Commission to Inquire into Child Abuse*.⁹⁶ Kelly J. held that this would interfere with the right to decide how best to defend one's case and, as such an express statutory power would be required to support such a procedure.⁹⁷ In the course of his judgment Kelly J. indicated that he viewed the nature of the inquiry as attracting full *Re Haughey* fair procedures rights for individuals and congregations accused of wrongdoing:⁹⁸

90 [2004] 2 IR 222, 295-6. This finding drew on the requirement that claims against the estates of deceased persons are required to be corroborated.

91 [2004] 2 IR 222, at 301.

92 *ibid*, at 304-5.

93 *ibid*, at 309.

94 CICA Report, Volume 1, p. 5.

95 Statement of the Legal Counsel to the Commission to Inquire into Child Abuse, 7 May 2004, p. 6; Mary Carolan, 'Order settles dispute with abuse inquiry, *The Irish Times*, 29 June 2004.

96 [2002] 3 IR 459.

97 [2002] 3 IR 459, 476.

98 *ibid*, at 475.

The allegations which have been made against respondents before the Investigation Committee of the applicant are in many cases of a most serious nature. A finding in favour of a complainant against an individual or institutional respondent would be of enormous significance.

In the case of an individual vowed religious, a finding of in particular sexual abuse of a minor placed in his care would demonstrate truly evil conduct, a woeful breach of trust, behaviour directly at odds with the vows taken, to say nothing of any infringements of the criminal law. In the case of a respondent which is a religious congregation, such conduct would be shameful and in conflict with the fundamental purpose of such a congregation. Truly, therefore, it can be said that the respondents to complaints are at risk of their good name and reputation being jeopardised.

80. The case of *Re Haughey* is discussed elsewhere in this Report.⁹⁹ It established that there are four protections that must be afforded to a person whose good name is under attack at an inquiry. Those entitlements are:¹⁰⁰
- (a) to be furnished with a copy of the evidence which reflects on his good name;
 - (b) an entitlement to cross-examine, by counsel, an accuser;
 - (c) an entitlement to give rebutting evidence; and
 - (d) a right to address the tribunal, by counsel if he wishes, in his own defence.

81. In that case O'Dalaigh C.J. stated as follows:¹⁰¹

The provisions of Article 38, s. 1, of the Constitution apply only to trials of criminal charges in accordance with Article 38; but in proceedings before any tribunal where a party to the proceedings is on risk of having his good name, or his person or property, or any of his personal rights jeopardised, the proceedings may be correctly classed as proceedings which may affect his rights, and in compliance with the Constitution the State, either by its enactments or through the Courts, must outlaw any procedures which will restrict or prevent the party concerned from vindicating these rights.

99 [1971] 1 IR 217. See Chapter 14.

100 [1971] 1 IR 217, 263-4.

101 [1971] 1 IR 217, 264.

82. These *Re Haughey* protections were therefore reflected in the procedures of the Investigation Committee which provided that every person whose good name was under attack at the inquiry had the right to be furnished with all relevant evidence in advance, cross-examine survivors, give rebutting evidence and make submissions in defence. These rights extended to anyone who might be identified in the Investigation Committee's report as persons who committed abuse or persons who were involved in the running of institutions where abuse occurred.

(v) Changes to CICA's Methodology

83. Prior to the hearing of the Supreme Court appeal in the *Murray* case, in June 2004 CICA indicated that it would revise its policy on naming persons who had committed abuse, stating that they would not be named unless they had previously been convicted of an offence relating to abuse in the past. This revised policy emerged from the Position Paper published by CICA in May 2004, and was adopted by CICA in its Decision Document in June 2004. In those circumstances the Supreme Court appeal did not proceed.

(a) Reviews of CICA's Terms of Reference

84. The Government had in June 2002 announced a review of CICA's terms of reference by the Attorney General to address the requirement that CICA conduct an investigation into every allegation of abuse and to make recommendations in relation to issues of delay and costs.

85. The Attorney General's Report, recommending changes to the 2000 Act, was furnished to Government in February 2003. The Attorney General's review was not published at that time. Instead, in September 2003, the Government announced a second phase review of CICA. The second phase review was carried out by Mr Justice Ryan (Ryan J) who became Chair of CICA following the resignation of Laffoy J in December 2003. The Attorney General's Report and Ryan J's Report on the Review of CICA were published in January 2004. Both reports recommended changes to the 2000 Act.

86. Both the Attorney General¹⁰² and Ryan J¹⁰³ recommended removing the duty of the Investigation Committee to hear each complaint of abuse. It was also recommended that the Investigation Committee be empowered to choose which complainants to receive evidence from. Ryan J considered that that the decision as to who should give evidence should be based on the likelihood of a finding of abuse being made.

102 Report to the Government on the Review of the Laffoy Commission: Made pursuant to Government Decision SI180/20/10/0270B of 3 December 2002 (15 January 2004), p. 7.

103 Review of Mr. Justice Ryan into the Commission to Inquire into Child Abuse ('Ryan Review') (15 January 2004), pp. 49-51.

87. Ryan J's Review identified a number of obstacles that delayed or unduly prolonged the hearing of cases. He cited the necessity under the 2000 Act for the Investigation Committee to have a preliminary hearing to determine that abuse occurred in a particular institution as a preliminary factual issue, before going on to consider the causes, nature, circumstances, and extent of the abuse. He recommended that the requirement for such phased hearings be removed to enable the Investigation Committee to conduct its inquiry in one phase in respect of a particular institution and period.¹⁰⁴
88. Ryan J also pointed to the requirement of the 2000 Act that the Investigation Committee hold hearings about instances of alleged abuse in private, which meant that it was not possible to hold joint hearings of complaints against a particular individual or institution.¹⁰⁵ He recommended that the 2000 Act be amended to allow for joint hearings where other victims and respondents may attend.¹⁰⁶
89. Finally, Ryan J recommended that s 13(2)(c) of the 2000 Act which provided that the report of the Investigation Committee 'shall not contain findings in relation to particular instances of alleged abuse of children' be deleted, it being inconsistent with the purposes of the Act and its other provisions.¹⁰⁷ This had also been recommended by the Attorney General's Review.

(b) *Ryan J's New Scheme of Procedure for CICA*

90. Ryan J's review proposed that a new scheme of procedure be adopted, dividing the work of the Committee into units by institution, and sub-dividing that division into decades. He recommended that the Investigation Committee conduct a preliminary examination of complaints so that those with little prospect of being proven in evidence could be identified and persons advised that it might be appropriate to transfer to the Confidential Committee.¹⁰⁸
91. Each unit would be conducted as a joint hearing, comprised of multiple allegations arising from the relevant complainants within a given time period in an institution. Procedures could be expedited by witnesses providing written statements and only attending hearings for cross-examination. The Investigation Committee would then weigh the evidence and come to conclusions about the specific allegations made against individual respondents and as to the other levels of responsibility envisaged by the Act.¹⁰⁹

104 *ibid*, pp. 46-48.

105 Ryan Review, pp. 21-22.

106 *ibid*, p. 52.

107 *ibid*, p. 54.

108 *ibid*, pp. 39-40.

109 *ibid*, pp. 40-41.

92. Ryan J's proposals appear to have been adopted fully within the revised methodology of the Investigation Committee as it recommenced its work in 2004. The necessary statutory amendments as suggested were put into effect by the Commission to Inquire into Child Abuse (Amendment) Act 2005 ('**the 2005 Amendment Act**') in July 2005.

(c) *Further Changes Made Following the Position Paper*

93. Two further changes relevant to the methodology of CICA were proposed and adopted by the Commission in 2004 in respect of naming individuals as perpetrators of abuse and selecting complainants as witnesses to provide evidence before the Investigation Committee.

(d) *Naming Individuals*

94. CICA was initially charged with making findings identifying abusers where appropriate. Section 5(3) of the 2000 Act provided that the Commission's report:

(a) may, if the Commission is satisfied that abuse of children, or abuse of children during a particular period, occurred in a particular institution, contain findings to that effect and **may identify the institution and the persons who committed the abuse,**

...

(d) **shall not contain findings in relation to particular instances of alleged abuse of children.'** (emphasis added)

95. Thus, as initially enacted, the legislation appeared to envisage evidence of numerous incidents of abuse being used as the basis for findings that abuse happened at a particular institution and/or was perpetrated by a particular individual. However, somewhat confusingly, the report was not to contain findings in relation to particular instances of abuse. This dichotomy was criticised by Kelly J in *Re Commission to Inquire into Child Abuse*.¹¹⁰

96. A Position Paper published by the Investigation Committee in May 2004 examined the issue of naming individuals as perpetrators of child abuse or as involved in the management, administration, operation, supervision and regulation of the institutions concerned.

110 [2002] 3 IR 459, 474: 'This is but one of a number of instances of obscure draftsman-ship which does nothing to assist the applicant in its difficult task.'

97. The Position Paper stated that the practical implications of the Investigation Committee having this power were that all accused persons or bodies involved in the running of institutions were entitled to fair procedures, and that every case before the Investigation Committee was converted into an adversarial process. Considering this it would 'not be unreasonable to assume' that every case would take the same length of time as a criminal trial on such an issue, being 3-4 days. On this basis, it would take approximately 18 years to clear the caseload of the Investigation Committee.¹¹¹
98. The Position Paper recommended that the 2000 Act be amended to delete the section concerning naming individuals and that CICA should pursue a general policy of not naming individuals.¹¹² The Investigation Committee stated that the emphasis of the Inquiry should be on analysis of the institutional and systems failures that led to the wrongs occurring rather than on making findings of abuse in individual cases.
99. Submissions were received by interested parties on this issue and in June 2004, CICA publicly announced that it intended to adopt the views set out in the Position Paper and would seek the necessary amendment of the 2000 Act. The relevant amendments were made by the 2005 Amendment Act, which provided that a report of CICA or of the Investigation Committee may identify a person who committed abuse, only if he or she had been convicted of an offence in respect of abuse.
100. The Act was amended by the Commission to Inquire into Child Abuse (Amendment) Act 2005 to limit the power to name abusers to those convicted of abuse. Section 5(a) of the 2000 Act was substituted to:¹¹³
- a) may contain findings that abuse of children, or abuse of children during a particular period, occurred in a particular institution and may identify—
 - (i) the institution where the abuse took place, and
 - (ii) the person or, as the case may be, each person who committed the abuse **but only if he or she has been convicted of an offence in respect of abuse.**' (emphasis added)

111 Commission to Inquire into Child Abuse, Position Paper on Identifying Institutions and Persons under the Commission to Inquire into Child Abuse Act 2000 (7 May 2004), p. 19.

112 *ibid*, p. 39.

113 Commission to Inquire into Child Abuse (Amendment) Act 2005, s 5.

101. Notwithstanding this amendment, the Final Report of CICA did not in fact identify convicted individuals by name, even where they had been convicted of the specific acts of abuse complained of,¹¹⁴ or where they had admitted to the offence and had provided evidence to the Investigation Committee in relation to same.¹¹⁵ In the Final Report of the Commission, all individual perpetrators of abuse were referred to by pseudonyms.¹¹⁶
102. The rationale for this approach was explained as being:¹¹⁷
- Even under the unamended legislation, naming some individuals was always going to be fraught with difficulty and inconsistency. The probability was that only a very small number of persons would actually be named. This issue was debated in the Position Paper and outlined to the public meeting of the Investigation Committee. The supposed benefits of being able to name persons who committed abuse were outweighed by the disadvantages.
103. One issue noted was that the amended legislation:
- ... did not require that the person to be named should have been convicted of the specific abuse that was the subject of the report. In other words, if a person had been convicted of abuse of children of some nature at some time, it was permissible under the legislation for him or her to be named as being responsible for abuse in some quite different circumstances or at a different time.¹¹⁸
104. Beyond this, there does not appear to have been an explanation provided as to why CICA did not name convicted abusers, given they had the power to do so under the amended 2000 Act.

(e) Naming Institutions

105. The 2000 Act conferred CICA and the Investigation Committee with the discretion to identify institutions in which abuse took place. As referred to above, in *Murray v. Commission to Inquire into Child Abuse*,¹¹⁹ the High Court found that the members of the congregation had a right under the Constitution to protect their good name, and accusations of wrongdoing against deceased or incapacitated members, or members who were otherwise unavailable, and because of the close association between such members of a congregation, this triggered the congregation's right to protect its good name.

114 See, for example, CICA Report, Volume 1, pp. 306, 309 and p. 581.

115 For example, CICA Report, Volume 1, p. 306, para. 8.132, pp. 339-346, paras. 8.335-8.390.

116 CICA Report, Volume 1, p. 66-67.

117 *ibid*, para. 5.43.

118 CICA Report, Volume 1, para. 5.42.

119 [2004] 2 IR 222, 288 – 289.

106. In the Review of the Commission conducted by Ryan J, the impact of a potential appeal to the judgment of Abbott J. was discussed.¹²⁰ Ryan J commented that CICA could survive a prohibition on naming individuals but could not survive a prohibition on naming institutions. He was of the view that the Investigation Committee would be entirely toothless if such a prohibition were to apply stating that ‘A restriction of that kind would be entirely fatal to the Investigation Committee’.
107. In the Decision Document of June 2004 there was no explicit decision made on the question of naming institutions. However, the document set out the procedures to be adopted by the Investigation Committee, whereby the attitude of the congregation and the discovered documentation would be considered before the Committee determined how many complainants were required to give evidence.
108. The format of the investigation would be decided by what was in dispute, e.g. where the respondent institution acknowledged the essential truth of the complaints, this would limit the number of witnesses required. Emphasis was placed on the approach of the congregations to the allegations of abuse, and the hope that ‘congregations will accept that they have responsibilities to the victims of abuse and those who complain, even if some of them are thought to be in the wrong, and to the community as a whole and also to the congregations and their own members.’¹²¹
109. There does not appear to be any information provided in the Final Report of the Commission in respect of the decision-making process behind the naming of institutions. In many cases, it appears that congregations accepted that some sexual abuse took place in the relevant institutions.¹²² In respect of certain institutions, such as St Joseph’s Industrial School, Greenmount and St Patrick’s Industrial School, Kilkenny, where it does not appear that sexual abuse was admitted by the institutions, the Investigation Committee set out the evidence received in relation to sexual abuse allegations, but appears to refrain from making findings as to the veracity of this evidence, and focused instead on failures in, for example, the investigation process undertaken by the relevant congregation, or its record-keeping practices.¹²³

120 Review of Mr. Justice Ryan into the Commission to Inquire into Child Abuse (‘Ryan Review’) (15 January 2004), at paras. 7.1-7.11.

121 Decision Document, p. 13, available at https://childabusecommission.ie/?page_id=453

122 See, for eg, CICA Report, Volume 1, pp. 111, 293, 566; Volume 2, p. 86.

123 CICA Report, Volume 2, pp. 168-176, 193. See also Volume 2, pp. 485-489, 495, on St Patrick’s Industrial School, Kilkenny.

110. In the case of St Conleth's Reformatory School, Daingean, where it was claimed by the relevant congregation that the passage of time precluded a meaningful investigation of allegations of sexual abuse by the Investigation Committee and no findings of abuse should be made, the Investigation Committee proceeded to make a finding that sexual abuse was committed by staff, but found that the full extent of this abuse was impossible to quantify because of the absence of a proper system of complaints.¹²⁴
111. Further, from the Final Report of the Commission, it does not appear that the Investigation Committee required a minimum number of complaints to be made to investigate a particular institution; for example, in Our Lady of Succour Industrial School, Newtown Forbes, only five complainant witnesses lodged complaints with the Investigation Committee and gave oral testimony in respect of their experiences.¹²⁵

(f) Selection of Complainants to Provide Evidence

112. At the public sitting of CICA in May 2004, a proposal was put forward that the Investigation Committee would have a discretion as to the complainants it wished to call, and that in certain circumstances it may be unnecessary to hear all available witnesses in respect of a given institution.
113. Witnesses had been selected on the basis of examination of documentary evidence. Some 1,300 persons remained who wished to contribute to the work of the Investigation Committee rather than transferring to the Confidential Committee.¹²⁶
114. The Investigation Committee decided to interview each person who had indicated an intention to continue participating in CICA through the Investigation Committee. The body of evidence obtained, it was proposed, would be collected in databases and produced in report format, and where there were material areas of dispute arising, the Investigation Committee may arrange for further investigation.
115. Persons who made complaints in respect of the large institutions, who were not called to give evidence before a hearing of the Investigation Committee were invited for interview, as were all complainants in respect of those institutions which the Investigation Committee was not investigating by way of hearing. In respect of the inquiries into the remaining institutions heard by the Investigation Committee, many complainants who did not want to proceed to hearing engaged with the interview process instead.¹²⁷

124 CICA Report, Volume 1, p. 658; see more generally pp. 649-661.

125 CICA Report, Volume 2, p. 432.

126 CICA Report, Volume 1, p. 63.

127 CICA Report, Volume 1, p. 63.

116. The interview process was said to have two primary purposes: to ensure that all relevant topics arising in an institution had been properly considered and to give everyone who wished to do so a means of participating in the work of the Investigation Committee.¹²⁸
117. The material catalogued by the Investigation Committee in its interviews was provided in summary form in Volume 4, Chapter 5 of CICA's Final Report. It was highlighted that while the information was not corroborated or tested, it demonstrated the range of abuse complained of in such institutions and operated as 'a reference for identifying weaknesses in the systems and indicating areas needing diligence and possibly reform'.

(g) Revised Hearing Process

118. The revised hearing process therefore proceeded as follows; first, initial general public hearings referred to in CICA's Report as 'Emergence Hearings'. These dealt with general topics such as historical context, the reasoning behind the Government's decision to issue a public apology, and related matters.¹²⁹
119. The investigation into most institutions was held in three stages:
- Phase I public hearing allowed the congregations to present their case as to how their institutions were managed and set out their position as to what was in dispute, making concessions or arguments as relevant. Counsel for the Investigation Committee led this evidence and there was no-cross examination at this phase.¹³⁰
 - Phase II hearings were private hearings into specific allegations of abuse in institutions. Following from the relevant amendment to the 2000 Act, these were joint hearings at which multiple complainants could provide evidence.
 - Phase III hearings were public hearings, which enabled congregations to respond to the evidence, and also included the Departments of Education and Science, Justice and Health, as well as hearings into the Irish Society for the Prevention of Cruelty to Children.

128 CICA Report, Volume 1, p. 63.

129 CICA Report, Volume 1, p. 7.

130 CICA Report, Volume 1, p. 64.

120. A small number of institutions were subject to a more limited form of investigation than by way of full hearings. This referred to two industrial schools run by the Christian Brothers, in respect of which the institutions and the system of management and the nature of the complaints were all very similar to matters which had been investigated in all the other Christian Brothers' schools, and one institution which was the subject of six separate Garda inquiries (referring to Lota, a special school in Cork).¹³¹ Discovered documentary materials, and any comments received by way of submission or witness testimony which had been heard by the Committee prior to 2003, were all relied upon for the purposes of the investigations into such institutions. No evidence was heard in relation to 3 schools for the deaf, seemingly due to an impasse with the legal representatives of this cohort of complainants.
121. By way of general observation, it seems that the amendments made to CICA's terms of reference and statutory powers by the 2005 Amendment Act allowed CICA to progress and complete its work, without further challenge or interruption. The final report of CICA, which issued in 2009, suggests that the work of the Investigation Committee was enabled to be completed some 4 years following the 2005 amendments.

(h) Expert Evidence

122. The Commission engaged independent experts to provide reports on the 'state of knowledge' in respect of specified issues such as the historical context of industrial and reformatory schools in Ireland, the funding of such schools, and developments in the areas of child protection.¹³²

(vi) Methodology of the Confidential Committee

123. The principal function of the Confidential Committee was to allow persons who did not wish to give evidence to the Investigation Committee an opportunity to recount their experience of abuse and make submissions in a confidential forum.

131 CICA Report, Volume 1, p. 62.

132 CICA Report, Volume 1, pp. 32-34.

124. Under the 2000 Act, the Confidential Committee had the power to make findings of a general nature in relation to the causes, nature, circumstances and extent of the abuse and the extent to which the systems, administration, operation, supervision, inspection and regulation of an institution contributed to the occurrence of abuse.¹³³ However, these provisions were amended by the 2005 Amendment Act so that the Confidential Committee was empowered to make 'proposals of a general nature with a view to their being considered by the Commission in deciding what recommendations to make'.¹³⁴
125. The Confidential Committee in its report, could not include information that would identify or lead to the identification of any alleged victim of abuse, or alleged abuser or institution, or any other person, and could not make findings in relation to particular instances of abuse. The 2000 Act was also amended to provide that the Commission shall have regard to the fact that evidence received by the Confidential Committee could not be tested or challenged by any person and was not corroborated.¹³⁵
126. Persons and institutions named before the Confidential Committee were not notified of the making of such allegations and had no opportunity to challenge the statements made. Evidence provided to the Confidential Committee could not be disclosed to the Investigation Committee or elsewhere.¹³⁶
127. The Confidential Committee received evidence of abuse from 1,090 witnesses. It had Witness Support Officers who facilitated communication between witnesses and the Confidential Committee, arranging travel/accommodation for hearings and offering other assistance prior to and following hearings.¹³⁷ Travel and subsistence expenses of the witness were paid by CICA.¹³⁸ There was no provision for legal representation at hearings of the Confidential Committee.
128. Priority was given to elderly witnesses and those in poor health. Where necessary, the Confidential Committee scheduled hearings outside of Dublin and overseas to hear evidence.¹³⁹

133 Section 15(1) of the 2000 Act.

134 See ss. 10 and 11(a) of the 2005 Amendment Act.

135 See s. 5(b) of 2005 Amendment Act.

136 This was subject to the limited exceptions set out under s. 27 of the 2000 Act which governed situations where the Committee was legally obliged to disclose information obtained by it.

137 CICA Report, Volume 3, p. 7.

138 Commission to Inquire into Child Abuse, Interim Report (May 2001), p. 16.

139 CICA Report, Volume 3, p. 11.

129. During the hearings, witnesses were asked whether they wished to make a self-directed statement or to be assisted by general questions from the Confidential Committee. The hearing was recorded, and witnesses were offered the opportunity to come back and listen to the recording of their hearing if they wished. The hearings before the Confidential Committee were conducted in an informal and sympathetic manner and there were no lawyers present.
130. The Confidential Committee produced a final report of its work setting out the oral evidence recounted, and the documentary evidence provided by witnesses to the Confidential Committee, and quotations were provided as a representative account of the witnesses' experiences in their own words. In its conclusions, the Confidential Committee made certain proposals for consideration in CICA's overall recommendations for the future.
131. The Confidential Committee also received evidence from a small number of third-party witnesses who reported abuse on behalf of their deceased family members and the impact on them of their relatives' abuse. This evidence was not included as evidence of abuse, but the testimony of third parties was included in consideration of the overall proposals made.

(vii) Associated Redress Schemes

(a) *The Residential Institutions Redress Board*

132. CICA did not have the power to award compensation. Instead, the Residential Institutions Redress Board ('RIRB') was established by statute in 2002 as a compensation scheme for former residents of certain residential institutions.¹⁴⁰ Those who went to the RIRB were not required to participate in the CICA inquiry.
133. An applicant to the RIRB was not required to prove in a public hearing that he or she had been abused by a particular person. Eligibility for compensation was that the RIRB was satisfied that the applicant was resident in an institution during their childhood, and that they had suffered an injury while resident there, and that their injury was likely the result of abuse.¹⁴¹ It was a 'no-fault' scheme, meaning that an award of compensation did not have the effect of a finding that the school or institution had been negligent, or had any criminal liability.

140 Residential Institutions Redress Board Act 2002.

141 Section 7 of the Act provided that the Board must be satisfied that application contained: (a) proof of his or her identity; (b) that he or she was resident in an institution during his or her childhood; and (c) that he or she was injured while so resident and that injury is consistent with any abuse that is alleged to have occurred while so resident.'

134. Hearings by the RIRB were required to be in private, and as informal as possible.¹⁴² An applicant was entitled to give oral evidence. The Board was also able to hear from other witnesses in support of the applicant's case, but it did not have any power to compel witnesses to attend.
135. The RIRB was required to notify a person or an institution accused of abuse.¹⁴³ They were then entitled to give a written statement to the RIRB. They could also, with the permission of the Board, give oral evidence or cross-examine the applicant if necessary to correct any factually incorrect statement or to protect or vindicate the personal rights of the person alleged to have committed the abuse. The applicant could also, with the permission of the Board, cross-examine the alleged abuser or the person in charge of the institution.
136. Following the hearing, the Board would proceed to make a decision on the award. The amount of the award was determined by reference to the severity of the abuse and of the injuries and effects of the abuse. The Board weighted the severity of the abuse by reference to the following scale:¹⁴⁴

Weighting scale for evaluation of severity of abuse and consequential injury

<i>Constitutive elements of redress</i>	<i>Severity of abuse</i>	<i>Severity of injury resulting from abuse</i>		
		<i>Medically verified physical/psychiatric illness</i>	<i>Psycho-social sequelae</i>	<i>Loss of opportunity</i>
<i>Weighting</i>	1-25	1-30	1-30	1-15

Redress Bands

137. This weighting was then translated into the following 'redress bands' which determined the amount awarded:

REDRESS BAND	TOTAL WEIGHTING FOR SEVERITY OF ABUSE AND INJURY/EFFECTS OF ABUSE	AWARD PAYABLE BY WAY OF REDRESS
V	70 OR MORE	€200,000 – €300,000
IV	55-69	€150,000 – €200,000
III	40 – 54	€100,000 – €150,000
II	25-39	€50,000-€100,000
I	LESS THAN 25	Up to €50,000

142 Section 10 of the 2002 Act.

143 Section 11(8) of the 2002 Act.

144 Schedule 1 of the Residential Institutions Redress Act 2002 (Section 17) Regulations 2002.

138. If not satisfied with the amount of an award, or if they had been refused an award, an applicant was entitled to apply for a review of the decision by the Residential Institutions Redress Review Committee. An applicant could either accept or reject the award offered by the Board, or on review, the Review Committee. Importantly, if the applicant accepted the award, he or she waived any right to take civil proceedings against the institution in question. However, if they rejected the award, they were entitled to seek redress in the courts. The time taken before the Board was to be disregarded for the purpose of the Statute of Limitations.
139. The average value of awards was €62,253, with the largest award being €300,500. There were 16,649 applications, of which 15,579 resulted in offers of payment.¹⁴⁵
140. The RIRB was criticised by some for not publishing a report detailing the experiences of applicants¹⁴⁶ and being excessively legalistic and complex, which generally required survivors to get legal support in making their application.¹⁴⁷ The legal fees of applicants were paid by the Board, but only if the applicant accepted the Board's offer. If the applicant rejected the offer, the applicant became responsible for their own legal costs, which created an incentive for applicants to accept what they were offered. Only 17 applicants rejected offers made to them.¹⁴⁸

(b) Caranua

141. Additionally, Caranua was established in 2012 to distribute additional funds pledged by religious orders in 2009. It provided additional supports and services to those who had already qualified for compensation under the RIRB. The scheme was capped at €110 million.
142. There was a two-stage application process. First, the survivor applied to verify their eligibility i.e. that they had received compensation from the Residential Institutions Redress Board. The second stage was more complex, and involved the Board identifying services or supports that best met the needs of individual applicants. This included housing supports, different medical supports or educational supports. Some examples of such support were: in the area health and services, optometry or dental work; in relation to housing support, disability modifications, repairs, and home improvements; and education included fees for third level education.¹⁴⁹

145 Stephen Winter, *Monetary Redress for Abuse in State Care* (Cambridge University Press, 2022), p. 48.

146 Irish Examiner, *Focus on redress: 'Aftershocks' of residential abuse reverberate* (27 June 2021).

147 Stephen Winter, *Monetary Redress for Abuse in State Care* (Cambridge University Press, 2022), p. 51.

148 *ibid*, p. 55.

149 See Stephen Winter, *Monetary Redress for Abuse in State Care* (Cambridge University Press, 2022), p. 46.

143. Caranua paid €97.9 million in support for applicants, while €13.7 million was spent on administration.¹⁵⁰ Caranua was criticised by some as spending excessive funds on administrative costs. It was also criticised for inefficiencies in its administration, and for alleged conflicts of interests on the part of Board members, some of whom were survivors and therefore potential beneficiaries from the scheme.¹⁵¹ Caranua effectively closed in 2021 and had been winding down its activities since 2018.

150 Caranua, *Annual Report 2022*, p. 3.

151 Stephen Winter, *Monetary Redress for Abuse in State Care* (Cambridge University Press, 2022), p. 56, 57.

Chapter 16:

The Impact of the Scope of Inquiries on Survivors

- A. Introduction
- B. The Impact of the Scope of the Inquiry on the Experience of Survivors
 - (i) Comparing the Ferns, Dublin, and Cloyne Inquiries with CICA
 - (a) Findings of abuse
 - (b) Findings solely related to handling of complaints
 - (ii) Naming Alleged Abusers Will Trigger Stricter Procedural Rights
 - (a) Naming alleged abusers
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 - (iii) Use of Sampling Where Large Numbers of Complainants Come Forward
- C. The Risk of Retraumatism From Cross-Examination
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 - (a) Restriction of cross-examination in commissions
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- D. Victim-Centred Reforms of the Criminal Justice System
 - (i) Statutory Rights of Victims of Crime
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 - (c) Court Familiarisation
- E. Conclusion

A. Introduction

1. Some survivors who participated in the Scoping Inquiry's Survivor Engagement process spoke of their experiences of being cross-examined in the context of criminal or civil proceedings concerning sexual abuse. They said the process of cross-examination was retraumatising for survivors.
2. This chapter explores the extent to which the focus of an inquiry's investigation will determine the evidentiary and fair procedure requirements to be afforded to persons appearing before the inquiry. It also looks at some practical measures that have been taken to support victims of crime in the criminal justice system.
3. These issues arise in the context of the Scoping Inquiry's consideration of how an inquiry can be designed so as to minimise the difficulties experienced by survivors giving evidence before it.
4. In short, it appears that while practical steps can be taken in this regard, the scope of the questions asked of the inquiry will be key to determining the experience of survivors appearing before it as witnesses.

B. The Impact of the Scope of the Inquiry on the Experience of Survivors

5. In considering how the scope of what an inquiry is asked to investigate will impact the experience of survivors appearing before it, the key question is the extent of fair procedures required for those subject to allegations of wrongdoing and, in particular, whether they should be permitted to cross-examine their accusers.

(i) Comparing the Ferns, Dublin, and Cloyne Inquiries with CICA

6. There is a clear contrast in the experiences of survivors before domestic inquiries that were charged solely with looking at the handling of complaints of child sexual abuse, such as the Ferns, Dublin Archdiocese, and Cloyne Inquiries, and that of survivors who went before CICA, which was tasked with making findings as to whether abuse, including sexual abuse, had occurred in various institutions and identifying those responsible for abuse.

7. The Ferns, Dublin Archdiocese, and Cloyne inquiries were concerned only with investigating the handling of complaints and suspicions of child sexual abuse and were therefore not directly charged with making findings on whether abuse occurred in individual instances or whether individuals were responsible for abuse. The latter two inquiries were commissions of investigation under the 2004 Act.¹ Detailed survivors' accounts are included in the inquiries' reports on an anonymised basis and, in light of these accounts of abuse, the failures of civil or religious authorities in responding to complaints or suspicions of abuse are outlined and assessed.
8. The fact that no express findings as to the substance of the allegations were required to be made is a crucial difference between the task of the Ferns, Dublin Archdiocese, and Cloyne reports, on the one hand, and CICA on the other. Judge Yvonne Murphy commented on the difference between the Dublin Archdiocese report and that of CICA as follows:²

The Ryan Report was concerned with establishing whether or not abuse occurred and the nature and scale of that abuse. It was not confined to sexual abuse. This Commission had no remit to establish whether or not abuse occurred although it is abundantly clear, from the Commission's investigation as revealed in the cases of the 46 priests in the representative sample (see Chapters 11 to 57), that child sexual abuse by clerics was widespread throughout the period under review. This Commission's investigation is concerned only with the institutional response to complaints, suspicions and knowledge of child sexual abuse. The Ryan Commission was required to make recommendations. The Dublin Commission has no specific remit to make recommendations but the Commission has given its views on a range of matters which it considers significant at various stages in the report.

(a) Findings of abuse

9. Where it is necessary for an inquiry to make findings of responsibility for abuse, the process is likely to be highly adversarial. It seems that even where it is not necessary to make findings that specific individuals were responsible for abuse, findings that abuse took place in a specific institution, meant that survivors who came before the Investigation Committee of CICA were subject to cross-examination about their accounts of abuse on that issue.

1 The Commissions of Investigation Act 2004.

2 Murphy et al, *Report by Commission of Investigation into Catholic Archdiocese of Dublin* (29 November 2009) Dublin: Stationery Office ('the Dublin Archdiocese Report'), Part 1, para [1.7].

10. The more serious the findings of wrongdoing that have to be made by an inquiry, the more likely it is that full procedural rights have to be afforded to persons accused of the wrongdoing, and this is particularly so before a tribunal. Although a commission has flexible processes available to it to determine such issues, it may decide that cross-examination is necessary to fairly dispose of accusations of wrongdoing. Although there are comments in the case law suggesting that it is open to a commission to make findings of serious wrongdoing without affording rights of cross-examination, it appears to be a matter of the degree of seriousness of the accusation, and there has been no case testing the limits of commissions' powers in this respect.
11. In CICA the question of whether sexual abuse had occurred was expressly one which the Commission was required to consider. While not empowered to make findings in relation to individual instances of abuse, CICA had an express remit to determine if sexual abuse occurred in named institutions. The role of the Investigation Committee under Commission to Inquire into Child Abuse Act 2000 ('the 2000 Act') was to inquire into the abuse of children in relevant institutions, and if satisfied that abuse had occurred, to determine the nature, causes, circumstances, and extent of such abuse. If the Investigation Committee found that abuse of children happened in a particular institution, it could name the institution and the person or persons who committed the abuse. It could also identify the people who were responsible for managing or supervising such an institution.
12. In this context CICA had decided that persons accused of being responsible for abuse were entitled to full procedural rights. The decision in the *Murray* case, discussed elsewhere in this Report, meant that representatives of the deceased and incapacitated members of the congregation and the representatives of the congregation itself were entitled to cross-examine witnesses.³
13. Because the Commission was charged with investigating specific allegations of abuse in institutions, the evidence of survivors was thoroughly tested at the private hearings of the Investigation Committee. The Commission acknowledged it 'was a daunting experience for a witness to come to the Phase II private hearings'.⁴ The number of counsel, solicitors and respondents present meant there could be typically 20-25 people hearing the evidence heard in private. A proposal by the Commission to limit attendance of legal teams was rejected by the High Court, as discussed in the previous chapter.⁵

3 *Murray v Commission to Inquire into Child Abuse* [2004] 2 IR 222, at 304-5.

4 CICA report, Volume 1, Chapter 5, para [5.06].

5 *In Re Commission to Inquire into Child Abuse* [2002] 3 IR 459.

14. The Commission acknowledged that in challenging the evidence of complainants ‘Some Congregations appeared more concerned with discrediting the complainant than with finding out what had happened in its institution’.⁶

(b) Findings solely related to handling of complaints

15. Where specific findings concerning whether abuse had occurred do not have to be made it is likely that lesser procedural rights will apply, which can greatly reduce cross-examination of survivors, or can at least reduce the areas of cross-examination permissible, particularly where the inquiry is conducted under a commission of investigation.
16. The inquiry also examines how those allegations and suspicions were handled in light of the scale and nature of same, what was known about them at the time, and what steps were taken to deal with the allegations, suspicions and concerns. This is set out in the inquiry’s report, and the public are made aware of the information uncovered in the course of the inquiry.
17. The Ferns, Dublin Archdiocese, and Cloyne inquiries each involved investigations of the handling of allegations, concerns, and suspicions of abuse. This involved the inquiry hearing evidence from survivors as to the abuse complained of and from persons who raised concerns in relation to the possibility of such abuse in order to determine what concerns or suspicions of abuse would fairly be said to have existed at the time.
18. From the history of the Ferns, Dublin Archdiocese, and Cloyne reports, it is clear that notwithstanding their narrower remit, the scale and nature of abuse complained of is reflected in the inquiries’ reports and the public came to understand the extent of clerical sexual abuse as a result of those reports. In each instance, while the findings made primarily related to the handling of allegations and suspicions of abuse, the scale of the numbers of people recounting their experiences and the similarities of the experiences recounted operated to make the public aware of the prevalence of child sexual abuse in the particular contexts examined.

(ii) Naming Alleged Abusers Will Trigger Stricter Procedural Rights

19. One of the difficulties faced in CICA and the Ferns, Dublin Archdiocese and Cloyne inquiries was seeking to balance the rights of, on the one hand, a large number of persons who made allegations of having been gravely harmed, who typically wished to be heard, believed, and offered some form of redress, with, on the other hand, the rights of the persons accused of serious wrongdoing.

6 CICA report, Volume 1, Chapter 5, para [5.28].

(a) *Naming alleged abusers*

20. Publicly naming an abuser typically triggers a more court-like procedure because constitutional protections require that when a serious allegation is made against an identifiable person, they have a right to minimum standards of fair procedures, as discussed in the previous chapter.
21. Generally, any process where survivors of child sexual abuse wish to have their abusers named publicly and findings made against them is likely to require that those survivors be cross-examined by lawyers representing the person against whom they make allegations of wrongdoing. This process can be very difficult for survivors because it will inevitably involve questioning the accuracy of survivor's testimony and the truthfulness of their evidence. When a witness gives evidence of events occurring many years previously, cross-examination will seek to undermine the accuracy of that witness's memory. It is not unusual for a witness to face cross-examination over a period of days by a number of barristers representing different parties.
22. As is apparent from the discussion in previous chapters, there have been occasions where non-statutory and statutory inquiries have named abusers without requiring cross-examination of the evidence of survivors:
 - In the Ferns Inquiry, the bulk of living clerics accused of abuse were anonymised and referred to by letters of the Greek alphabet.
 - The Dublin Archdiocese Commission concluded that it should examine every case in which the relevant priest had been convicted in the criminal courts, both on the basis of availability of documents and that 'issues such as confidentiality and damage to reputation or good name are less difficult in such cases'.⁷ Ultimately, 10 of the 46 alleged abusers referred to in the report are named.
 - In the Cloyne Inquiry, in contrast, all clerics, bar one, were anonymised in the report. Bishop Magee was named in circumstances where his identification was unavoidable given his position as a bishop.
23. In the CICA report, no persons responsible for abuse were ultimately named, however, the institutions concerned were named. The CICA Report noted that the fact that a very small number of persons would actually be named would give rise to inconsistency and would be fraught with difficulty. Under the amended legislation, persons convicted of one offence could be named in the report in relation to a separate allegation. It was ultimately decided not to identify individuals by name in respect of any alleged abuse.⁸

7 Murphy et al, 'Commission of investigation report into the Catholic Archdiocese of Dublin' (29 November 2009), p. 172.

8 CICA report, Volume 1, Chapter 5, paras [5.41]-[5.45].

(b) Naming those accused of mishandling complaints

24. The Ferns, Dublin Archdiocese, and Cloyne inquiries named all of the clerics accused of wrongdoing in handling of complaints. Such findings could reasonably be described as adversely affecting the good names and reputations of the individuals involved. However, it is clear from the reports in respect of these inquiries that they had records available to them and/or other evidence concerning the handling of allegations and suspicions of child sexual abuse, which entitled the inquiry to make the findings that they did.
25. It is unclear whether any of those who were found to have mishandled abuse allegations sought an opportunity to cross-examine any survivor or other person who may have given evidence against them. It does not appear, however, that the individuals concerned challenged the procedures of the inquiry.
26. An inquiry which focuses on the handling of allegations, concerns and suspicions of sexual abuse is not entirely immune to the potential legal difficulties discussed above. However, this type of inquiry is likely to be less adversarial in content, because it does not seek to make direct findings as to whether a particular person committed sexual abuse.

(iii) Use of sampling where large numbers of complainants come forward

27. In some inquiries, the scale of affected persons has meant that not every survivor of abuse that has come forward to the inquiry has been able to give evidence.
28. In the Ferns Inquiry, which was limited by geographical delineation, the Commission only received complaints against 21 priests that fell within their remit and therefore no sampling approach was required. Similarly, the Cloyne Inquiry investigated all 19 of the clerics against whom complaints had been received. Again, the geographical limits placed on the inquiry limited the number of complaints that were within remit, meaning that the sample size was too small to merit a sampling approach.
29. In contrast, in the Dublin Archdiocese report a sampling approach was taken, with 46 of 102 priests investigated. This narrowing of cases cannot strictly be described as sampling, in the sense of a representative or random sample, since it was decided to include all 11 priests who had been convicted of abuse since more information was available in such cases.
30. In CICA 1,712 persons initially opted to give evidence to the Investigation Committee. Pursuant to s. 12(1)(a) of the 2000 Act, the CICA Investigation Committee had a duty to provide an opportunity to each victim to recount their abuse and make submissions. It was estimated that for each person to give

evidence would take more than 4 years.⁹ If such evidence was tested by cross-examination, the process of hearing evidence would be significantly longer. For this reason, CICA decided not to hear from every witness who wished to give evidence and to only hear evidence necessary for their report. This conclusion was also reached in view of the delay to the investigation of complaints which was being incurred as a result of the administrative burden on the Investigation Committee, the adversarial approach which had been taken by the respondents to complaints, the age profile of victims of institutional abuse, and the projected costs of legal representation (which was estimated to be approximately €175-200 million).¹⁰

31. This ‘sampling’ approach was criticised by survivors.¹¹ Following the amendment to the governing legislation, interviews were undertaken with those who were either not selected as part of a representative sample of witnesses heard in private hearings for their institutions or because no oral evidence at all was sought in respect of the institution they attended. The latter situation arose in relation to 2 Christian Brothers’ schools where the institutions’ systems of management and the nature of the complaints were very similar to the matters that had been investigated in other Christian Brothers’ schools. Equally, very few hearings occurred in relation to a special school, Our Lady of Good Counsel, Lota because of the existence of 6 separate ongoing Garda investigations. In each instance, complainant witnesses were instead called for interview.¹²
32. In addition, certain special schools for deaf children were not included in full Investigation Committee hearings and 78 witnesses from these institutions were instead interviewed. Investigation of these institutions was carried out by way of analysis of documentary material.¹³

9 Judge Sean Ryan’s Review into the working of the Commission to Inquire into Child Abuse (15 January 2004), para 4.3.

10 Report to the Government on the Review of the Laffoy Commission: Made pursuant to Government Decision SI180/20/10/0270B of 3 December 2002 (15 January 2004), p. 11.

11 Eoin Burke Kennedy, ‘Group says abuse sampling approach a “stab in the back”’ *The Irish Times*, 18 September 2003, <https://www.irishtimes.com/news/group-says-abuse-sampling-approach-a-stab-in-the-back-1.499663>.

12 CICA report, Volume 1, Chapter 5, paras [5.07]-[5.08].

13 CICA report, Volume 1, Chapter 5, paras [5.09]-[5.12].

C. The Risk of Retraumatism From Cross-Examination

(i) The Risk of Retraumatism for Survivors

33. As discussed above, if a tribunal is utilised to investigate and make findings in respect of child sexual abuse, then persons potentially subject to such findings in such a forum would likely be entitled to the full range of *Re Haughey* fair procedures rights, including cross-examination of those making accusations against them, with few limitations.¹⁴
34. The nature of such cross-examination would be likely to be retraumatizing, involving a thorough dissection of a survivor's memory, motivation, and credibility. When a witness gives evidence of events occurring many years previously, cross-examination will seek to undermine the accuracy of that witness's memory. It is not unusual for a witness to be cross-examined over a period of days by a number of different parties involved in the complaint.
35. Where evidence is given in public, this strengthens the requirement for an untrammelled right to cross-examine since a person's reputation may be severely damaged by the testimony of an accuser being given without the person subjected to criticism having an opportunity to interrogate that evidence and immediately state their defence to such criticism.
36. Restricting the subject matter of an inquiry to the handling of complaints of sexual abuse and/or the response to knowledge, suspicion or concern of sexual abuse would go some way to alleviating the difficulty for survivors in giving evidence in such a forum. The inquiry would not be required to make findings as to whether sexual abuse took place, but as to how complaints and suspicions were handled. In such circumstances the inquiry could limit the matters on which cross-examination would be permitted, depending on the nature of the issues arising.

(ii) Possibility of avoiding cross-examination of survivors

37. Overall, it seems that the likelihood of a full panoply of procedural rights, including cross-examination, being afforded to an individual who may be the subject of adverse comment by an inquiry is greater before a tribunal than before a commission.

14 *In re Haughey* [1971] IR 217, at 264.

(a) *Restriction of cross-examination in commissions*

38. In contrast with the more court-like procedures of tribunals, commissions of investigation pursuant to the 2004 Act were intended to have some latitude in determining what degree of fair procedures should be afforded to participants and those who may be the subject of negative comment.¹⁵
39. As one author has noted, the key feature of inquiries held under the 2004 Act is that 'the inquiry is held in private, although, naturally, the report would be published. The result of this is that there is much less damage to a person whose reputation was under investigation by such a Commission and, consequently, their *Re Haughey* rights are reduced'.¹⁶
40. As a consequence, the obligation to provide fair procedures need not necessarily involve granting a person who is potentially subject to negative findings a right to cross-examine. This point is reflected in Charleton J's *obiter* comments in *Shatter v Guerin* [2019] IESC 9:

24. Other models are available within this jurisdiction for investigating and publicly reporting on issues of major public concern. Within the context of the structures set up by the Commissions of Investigation Act 2004, the model to be followed by the chairman in deciding issues against people does not necessarily have to involve all of these *Haughey* rights. Instead of a trial involving multiple parties and ill-defined issues, each of whom might expect to be represented to the fullest level of public expense, **the purpose of the 2004 Act was to enable an inquiry to be conducted with witnesses attending and being examined by the commission but not, necessarily, by any party with an opposing factual stance. Once the chairperson of the inquiry is of the view that cross-examination is not necessary for a fair determination, the practice, derived from the decision of the English Court of Appeal in *In re Pergamon Press Ltd* [1971] Ch 388, is to send a draft of preliminary findings together with the material on which this is based to any person who may be criticised and to seek, and then consider, whatever comments followed.** (emphasis added)

15 Gerard Hogan, David Morgan and Paul Daly, *Administrative Law in Ireland*, (5th ed., 2019), [8-44].

16 David Gwyn Morgan 'Parliamentary Inquiries: The Context of the Joint Oireachtas Committee's Proposals' [2011] COLR, 10 p. 20.

41. In terms of determining the minimum of what a person so affected is entitled to in terms of fair procedures, Charleton J went on to specify that this entailed notice of the negative findings and a chance to comment prior to publication.¹⁷ He further commented that:

29. It is to be doubted that the full panoply of *Haughey* rights are necessary just because a negative comment impacting on the good name of a citizen may be made; even through a public inquiry. The Oireachtas has determined, through passing the 2004 Act, that lesser strictures than those applicable to a public tribunal should apply to a commission of investigation, most usually held in private. It would be contrary to sense to extend the rights derived from the 1971 *Haughey* decision from tribunals of inquiry to commissions of investigation ... (emphasis added)

42. In *Mooney v An Post* [1998] 4 IR 288, Barrington J, at 298, described ‘the minimum’ procedural rights that a person affected is entitled to as some notice of what might be described as ‘the charge against him’ and that such a person ‘be given an opportunity to answer it and make submissions’.¹⁸

43. In *Kelly v Minister for Agriculture & Ors* [2021] 2 IR 624, at 697, Charleton J similarly commented, *obiter*, that ‘[a]n enquiry demands fair notice and a chance to comment. It does not ... require more than that. Apart from his rights, there are other entitlements in play: chief among them is the duty of the public service to conduct enquiries as are necessary for good administration’. The inquiry referred to in that case was an investigation carried out pursuant to the civil service disciplinary code in respect of an employee of the department of agriculture. Charleton J described two types of public inquiry that may occur:¹⁹

12. ... In *Shatter v Guerin*, comments are also made as to more complex forms of statutory enquiry where there are two models. One is based on interviewing witnesses, either privately or publicly, but only through direct questions on behalf of the commission or other tribunal and gathering materials and interviewing any supposed wrongdoers. A draft report is prepared and any materials supporting any findings of wrongdoing is given to the thought-to-be wrongdoers, giving them reasonable time to comment. The comments are then considered and a public report is issued. The other model is that of a public tribunal of enquiry, with those who may reasonably be thought to be capable of being severely criticised represented and

17 *Shatter v Guerin* [2019] IESC 9, para 26, citing Clarke J in *Atlantean v Minister for Communications and Natural Resources* [2007] IEHC 233.

18 Followed by Clarke J in *Atlantean v Minister for Communications and Natural Resources* [2007] IEHC 233.

19 [2021] 2 IR 624, 699.

participating by cross-examination and submission. That participation is sufficient and no draft report is first issued for comment by thought-to-be miscreants. The report simply comes out. But that takes an enormous amount of time, as between gathering materials, distributing all that is relevant, making an opening statement, doing public hearings and drafting an accurate report. It might be commented in this regard that, as in a court case, a witness's evidence may be rejected, even in trenchant terms, but that would give no right to be represented. **Rather, it is findings of public wrong, as in corruption, that give those potentially involved the entitlement to be represented. Even there, the draft report and individual enquiry model suffice on the current state of the law.** Thus, there may be two types of public enquiry. (emphasis added)

44. As set out below, in the context of tribunals, the extent of fair procedures is determined by factors, such as the nature of the allegation, whether the hearing is held in public, and the extent of a 'paper-trail', if any. Arguably, such factors would likely influence any challenge to a restriction on fair procedures before a commission, albeit in the context of the greater flexibility afforded to commissions under the 2004 Act.
45. The fact that the inquiries in Ferns, the Dublin Archdiocese, and Cloyne were held in private, with a large degree of documentary evidence, and concerned only the handling of allegations and suspicions of child sexual abuse, as opposed to findings of whether abuse occurred, likely supported less formality in the procedures of those inquiries. In general, it does not appear that cross-examination of survivors by potentially affected parties was a prominent feature of such inquiries.
46. Inquiries established under the Commissions of Investigation Act 2004 have heard evidence in private with more limited cross-examination. For example, the Commission of Investigation (Response to complaints or allegations of child sexual abuse made against Bill Kenneally and related matters) has heard from survivors in private while also holding public sessions of evidence in respect of the evidence of Mr Kenneally and others, such as members of the Gardaí. The commission is not concerned with the substance of Mr Kenneally's actions (which have led to his conviction for sexual abuse), but with how the abuse was handled. Notably, in giving his evidence, Mr Kenneally complained that he had not been given transcripts of survivors' evidence to the commission, which was given in private, and that he was not given the chance to cross-examine them.²⁰ However, the commission confirmed that he was not entitled to such procedural rights.

20 Orla O'Donnell, 'Concern Kenneally retracting evidence brought by defence in 2016, says Chair' *RTE* <https://www.rte.ie/news/ireland/2024/0313/1437695-kenneally-commission/>.

47. A commission of investigation under the 2004 Act which is held primarily in private has a broad discretion as to how the procedural rights of the alleged wrongdoers are to be given effect to. The most likely area where such rights may be restricted is in relation to cross-examination. The *dicta* of Charleton J set out above, if followed, would suggest that even in cases of serious wrongdoing, constitutional procedural rights may be lawfully restricted, so long as the minimum right to notice of an allegation (in the form of a draft report) and a chance to comment is observed.
48. On the other hand, CICA, while not a commission of investigation, but an inquiry operating under bespoke legislation with no equivalent to the 2004 Act's procedural provisions, afforded full procedural rights to alleged wrongdoers if they were at risk of being named as responsible for abuse of children. This meant that survivors had to be cross-examined on their evidence of abuse, albeit that that cross-examination was held in private and not in public session. As mentioned above, despite this, because of the number of parties involved, the experience of survivors giving evidence before the Investigative Committee of CICA was described as 'daunting'.²¹
49. Despite the possibility of restricting such fair procedure rights, it is notable, that there are very few cases challenging the procedures adopted by a commission under the 2004 Act.

(b) *Limited restriction of cross-examination in tribunals*

50. There are some circumstances where a tribunal can apply a lesser or more limited standard of procedural rights. The High Court has stated that in determining the extent of procedural rights applicable:
 - ... the court should have regard to a number of factors including
 - (a) the nature and type of the statutory function which the decision-maker is carrying out;
 - (b) the statutory framework within which the function is carried out; and
 - (c) the possible detriment that an applicant might suffer arising from the alleged failure [to afford the procedural rights].²²
51. The Supreme Court has further stated that the requirements of natural justice will vary depending on the gravity of what is alleged, whether or not personal responsibility is to be established, whether there is a 'paper trail' or other body of uncontradicted evidence or corroboration available, whether the inquiry sits in public or in private, and other matters.²³

21 CICA Investigation Committee Report Vol. I, Chapter 5, para 5.06.

22 In *JRH v Minister for Justice, Equality and Law Reform* [2009] 4 IR 474, at para 12, per Feeney J.

23 *O'Callaghan v Mahon* [2006] 2 IR 32, 62

52. However, a right to cross-examination in the defence of an individual's constitutional rights particularly arises where:²⁴
- (i) the tribunal was dealing with grave allegations against an individual, which, if true, would constitute a breach of the criminal law, and thus were a clear and obvious attack on his good name,
 - (ii) there was little or nothing by way of a paper trail or corroboration,
 - (iii) there was immediate and extensive media coverage of allegations made against the individual and
 - (iv) the evidence against the person largely turned on the testimony of one witness, so that the personal credibility of that witness was a vital factor.
53. It is possible for a tribunal to impose some restrictions on cross-examination. For example, in *O'Brien v Moriarty* the Supreme Court held that it was consistent with fair procedures for a tribunal to impose restrictions on the time allowed for cross-examination and on the matters on which cross-examination would be permitted.²⁵
54. It is difficult to see how a lesser form of procedural rights could apply where a tribunal is tasked with investigating such a serious matter as the sexual abuse of children and, if findings are to be made that an individual is responsible for child sexual abuse, what is alleged is a grave criminal offence. Indeed, in respect of more recently-made allegations, those accused of mishandling complaints may also be guilty of a criminal offence pursuant to the Criminal Justice (Withholding of Information on Offences Against Children and Vulnerable Persons) Act 2012 ('**the 2012 Act**'), discussed elsewhere in this Report. The 2012 Act creates an offence where a person who has knowledge or belief that an offence against a child has been committed, and who has information of material assistance in apprehending or prosecuting the person responsible, fails without reasonable excuse to inform An Garda Síochána. However, the offence only applies to information that a person acquires, receives, or becomes aware of after the passing of the 2012 Act.²⁶
55. It may be possible that one or more of the procedural rights identified in *Re Haughey* would not apply, or apply only in a diluted or lesser form, depending on the task the tribunal is asked to carry out, and the other factors identified above, such as the extent of documentary evidence. However, some degree of cross-examination of survivors appears likely if a tribunal is utilised as the mode of inquiry.

24 *ibid.*

25 [2016] IESC 36.

26 The Criminal Justice (withholding of Information on Offences against Children and Vulnerable Persons) Act 2012, s. 2(2).

D. Victim-Centred Reforms of the Criminal Justice System

56. A number of survivors in the Survivor Engagement process who had been involved in civil or criminal proceedings concerning their experiences of historical child sexual abuse felt that the legal system needed reform to make it more accessible and appropriate for victims of crime. Some reform of the criminal justice system in this regard has been underway in recent years. This section looks at certain of these reforms in so far as they may impact survivors of historical sexual abuse.
57. Legislation, discussed hereunder, has conferred statutory rights on victims of crime. In addition, two reports have made extensive recommendations about reforms of the criminal justice system and in particular measures to protect vulnerable witnesses in both the investigation and prosecution of sexual crimes. The Garda Inspectorate Report, *Responding to Child Sexual Abuse, A follow up Review from the Garda Inspectorate* (December 2017) made 24 recommendations, which were the subject of four progress reports of an interagency implementation group (the 'Implementation Group') chaired by Caroline Biggs SC.²⁷ The Report of the Review of Protections for Vulnerable Witnesses in the Investigation and Prosecution of Sexual Offences (2020) ('the O'Malley Report') made numerous recommendations and was followed by an implementation report.²⁸

(i) Statutory Rights of Victims of Crime

58. The Criminal Justice (Victims of Crime Act) 2017 ('the 2017 Act') provides for a number of entitlements of victims of crime, including the survivors of historical sexual abuse offences. The relevant entitlements for a victim of crime, include:
- (i) The right to have information on a wide range of matters, including procedures for making a complaint, the role of the victim in the criminal process, and the victim's entitlement to various services at the first point of contact with An Garda Síochána.
 - (ii) The right to be kept informed of the progress of the investigation and any criminal proceedings that follow;
 - (iii) The right to request information about any significant developments in the investigation, about key prosecution decisions, (in the event of a conviction) about the date of sentencing and of any appeal arising from the conviction, and other matters;

27 These reports were designed to outline the level of implementation of the recommendations in the Report. Additionally, the Implementation Group proposed several clarifications and modifications, largely to do with feasibility concerns, to the GIR's recommendations.

28 Department of Justice, 'Supporting a Victim's Journey: A plan to help victims and vulnerable witnesses in sexual violence cases' (28 October 2021) available at <https://www.gov.ie/en/publication/bb42e-supporting-a-victims-journey/>.

- (iv) The right to request a review of a decision not to prosecute;
- (v) The right to request information about any sentence imposed on the offender, or temporary release for the offender and the conditions attaching to same, and any escape from custody by the offender.

59. An Garda Siochana must carry out an assessment during an investigation, in order to identify any protection needs of the victim including whether, due to their special vulnerability to secondary victimisation, intimidation, or retaliation, the victim might benefit from special measures during the investigation and in any later criminal proceedings.
60. During the court process, a court has a general power to exclude the public, any portion of the public or a particular member of the public (except officers of the court and *bona fide* representatives of the press), in any proceedings relating to a criminal offence if the court is satisfied that the nature or circumstances of the case are such that there is a need to protect a victim from secondary and repeat victimisation, intimidation or retaliation, and that it would not be contrary to the interests of justice to do so.

(a) *Current Protections during Criminal Proceedings*

61. There are a number of particular protections for victims of crime in the context of criminal prosecutions:
- **Right to anonymity:** once a person is charged with a sexual assault offence the victim may not be publicly identified, except in the very limited circumstances set out in s. 7 of the Criminal Law (Rape) Act 1981. Anonymity applies irrespective of the outcome of a trial. A person charged with a rape offence is also entitled to anonymity unless convicted of the offence.
 - **Exclusion of public:** in any proceedings for certain sexual offences including rape, aggravated sexual assault, and incest, the court must exclude from the court all persons except officers of the court, persons directly concerned in the proceedings, *bona fide* representatives of the press, and such other persons as the judge may in his or her discretion permit to remain.
 - **Victim impact evidence:** when imposing sentence for a sexual offence (or for certain other offences), a court must take account of the impact of the offence on the victim and may receive evidence or submissions in that regard. A court must hear evidence from the victim about the impact of the offence if the victim wishes to give such evidence.

(ii) Practical Supports for Victims of Crime

(a) Garda Reforms

62. A number of the key recommendations of the Garda Inspectorate and O'Malley Report have been implemented as follows:

- Specialist units across each Garda division specifically trained to investigate and prevent sexual offences, known as Divisional Protective Service Units ('DPSUs'), have been established across each Garda division.²⁹ This includes training to conduct interviews with suspects and take statements from adult victims of child sexual abuse. The existence of these units ensures more effective child protection arrangements in all areas.³⁰
- The training programme for the DPSU includes training for interviewing of suspects and the taking of statements from witnesses in child sexual abuse cases.³¹
- Special interview suites have been set up for vulnerable victims. The number and geographical spread of special interview suites throughout the State is to be reviewed every three years in order to ensure that all vulnerable victims have reasonably convenient access to such a suite.³²

63. Other recommendations are in the process of being implemented:

- A joint working protocol, developed by An Garda Síochána and Tusla, is currently being reviewed to enable both organisations to move to a standard operating procedure for conducting joint interviewing of child victims.
- Changes have been made to An Garda Síochána's policy of not approaching child abuse victims as part of a third-party referral (including clerical sexual abuse cases) who are initially unwilling to make a complaint. However, these changes have not yet been fully implemented and are being kept under review.³³

29 There are 27 DPSUs with approximately 320 personnel with bespoke training on matters such as investigating sexual crime, child protection, investigating domestic violence, online child exploitation and sex offender management.

30 This was the view of the Biggs implementation group, considering the Garda Inspectorate Report (2017) recommendation that An Garda Síochána and TUSLA establish local teams to ensure more effective child protection. See: spreadsheet Appended to Fourth Implementation Group Report.

31 The Garda Inspectorate Report 2017, recommendation 3.5. The recommendation was that training to take statements from witnesses in child sex abuse cases be included in the detective training programme. The recommendation was accepted with the modification that only detectives of DPSU's would conduct such interviews.

32 The *Supporting a Victim's Journey* report commits An Garda Síochána to doing this every three years. Department of Justice, 'Supporting a Victim's Journey: A plan to help victims and vulnerable witnesses in sexual violence cases' (28 October 2021), p. 6, available at <https://www.gov.ie/en/publication/bb42e-supporting-a-victims-journey/>.

33 The Garda Inspectorate Report 2017, recommendation 3.3.

- A recommendation that An Garda Síochána develop PULSE recording practices that clearly identify child sexual abuse incidents has not yet been fully implemented.

64. In addition, a recommendation that An Garda Síochána conduct a review of PULSE incident categories to ensure that all offences of a sexual nature are recorded in a single sexual offence category and issue clear national directions on the correct recording of sexual offences is not yet implemented.³⁴

(b) Training for Judges and lawyers³⁵

65. The Judicial Council, the Bar of Ireland, and the Law Society of Ireland are examining their training and Continuing Professional Development ('CPD') processes in order to provide special training to all judges presiding over criminal trials for sexual offences and for all lawyers appearing in such trials to equip them with an understanding of the experience of victims of sexual crime. The training will also address the questioning of witnesses who are especially vulnerable by virtue of their youth or disability.

66. The feasibility of permitting the Director of Public Prosecutions, and other public bodies responsible for briefing professional lawyers in sexual offence trials, to request a list of solicitors and barristers who have undergone such specialist training is being examined.

(c) Court Familiarisation

67. The Director of Public Prosecutions, in collaboration with An Garda Síochána runs a witness familiarisation systems for victims of serious sexual offences. A professional member of the DPP's staff meets with the victim to explain the court process, and to visit a courtroom in advance of the trial if desired.³⁶ Additional funding to extend this service to all victims of sexual crimes around the country has been secured.

68. In the Criminal Courts of Justice ('CCJ') and some other court venues around the country, a voluntary service, V-SAC (Victim Support at Court) provides support to victims of serious sexual offences by accompanying victims and witnesses to court.³⁷

34 *ibid*, recommendation 3.1 & 3.2.

35 Set out in summary form at p.130 of the O'Malley Report.

36 O'Malley Report, pp. 94 to 95.

37 *ibid*, p. 95.

69. It is hoped that the above reforms, and proposed reforms, will help to make the criminal justice system more accessible and victim-centred for survivors of historical sexual abuse.

E Conclusion

70. The issues that an inquiry has to decide clearly impact how adversarial it is likely to be, and this in turn, has an influence on the likely duration of the inquiry. Charging an inquiry with making findings of serious wrongdoing, equating with criminal offences, is likely to result in a highly adversarial approach in defence of the accusations of wrongdoing. This in turn leads to a real risk of retraumatisation.
71. It is clear that a model of inquiry which has rules and procedures that are more court-like and adversarial is one where cross-examination of survivors is more likely to occur. The commission of investigation model allows for greater procedural flexibility than the tribunal of inquiry model in this regard, as it permits a commission to decide what the extent of procedural rights should be, including whether cross-examination is permitted. A commission may, of course, decide that cross-examination is required to fairly decide an issue before it, but it has greater flexibility to decide that issue and to provide for alternatives to cross-examination than a tribunal.
72. The recent legislative and practical reforms aimed at taking into account the impact of court proceedings on victims of crime are instructive when considering what steps a future inquiry might take to support victims. These themes will be returned to in the conclusion of this Report.

Chapter 17:

International Inquiries into Child Sexual Abuse

- A. Introduction

- B. Australian Royal Commission into Institutional Responses to Child Sexual Abuse
 - (i) Private sessions
 - (ii) Public hearings
 - (iii) Conduct of hearings
 - (iv) Research
 - (v) Final Report
 - (vi) Redress
 - (vii) Reaction

- C. The Independent Inquiry into Child Sexual Abuse (England and Wales)
 - (i) Procedures and methodology
 - (ii) Ability to Make Findings
 - (iii) The Truth Project
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- D. Northern Ireland Historical Institutional Abuse Inquiry
 - (i) Methodology
 - (ii) The Acknowledgment Forum
 - (iii) Findings
 - (iv) Redress
 - (v) Survivor Experience
 - (a) The Acknowledgement Forum
 - (b) The Inquiry

E. The Scottish Child Abuse Inquiry

- (i) Methodology
- (ii) Findings to date
- (iii) Research
- (iv) Redress
- (v) Criticism and Controversy Surrounding the SCAI and Redress Scotland

F. The Canadian Truth and Reconciliation Commission

- (i) Programme of Works
- (ii) Final Report
- (iii) Redress
- (iv) Survivors' Experience

G. Conclusions

A. Introduction

1. In recent years, an increasing number of countries have set up public inquiries to investigate historical child abuse, particularly from the 1990s onwards.¹
2. It has been observed that the focus of most government inquiries into historical child abuse has been on abuse in residential care.² However, some more recent major inquiries, such as the Australian Royal Commission and the UK Independent Inquiry into Child Sexual Abuse have had a much broader focus, encompassing child sexual abuse in a variety of settings, including in schools.
3. In recent times, it would appear that the Irish model of inquiry, and particularly the model of the Commission to Inquire into Child Abuse (“CICA”) has proven influential. CICA was a particular inspiration for the Australian Royal Commission into Institutional Responses to Child Sexual Abuse of 2013–2017, as well as for Swedish inquiries.³
4. This chapter will consider the process, powers, and methodology of a number of inquiries internationally that have investigated child sexual abuse in schools, whether exclusively or more often as part of a broader scope of the inquiry.⁴ In particular, this chapter will consider public inquiries in Australia, the United Kingdom, and in Canada, namely:
 - (i) The Australian Royal Commission into Institutional Responses to Child Sexual Abuse;
 - (ii) The UK Independent Inquiry into Child Sexual Abuse;
 - (iii) The Northern Ireland Historical Institutional Abuse Inquiry;
 - (iv) The Scottish Child Abuse Inquiry, and;
 - (v) The Truth and Reconciliation Commission of Canada.

1 Gleeson and Ring, ‘Confronting the past and changing the future? Public inquiries into institutional child abuse, Ireland and Australia’ (2021) 29(1) *Griffith Law Review*, 109.

2 Katie Wright ‘Remaking Collective Knowledge- An Analysis of the Complex and Multiple Effects of Inquiries into Historical Institutional Child Abuse’ 74 *Child Abuse and Neglect* 10.

3 Johanna Sköld, ‘The truth about abuse?: A comparative approach to inquiry narratives on historical institutional child abuse’, 2016, *History of Education*, (45), 4, 492-509.

4 Only a small number of inquiries have investigated abuse solely in schools, and fewer still have focussed solely on sexual abuse in schools.

B. Australian Royal Commission into Institutional Responses to Child Sexual Abuse

5. The Australian Royal Commission into Institutional Responses to Child Sexual Abuse (the 'Royal Commission') was established partially by way of a response to outcry among survivors in Australia following the publication of the Ryan Report in Ireland, including the possibility that certain priests were relocated to Australia where they committed further abuse.
6. The Royal Commission was influenced by the methodology of CICA, and in particular adopted the sampling methodology utilised by CICA – where cases were chosen based on a review of documentation – and survivor testimony was subject to cross-examination. However, contemporary media reports criticised CICA for its anonymisation of abusers and the lack of recommendations for further prosecutions and sought a different approach for an Australian inquiry.⁵
7. The Royal Commission was established in 2013 with a mandate both to examine how Australian institutions responded to sexual abuse of children and to make recommendations for the future as to what institutions and the Government should do to alleviate the impact of child sexual abuse.
8. Its focus was solely on sexual abuse, in contrast with previous inquiries in Australia that had considered abuse more broadly. However, the inquiry investigated a very broad range of institutions, including not only residential care, but also a range of state, faith-based, non-government and non-profit organizations, such as churches, schools, hospitals, and sport clubs.⁶
9. Its terms of reference were forward looking in outlook.⁷ It was required to 'inquire into institutional responses to allegations and incidents of child sexual abuse and related matters' and 'in particular' to examine what governments and institutions should now do to protect children; appropriate redress and justice responses for survivors; and legal and other impediments to reporting crime. It was to carry out its investigations having specific regard to 'the experience of people directly or indirectly affected by child sexual abuse' including through 'the provision of opportunities for them to share their experiences in appropriate ways'.

5 Gleeson and Ring, 'Confronting the past and changing the future? Public inquiries into institutional child abuse, Ireland and Australia' (2021) 29(1) *Griffith Law Review* 109.

6 See Wright, Swain and McPhillips, 'The Australian Royal Commission into Institutional Responses to Child Sexual Abuse' (2017) 74 *Child Abuse and Neglect* 1-9.

7 Royal Commission into Institutional Responses to Child Sexual Abuse, Terms of Reference, available at <https://www.childabuseroyalcommission.gov.au/terms-reference>.

10. Notably, the Royal Commission made liberal use of its express statutory power to refer evidence or information that potentially disclosed criminal offences to police and law enforcement.⁸ Over 2,000 cases were referred to the police, with a number of cases resulting in prosecutions.⁹
11. The Royal Commission conducted its work through a mixture of private sessions, public hearings, and a research and policy programme. As an initial information gathering exercise, survivors were invited to call or write to the Commission about their experience. The Commission set up a call centre for this purpose, which received over 39,000 calls over the course of its work. It also received over 20,000 pieces of correspondence.¹⁰
12. Those who made contact with the Royal Commission were then further invited to contribute to either a private or public hearing, or to give a written account of their experiences. They were also informed of the availability of a free legal advice service, called 'knowmore', which was established specifically to cater to the needs of persons who were either giving information or considering giving information to the Royal Commission.¹¹ This provided legal advice on matters such as witness protections, the availability of other forms of action or redress, and the effect of confidentiality agreements in past proceedings.¹²

(i) Private sessions

13. The Royal Commission also provided for the use of private sessions, similar to the Confidential Committee of CICA, which enabled survivors to tell their stories without being subject to cross-examination. Private sessions did not follow a rigid structure: Attendees were given the opportunity to share their experiences, the impact of the abuse and trauma on their lives, and their suggestions for better protecting children in the future.¹³

8 Pursuant to s 6P of the Royal Commissions Act 1902.

9 Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report* (2017), Vol. 1, p. 25.

10 *ibid*, p. 23.

11 Royal Commission into Institutional Responses to Child Sexual Abuse, Practice Guideline 1 ('the Practice Guideline'), p. 2.

12 *ibid*.

13 Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report* (2017), Vol. 1 at p. 28.

14. The Royal Commissions Act 1902 was amended to provide that a private session is not a hearing of the Royal Commission, and that a person who appears at a private session is not a witness before the Royal Commission or considered to be giving evidence. As a result, survivors who participated in private sessions were not required to take an oath or affirmation and were not subject to cross-examination. While information gathered in private sessions informed the Royal Commission and its work, the Act required that information gathered at a private session that identified a natural person could only be included in a report or recommendation if it was 'de-identified'.¹⁴ Material from the private sessions was largely contained in its own dedicated volume of the report, Volume 5. The Royal Commission held around 8,000 private sessions.
15. Notwithstanding the restrictions on the manner in which information gleaned from private sessions could be used, the Commission described private sessions as 'the primary way for the Commissioners to listen to survivors' experiences of child sexual abuse in institutional contexts'.¹⁵
16. The Commission noted that it sought to hold a private session as soon as possible after initial contact from a survivor, though it noted that in practice, due to the huge demand, it was often more than a year until this took place.
17. Private hearings were conducted across the country, with Commissioners travelling to different cities, towns and remote areas to conduct them. Some private sessions were held in prisons. Sessions usually lasted one hour and survivors were entitled to have a support person with them. Survivors were also phoned by a counsellor within one week of having attended.¹⁶ Private sessions were adapted to meet the needs of particular individuals, whether children, people with disabilities or ethnic minorities.¹⁷
18. At the immediate conclusion of the private session, survivors were offered the opportunity to talk to a Royal Commission counsellor. Survivors were also provided with a personal thank you card signed by the Chair of the Royal Commission. They also received a booklet describing what they could expect in the weeks and months following a private session, including the feelings commonly experienced by survivors following contributing to a private session. This booklet also described how the Royal Commission would use the information provided at the private session, including how it would be de-identified. Survivors were also invited to contribute to a book, 'Message to Australia'. This book was to contain short descriptions of

14 Royal Commission Act 1902, Section 60J.

15 Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report* (2017), Vol. 5, p. 33.

16 Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report* (2017), p. 36.

17 *ibid.*

survivors' experiences and recommendations for making the future safer for all children. The Message to Australia book is now housed, for posterity, at the National Library of Australia.

19. Private sessions were recorded and a transcript made to assist the Commission. This transcript was made available to the survivors, but not to other participants in the process.¹⁸ Survivors spoke positively of the experience of attending private sessions.¹⁹
20. The Commission said that the information gathered in private sessions 'informed our investigations, public hearings, and the development of Royal Commission recommendations.'²⁰
21. Practice Guideline 1 provided for a procedure by which certain information gathered at private sessions could be relied upon by the Commission, but it is unclear if it was ever used.²¹

(ii) Public hearings

22. The public hearings of the Royal Commission took the same "sampling" approach used by CICA, whereby a selection or sample of institutions were chosen for in-depth investigation by the Commission.²² The Final Report of the Royal Commission outlined the selection methodology, noting that it looked at factors such as the number of allegations in the institution and the number of witnesses and documents available.²³
23. The hearings were held in 11 different locations across Australia, over the course of 444 hearing days, with evidence given by 1,302 witnesses.²⁴ Witnesses were entitled to the cost of travel expenses and the expense of legal representation for appearing at a public hearing. The Commission also guaranteed that special arrangements could be made for giving evidence where necessary, including giving evidence via video link or from a specially designed room on the Commission's premises.²⁵

18 Practice Guideline 1, para. 39.

19 Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report* (2017), Vol. 1, p. 29.

20 *ibid.*

21 Practice Guideline 1, para. 74.

22 The sampling methodology is discussed by Gleeson and Ring, 'Confronting the past and changing the future? Public inquiries into institutional child abuse, Ireland and Australia' (2021) 29(1) *Griffith Law Review* 109.

23 Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report* (2017), Vol. 1, p. 36.

24 *ibid.*, p. 34.

25 Practice Guideline 1, para. 49.

24. The Commission published a programme of hearings and then invited applications for 'Leave to Appear' from affected persons. This would generally be granted when an applicant:²⁶
- (i) has been summoned to give evidence;
 - (ii) is an institution, or is a representative of an institution, that is subject to the inquiry to be undertaken;
 - (iii) may be the subject of an adverse allegation.
25. In the event of granting leave to appear, the Commission had the power to make that leave subject to various conditions, including limiting the particular topics or issues upon which the person may examine or cross-examine or imposing time limits upon examination and cross-examination.²⁷ Of the 913 applications for leave to appear, 703 were granted.²⁸ Parties with leave to appear at a hearing could apply for other witnesses to be called. They generally had to supply a signed statement that explained what evidence the witness would give.²⁹

(iii) Conduct of hearings

26. In addition to being examined by counsel assisting the Royal Commission, the witness could be examined or cross-examined by or on behalf of a party with sufficient interest to do so. Prior to determining whether or not they had sufficient interest, the Commission could ask the party to:
- (i) identify the purpose of the examination;
 - (ii) set out the issues to be canvassed;
 - (iii) state whether a contrary affirmative case is to be made, and if so the details of that case including providing a signed statement of evidence advancing material contrary to the evidence of that witness.
27. The public hearings were livestreamed online. It has been noted that this was an essential feature of the public education objective of the Commission.³⁰

26 *ibid.*

27 Practice Guideline 1, para. 49.

28 Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report* (2017), Vol. 1, at p. 37.

29 *ibid.*, p. 38.

30 Wright, Swain and McPhillips, 'The Australian Royal Commission into Institutional Responses to Child Sexual Abuse' (2017) 74 *Child Abuse and Neglect* 1-9, 3.

28. After each public hearing, counsel assisting the Royal Commission produced written submissions setting out the evidence and the findings available to the Commission based on that evidence. The submissions were also provided to those with leave to appear and those who were at risk of an adverse finding, giving them a right to make written submissions in reply. The Royal Commission applied the civil standard of proof, which in Australia is the standard of ‘reasonable satisfaction’.³¹
29. The public hearings formed the basis of ‘case study reports’, which made findings in relation to the responses of particular institutions to sexual abuse.
30. Notably, individuals accused of wrongdoing or abuse were named only where they had previously been convicted of an offence or if they were deceased. 35 case study reports in relation to particular institutions were published.
31. In addition, the Royal Commission held final ‘review hearings’ towards the end of its work, in which it invited institutions that had been investigated at an earlier stage to update the Commission as to progress made in updating their policies and practices in respect of child protection.

(iv) Research

32. The Royal Commission also undertook an extensive research and policy programme. The breadth of this programme has been described as a ‘distinctive and unprecedented feature of the Royal Commission’.³²

(v) Final Report

33. The Royal Commission produced a report in 17 volumes, which made recommendations under various headings such as; ‘Understanding Child Sexual Abuse in Institutional Contexts’ and ‘Redress and Civil Litigation’. An important recommendation of the report was that there be established a monetary redress scheme. The Report particularly emphasised how sexual abuse of children was endemic in Australian society and amounted a national tragedy.

31 The standard of “reasonable satisfaction” is based on the principles outlined in the judgment of Dixon J. in *Briginshaw v Briginshaw* (1938) 60 CLR 336, at 362-3.

32 Wright, Swain and McPhillips, ‘The Australian Royal Commission into Institutional Responses to Child Sexual Abuse’ (2017) 74 *Child Abuse and Neglect* 1-9, 4.

34. It appears that the work of the Royal Commission was broadly well received.³³ Wright et al describe the Royal Commission as ‘one of Australia’s most highly regarded and successful public inquiries, having developed a model for investigation of institutional abuse that has shaped the approach of other inquiries internationally’.³⁴

(vi) Redress

35. Under the National Redress Scheme for Institutional Child Sexual Abuse Assessment Framework 2018, awards are determined by the type of abuse. A fixed amount of \$70,000 (roughly €42,200) was allocated to recognise penetrative sexual abuse.³⁵ Additional fixed amounts can be awarded to recognise the impact of the abuse, any non-sexual abuse, institutional vulnerability of applicants and, in the case of penetrative abuse, the extreme circumstances of the abuse.³⁶

(vii) Reaction

36. Approaches to survivor participation in the Royal Commission, have been met with positive academic commentary.³⁷ One author described the approach to survivor testimony as informed by an ‘empathetic trauma-informed approach that drew on contemporary understandings of psychological injury’.³⁸ Others praised the private hearings as providing rich qualitative research from survivors that could offer a basis for better future prevention,³⁹ and thus aligned with the stated wish of many survivors to tell the Commission about their ideas for policy and social change.⁴⁰ However, Gleeson and Ring note that multiple prior Australian inquiries had the result that limited numbers of Aboriginal people provided testimony in the belief that they had already provided testimony to the State and wanted to avoid the risk of retraumatisation.⁴¹

33 Gleeson and Ring, ‘Confronting the past and changing the future? Public inquiries into institutional child abuse, Ireland and Australia’ (2021) 29(1) *Griffith Law Review* 109, 129.

34 Wright, Swain and McPhillips, ‘The Australian Royal Commission into Institutional Responses to Child Sexual Abuse’ (2017) 74 *Child Abuse and Neglect* 1-9, 5.

35 National Redress Scheme for Institutional Child Sexual Abuse Assessment Framework 2018, section 5.

36 A table designating varying amounts from \$5,000 to \$70,000 in this regard is set out at section 5 of the Framework: <https://www.legislation.gov.au/F2018L00969/latest/text>.

37 Katie Wright, ‘Challenging Institutional Denial: Psychological Discourse, Therapeutic Culture and Public Inquiries’ (2018) 42 *Journal of Australian Studies* 177.

38 *ibid*, p. 188.

39 Michael Salter, ‘The Transitional Space of Public Inquiries: The Case of the Australian Royal Commission into Institutional Responses to Child Sexual Abuse’ (2020) 53 *Australian & New Zealand Journal of Criminology* 213 at 222.

40 *ibid*.

41 Kate Gleeson and Sinéad Ring, ‘Confronting the Past and Changing the Future? Public Inquiries into Institutional Child Abuse, Ireland and Australia’ (2020) 29 *Griffith Law Review* at 19.

C. The Independent Inquiry into Child Sexual Abuse (England and Wales)

37. The Independent Inquiry into Child Sexual Abuse ('IICSA'), established under the Inquiries Act 2005, investigated child sexual abuse in a wide variety of different contexts and settings in England and Wales. It was established in 2014 in response to the revelations of child sexual abuse perpetrated by the broadcaster Jimmy Saville.
38. The Inquiry operated separate investigations into child sexual abuse in different settings and institutions across England and Wales. One of its investigations focused on child sexual abuse in residential schools, a final report in respect of which was published in March 2022.⁴² The scope of the investigation was to 'investigate the nature and extent of, and institutional responses to, child sexual abuse in residential schools'. Unlike the Australian Royal Commission, or CICA, the inquiry was not concerned solely with historical abuse, but also considered current or ongoing risks to children. In particular, the investigation placed emphasis on making recommendations for improving child safeguarding in schools going forward.
39. The Inquiry took place in two phases: In Phase 1, the investigation considered two types of residential school: residential specialist music schools and residential special schools (for children with special educational needs). These schools were selected because pupils faced heightened risks of child sexual abuse in these settings. Phase 2 concerned mainstream boarding schools where one or more staff members had been convicted of an offence of child sexual abuse in relation to a pupil.
40. Individuals contacted the Inquiry with concerns about over 160 schools. A sampling approach was taken and 13 schools in total were selected for investigation, 12 in England and 1 in Wales. The investigation of those 13 schools were intended to 'provide examples of common safeguarding issues which can arise in a particular educational setting, as well as examples of poor practice or illustrations of limitations within the wider safeguarding system'.⁴³ The Phase 1 and Phase 2 hearings were each heard over a 2-week period just over one year apart.⁴⁴
41. The Investigation also undertook or commissioned research into child sexual abuse in residential schools, which it published by way of two reports.⁴⁵

42 Independent Inquiry into Child Sexual Abuse, *The residential schools investigation: Investigation Report* (March 2022).

43 Independent Inquiry into Child Sexual Abuse, *The residential schools investigation: Investigation Report* (March 2022), p. 19.

44 Independent Inquiry into Child Sexual Abuse, *The residential schools investigation: Investigation Report* (March 2022). p. 19, 20.

45 Independent Inquiry into Child Sexual Abuse, *Child sexual abuse in residential schools: A literature review* (2018).

42. The Independent Inquiry also established a Victim-Survivors Consultative Panel ('VSCP'), which was set up to provide advice to the Inquiry and offer guidance across all areas of the Inquiry's work. Many of the VSCP members were activists, who had been involved in raising awareness of victims and survivors' needs from before the Inquiry was established.⁴⁶

(i) Procedures and methodology

43. As a statutory inquiry established pursuant to the Inquiries Act 2005, the procedures and methodology adopted by the inquiry were largely determined by that Act and the associated Inquiry Rules 2006 made thereunder.

44. The Chairman of an inquiry is granted extensive powers to determine the procedure before an inquiry pursuant to section 17 of the 2005 Act, subject only to the Inquiry Rules, as well a requirement to act fairly and to make procedures likely to save costs. Under section 21 of the 2005 Act, the Chairman can compel the production of documents and the attendance of witnesses.

45. In relation to witnesses, pursuant to Rule 9 of the 2006 Rules, the inquiry must first send the witness a request for a written statement. Depending on the process adopted by the inquiry, these statements can either be delivered to the inquiry by the witness themselves or it can be taken by the inquiry in the course of an interview.

46. While not expressly provided for in the Act or in the Rules, it appears that it is common for inquiries to put a witness support service in place for the duration of its work, including at interview and during the course of evidence.⁴⁷

47. Generally, only counsel to the inquiry, or the inquiry chair or panel, is entitled to put questions to the witness during the hearing,⁴⁸ but other parties may apply to the Chair for permission to do so.

48. Certain witnesses or other persons involved in the inquiry are designated as "Core Participants". These can be individuals or organisations that have a particularly close connection with the work of an inquiry. A designated core participant might include persons who had a direct or significant role in the events described or might be subject to criticism in a report of the inquiry.⁴⁹

49. Core Participants have the right to appoint a legal representative, are likely to receive advance notice of evidence, have the right to propose questions for Counsel to the Inquiry to ask witnesses, may apply to ask questions of a witness, and have the right to make opening and closing statements.⁵⁰

46 <https://www.iicsa.org.uk/victims-and-survivors/victims-and-survivors-consultative-panel.html>.

47 Mitchell et al, *The Practical Guide to Public Inquiries* (Hart Publishing, 2020), p. 185.

48 Inquiry Rules 2006, Rule 10(1).

49 Inquiry Rules 2006, Rule 5.

50 Inquiry Rules 2006, Rules 6,10, and 11.

(ii) Ability to make findings

50. The power of an inquiry in the United Kingdom to make findings that are critical of named individuals are not subject to the same constitutional constraints that exist in this jurisdiction. Indeed, it has been suggested, following the judgment of Lawton LJ. in *Maxwell v Department of Trade and Industry* [1974] QB 523, that the report of a public inquiry is akin to the speech of a Minister in Parliament.⁵¹
51. It should also be noted that section 2 of the 2005 Act provides that, while an inquiry has no power to determine civil or criminal liability, it is, at the same time, ‘not to be inhibited in the discharge of its functions by any likelihood of liability being inferred from facts that it determines or recommendations that it makes’.⁵²
52. However, there is a well-established duty on an Inquiry to act fairly, including in the preparation of its report, and in particular where it may result in adverse finding against an individual. The Royal Commission on Tribunals of Inquiry (‘the Salmon Report’) identified 6 ‘cardinal principles’ to govern the conduct of inquiry proceedings, which are not dissimilar to the content of *Re Haughey* rights.
53. In addition, it is an express statutory requirement for the Inquiry to send a warning letter to any person who may be the subject of criticism by the Inquiry in its report and to give them reasonable opportunity to respond to the warning letter.⁵³
54. However, notwithstanding the similarity of the governing principles, it would appear that, in practice Inquiries in England & Wales are significantly less constrained in their ability to make findings in respect of individuals, partially due to the deferential standards of review adopted by the British courts in hearing judicial reviews of inquiries. For example, in *Elaine Decoulos v The Leveson Inquiry*,⁵⁴ the High Court refused a challenge to a refusal to designate the applicant as a “Core Participant” stating that ‘the only basis upon which this court can interfere is on the basis of an error of law such as, for example, a breach of the requirement of fairness within the rules or a decision which is outwith the bounds of reasonable conclusion’.⁵⁵

51 Louis Blom-Cooper QC, *Public Inquiries* (Hart Publishing, 2017) p. 107-108.

52 Section 2(2) of the Inquiries Act 2005. Louis Blom-Cooper QC, ‘Freedom of expression in public inquiry reports’ (2014) *Public Law* 2.

53 Rule 13 of the Inquiry Rules 2006.

54 [2011] EWHC 3214 (Admin).

55 *ibid*, para. 5.

55. It would appear that the Independent Inquiry's Investigation into Residential Schools was assisted in adopting a more efficient process, with only a limited number of public hearings, by reason of that fact that it largely only considered responses to child sexual abuse where the perpetrator had already been convicted of criminal offences.⁵⁶ Thus, the locus of scrutiny of the inquiry was very firmly on the responses to allegations and systems of child safeguarding rather than on establishing particular instances of child sexual abuse.

(iii) The Truth Project

56. In addition to its investigative work, the Independent Inquiry established 'The Truth Project' to hear from and record the experience of survivors and the effect of sexual abuse on their lives.⁵⁷ The work of the Truth Project closely resembles the work of the private sessions of the Australian Royal Commission.

57. The Truth Project allowed victims and survivors to share their experience with the Inquiry in a confidential and informal setting.

58. After submitting an expression of interest online, a representative would contact survivors to discuss how they wished to make their contribution. Victims and survivors were able to attend private sessions in person or via telephone, submit a written account or submit an audio recording of their experiences. They were also entitled to share drawings or creative writing that communicated their experiences. In the majority of cases, participants opted to share their experiences in person, at a private session.⁵⁸ The Inquiry facilitated a private session at a location convenient to the survivor, and also reimbursed all reasonable travel expenses, including those of two companions.

59. The Inquiry offered support services to survivors before, during and after their contribution to the Truth Project. Private sessions in the Truth Project were conducted by trained facilitators, who had backgrounds working with victim and survivor groups.⁵⁹

60. The report of the Truth Project recounted the experiences of victims and survivors, including the effect of the abuse on them at the time and in their later life, the institutional responses to the abuse, and the adequacy of support services in assisting them in dealing with their trauma. It did so on an anonymised basis, and without making any findings in relation to particular instances of abuse.

56 The report notes at p. 1 that it examined schools 'in which staff had been convicted of the sexual abuse of pupils, or in which serious safeguarding concerns had arisen.'

57 Independent Inquiry Into Child Sexual Abuse, *Victim and survivor voices from The Truth Project* (October 2017), available at <https://www.iicsa.org.uk/document/victim-and-survivor-voices-truth-project.html>.

58 *ibid.* p. 29.

59 Independent Inquiry Into Child Sexual Abuse, *Victim and survivor voices from The Truth Project* (October 2017), p. 35.

(iv) Redress

61. The IICSA made a recommendation that a redress scheme should be set up in its Final Report in October 2022. The Inquiry recommended a two-tier system, based on a fixed flat-rate recognition payment with the option to apply for a second-tier payment for victims who provide more details and evidence (including medical evidence where necessary).
62. Controversially, the IICSA recommended that first-tier payments should be ‘at a modest level’ and payments should be lower than the sums that would be recovered were civil litigation pursued because ‘awards made by the scheme are intended to acknowledge the experiences of victims and survivors, not provide compensation akin to that achievable through a civil claim, which will still remain open for applicants to pursue’.⁶⁰
63. The IICSA further recommended that any redress scheme be state-funded, but that contributions from non-State institutions should be encouraged by the government maintaining a list of institutions from which they seek contributions, and publishing a list of those which contribute or, if necessary, fail to contribute.⁶¹
64. However, at present, while the UK government has confirmed that there will be a redress scheme,⁶² no timescale has been given as to when this will occur.

D. Northern Ireland Historical Institutional Abuse Inquiry

65. Northern Ireland’s Historical Institutional Abuse Inquiry (‘HIAI’) reported its findings in January 2017, and was chaired by Anthony Hart.⁶³
66. The HIAI’s remit was to investigate sexual, physical and emotional abuse, neglect and unacceptable practices that took place in residential institutions for children (other than schools) between 1922 and 1995.

(i) Methodology

67. Overall, some 333 victims gave evidence to the HIAI’s public statutory inquiry with 246 victims giving evidence in person and 87 victims giving evidence by submitting witness statements.⁶⁴

60 Report of the Independent Inquiry into Child Sexual Abuse, II, I.7, para 106.

61 *ibid*, II, I.7, para 124.

62 <https://www.gov.uk/government/news/child-sexual-abuse-redress-scheme-to-be-established>.

63 Anthony Hart, David Lane, and Geraldine Doherty, Report of the Historical Institutional Abuse Inquiry (Vol. 1): The Inquiry into Historical Institutional Abuse, 1922 to 1995 (Northern Ireland: The Executive Office, 2017) (‘HIAI Report’)

64 HIAI Report, pp. 6–10.

68. The Terms of Reference required it to identify whether there were systemic failings on the part of institution which provided residential accommodation and took decisions about and made provision for the day-to-day care of children under 18 between 1922 and 1995.
69. In general, the Inquiry sought to avoid reaching conclusions of fact in relation to specific acts or identifiable individuals where it was possible to arrive at conclusions as to systemic failings without identifying an individual or a specific incident. In its report, the Inquiry gave the example that, if ten individuals alleged that one person assaulted them in some way, and if the Inquiry was satisfied that some of those allegations were credible then it was unnecessary for it to specify which of the accounts were reliable and which were not.⁶⁵ However, in some cases the Inquiry had to identify whether a specific individual committed abuse in order to determine whether or not there was a systemic failing. In such cases, the Inquiry had to reach a view as to whether or not those events occurred in order to determine whether or not there was a systemic failing by an individual or an institution.⁶⁶
70. A sampling of institutions was considered, with 22 institutions were examined in public hearings by a statutory inquiry.⁶⁷ Abuse by Father Brendan Smyth of the Norbertine Order and the operation of the Child Migrant Scheme was also investigated. While applicants had made allegations of some form of abuse in respect of 65 institutions, only 22 were investigated in public hearings, and a further 6 were the subject of targeted paper investigations. The remaining 37 institutions that were each the subject of allegations by at most two applicants were not considered on the basis that such consideration would not further the Inquiry's understanding of the nature and extent of the abuse and of the systemic failings that allowed abuse to happen, within all the types of homes and institutions within its remit.⁶⁸
71. The Inquiry sought to address survivor concerns by limiting 'unnecessary' cross-examination, and instead providing for the 'testing' of evidence by lawyers for the Hart Inquiry, on the basis that the inquiry would explicitly be inquisitorial rather than adversarial.⁶⁹ As part of this process the legal representatives of core participants and individuals asked the Inquiry Counsel to put additional points to each witness rather than cross-examining directly. The Report acknowledged that this process of testing evidence was nonetheless difficult for survivors:⁷⁰

65 HIAI Report, p. 17.

66 *ibid.*

67 It investigated 11 voluntary homes run by Catholic religious orders or other bodies such as Barnardo's, 6 Training Schools and other juvenile justice sector institutions; and 5 state-run residential institutions.

68 *ibid.*, p. 21.

69 *ibid.*, p. 12.

70 *ibid.*

Some applicants found it very difficult to accept that this process necessarily involved the views of institutions or individuals being put to them and their then being asked to comment upon whatever contrary view was being put forward.

72. Witnesses and alleged abusers were not named in the vast majority of cases. Core participants and relevant witnesses were made aware of the identity of the person to whom the designation was given so that they could respond to what that person was saying as necessary. A minority of individuals waived their anonymity.
73. The Inquiry held 223 days of hearings at Banbridge Courthouse, almost all of which were held in public. 18 hearings in 2014 and 2015 took the form of closed hearings to avoid prejudice to criminal trials that were imminent at that time. Witness Support Officers (WSOs) were appointed to act as the point of contact for individual applicants with the Inquiry. Counsellors were available in the chamber for those who needed immediate assistance when giving evidence.⁷¹
74. After the public hearings each institution or individual who was subject to a criticism in the draft report was sent a Warning Letter and invited to respond by a certain date. The responses were then considered by the Inquiry panel and the draft amended if necessary.⁷²

(ii) The Acknowledgment Forum

75. In attempting to achieve a victim-centred approach, the HIAI established an Acknowledgment Forum, similar to CICA's Confidential Committee, which sought to provide 'an opportunity for victims and survivors to recount their experiences on a confidential basis'.⁷³ The Forum was private, confidential and had therapeutic aspirations seeking to hear testimony and accept without challenge.
76. Some 428 victims contributed to the Acknowledgement Forum.⁷⁴ Panel members almost always sat in teams of two, and their role was to enable applicants to the Acknowledgement Forum to describe their experiences in a completely confidential setting. Where necessary panel members asked questions in order to help applicants to describe their experiences.

71 HIAI Report, p. 11.

72 *ibid*, p. 33.

73 HIAI Report, p. 5.

74 HIAI Report, pp. 6–10.

77. While the Acknowledgement Forum was never intended to be used as a vehicle for gathering evidence for civil proceedings, litigation arose in relation to applications from survivors for access to their transcripts in order to gather evidence for civil proceedings. The Inquiry declined to produce such transcripts and its position was upheld by the High Court, and on appeal by the Court of Appeal in *LP's Application* [2014] NICA 67.

(iii) Findings

78. The HIAI report recommended that survivors be provided with a range of measures, including compensation, an apology, a memorial, specialist care, and assistance (counselling and social support, for example, with housing and education) and for the establishment of a Commissioner for Survivors of Institutional Childhood Abuse (COSICA).⁷⁵ Notably, survivors were ambivalent about a public monument: the report notes that many victims did not want 'to be reminded of their experiences as children in residential institutions'.⁷⁶ The HIAI report instead recommended a memorial be erected at the local parliament to 'remind legislators and others of what many children experienced in residential homes'.⁷⁷

(iv) Redress

79. The Historical Institutional Abuse Redress Board was set up pursuant to the Historical Institutional Abuse (Northern Ireland) Act 2019. Applications will be considered by paper determination by a three-person panel consisting of a judicial member and two non-judicial members from a health and social care background. Those who had provided evidence to the Inquiry were not required to provide any further evidence with their application for redress unless they wished to do so. Applications were primarily decided on paper but in exceptional circumstances, the panel could direct that an oral hearing could take place.
80. The Redress Board panel could decide to make a standard payment of £10,000 or an enhanced payment, based on the severity of the matters in a survivor's application, of up to a maximum of £80,000.
81. The Victims and Survivors Service (VSS) was established to provide dedicated and specialist long term support and services to survivors of Historical Institutional Abuse (HIA). The VSS was available to support survivors in preparing applications to the Redress Board.

75 *ibid*, pp. 227–256.

76 *ibid*, p. 43.

77 *ibid*.

82. In an October 2023 press release, the Redress Board stated that it had received over 4,035 applications and made award determinations totalling some £77 million.⁷⁸
83. On 11 March 2022 a number of Government Ministers offered a public apology to victims and survivors of historical institutional abuse. The apology was followed by statements from each of the institutions where systemic failings were found in the Hart Report: De La Salle Order, Sisters of Nazareth, Good Shepherd Sisters, Sisters of St. Louis, Barnardos and Irish Church Missions.

(v) Survivor Experience

84. Empirical research⁷⁹ has been conducted with the assistance of 43 survivors who participated in the Historical Institutional Abuse Inquiry.
85. The 43 survivors interviewed in the HIAI research study had all both participated in the Acknowledgement Forum and publicly given evidence to the statutory inquiry.

(a) The Acknowledgement Forum

86. Over half of the 43 participants in the HIAI research project said that it was a positive experience.⁸⁰ Survivors in the HIAI research project reported that they valued the space to recount their experience, to be listened to and believed. It met their need to be listened to, without judgment or challenge.⁸¹ The majority found it gave them acknowledgment and a voice, with 39% saying it was helpful to them.⁸²

78 'Awareness Campaign for Victims and Survivors of Historical Institutional Abuse'
<https://www.executiveoffice-ni.gov.uk/news/awareness-campaign-victims-and-survivors-historical-institutional-abuse-1>.

79 This research is recorded in several articles: Brandon Hamber & Patricia Lundy 'Lessons from Transitional Justice? Toward a New Framing of a Victim-Centered Approach in the Case of Historical Institutional Abuse' (2020) *Victims & Offenders: An International Journal of Evidence-based Research, Policy, and Practice*, 15(6), 744-770 and Patricia Lundy "'I Just Want Justice": The Impact of Historical Institutional Child-Abuse Inquiries from the Survivor's Perspective' *Eire-Ireland*, Volume 55, Numbers 1 & 2, Spring/Summer 2020, pp. 252-278.

80 Hamber and Lundy, p. 753. This mirrors the finding in CICA's report that the majority of those who participated in the Confidential Committee found the process positive and helpful.

81 Hamber and Lundy, p. 753.

82 *ibid.*

87. However, only 18% said that their experience before the Acknowledgment Forum was healing or cathartic.⁸³ 39% said that they felt exposed and vulnerable and experienced longer term psychological consequences after attending the Acknowledgment Forum.⁸⁴ Some victims reported that practical matters such as receiving their testimony in the form of a written statement in the post to their home was a source of further difficulty.⁸⁵
88. There were mixed views as to the adequacy of support provided during and after giving testimony to the Acknowledgment Forum, with 29% saying the support was adequate, and 37% saying it was not.⁸⁶

(b) *The Inquiry*

89. The 43 survivors interviewed in the HIAI study criticised the inquiry's public hearings as intimidating, victimising, and as having created the feeling that the survivors were on trial.⁸⁷ They point to survivors' inability to exercise control over procedures and state that they 'struggled to be heard'.⁸⁸
90. It is notable that these criticisms arose despite the fact procedures were put in place to limit cross examination based on survivor concerns. Even though the inquiry had stated that public hearings would 'not be conducted like a trial', and there would be 'no cross-examination of witnesses',⁸⁹ a significant number of survivors regarded the process as adversarial (39%).⁹⁰ 37% said they struggled to be heard and were not allowed to tell their story in their own way, that it was what the inquiry wanted to ask, and not what they wanted to say.

83 *ibid.*

84 *ibid.*, p. 753-754.

85 *ibid.*, 754. The authors quote the following statement in this respect: 'A lot of our guys would have gone more or less secretly ... and then a letter arrives in your post box with 15 pages or whatever ... So someone is going to have to go off on their own and read through their statement word for word – and that's a point of vulnerability' [Int: M 5, Nov 2015].

86 *ibid.*, p. 754.

87 Brandon Hamber & Patricia Lundy 'Lessons from Transitional Justice? Toward a New Framing of a Victim-Centered Approach in the Case of Historical Institutional Abuse' (2020) *Victims & Offenders: An International Journal of Evidence-based Research, Policy, and Practice*, 15(6), 744-770, 755.

88 *ibid.*, p. 755.

89 Anthony Hart, 'Remarks at the Third Public Session of the HIAI Inquiry' (speech, Ramada Encore Hotel, St. Anne's Square, Belfast, 4 Sept. 2013), p. 12, https://www.hiainquiry.org/sites/hiainquiry/files/media-files/chairman_s_address_130904_low_res.pdf, archived at <https://perma.cc/466G-TB3K>.

90 Patricia Lundy "'I Just Want Justice": The Impact of Historical Institutional Child-Abuse Inquiries from the Survivor's Perspective' (2020) *Eire-Ireland*, Vol. 55, Numbers 1 & 2, 252-278, 268.

91. A number of survivors stated that it felt as if they were the ones ‘on trial’,⁹¹ and that giving oral testimony proved ‘emotional and stressful for participants’.⁹² In addition to having to relive the trauma of childhood, the experience proved traumatic for survivors because of the way in which evidence was given – generally being required to provide yes or no answers to specific questions asked by counsel for the inquiry.⁹³ Survivors thus felt they were not allowed to give their evidence and had little opportunity to outline their narrative.⁹⁴
92. Other features which rendered the experience traumatising for survivors – features which are very much linked to the giving of evidence – included a disconnect between survivors’ expectations of giving evidence and the reality of that process,⁹⁵ and a lack of preparation as to what giving evidence would actually involve.⁹⁶
93. One particularly problematic example of this was the late disclosure of sensitive material to survivors, with survivors frequently finding out sensitive information about themselves while giving – or just prior to giving – evidence in the court room setting.⁹⁷ It appears that the inquiry’s counsel usually prepared survivors on the day they gave evidence, one to two hours in advance. The actual documents providing background information about them gathered by the inquiry were not made available – either in advance of the consultation or for the oral hearings.⁹⁸
94. The HIAI’s rationale for this short notice was that advance warning could prove ‘difficult’ or ‘hurtful’ for survivors; However, Lundy is critical of this approach, pointing to an example of a survivor who learned of his birth mother’s loving efforts to reach him in an institution only when her letter was presented as evidence at the inquiry.⁹⁹
95. While the HIAI acknowledged how upsetting testifying could be and made witness-support officers and a representative from counselling services available, nonetheless half of those interviewed said that ‘more victim support was needed’ and some had strong criticism of the adequacy of the available support.¹⁰⁰

91 *ibid.*

92 *ibid.*, p. 269.

93 *ibid.*, p. 266.

94 *ibid.*

95 *ibid.*

96 *ibid.*, p. 267.

97 Patricia Lundy “‘I Just Want Justice’: The Impact of Historical Institutional Child-Abuse Inquiries from the Survivor’s Perspective’ (2020) *Eire-Ireland*, Vol. 55, Numbers 1 & 2, 252-278, pp. 269 – 270.

98 *ibid.*, p. 270.

99 *ibid.*, p. 270.

100 *ibid.*, p.267.

96. The location of the tribunal, in a largely Protestant area, was an issue for a number of survivors.¹⁰¹ Overall, 29% described the setting and environment as ‘inappropriate and intimidating’. In this regard, some cited the presence of alleged perpetrators, members of institutions and religious orders in close proximity to victims in coffee and waiting room areas, and in public hearings.¹⁰²
97. The desire to have a public record of survivor stories, which is often a feature supported by survivors in furtherance of public education, in some instances led to survivors being inadvertently identified by family members from the details of their accounts. The following quote illustrates the after-effect of testimony for one HIAI participant:¹⁰³

I was talking to my son ... in the middle of the conversation he says “yeah – I read your statement. It’s on-line”. I didn’t know all the statements I’d written are on the HIA website. Cause obviously I’d been promised high level anonymity – and obviously my name wasn’t on it; but there was enough little bits of information in it for him to be able to go through them all and find mine ... So I did feel a bit vulnerable ... [Int: M/Nov 2016]

E. The Scottish Child Abuse Inquiry

98. The Scottish Child Abuse Inquiry (‘SCAI’) was established in October 2015 with a broad remit to inquire into the abuse¹⁰⁴ of children in care in Scotland within ‘living memory’, and up to 17 December 2014. The Inquiry is ongoing at the time of writing.

(i) Methodology

99. SCAI was established under the Inquiries Act 2005, and as such its procedures bear a good deal of similarity to the procedures of the UK Independent Inquiry into Child Sexual Abuse (IICSA).

101 Brandon Hamber & Patricia Lundy ‘Lessons from Transitional Justice? Toward a New Framing of a Victim-Centered Approach in the Case of Historical Institutional Abuse’ (2020) *Victims & Offenders: An International Journal of Evidence-based Research, Policy, and Practice*, 15(6), 744-770, p. 755.

102 *ibid.*

103 Brandon Hamber & Patricia Lundy ‘Lessons from Transitional Justice? Toward a New Framing of a Victim-Centered Approach in the Case of Historical Institutional Abuse’ (2020) *Victims & Offenders: An International Journal of Evidence-based Research, Policy, and Practice*, 15(6), 744-770, p. 757.

104 Abuse for the purposes of the Inquiry is defined as physical or sexual abuse, including associated psychological or emotional abuse. See <https://www.childabuseinquiry.scot/terms-reference>.

100. However, the relevant rules for the inquiry are contained in a separate Inquiries (Scotland) Rules 2007. The Scottish Inquiry also appears not to have made significant use of private sessions, as were used extensively in the Truth Project of the IICSA, and have proceeded primarily on the basis of investigation complemented with a number of public hearings.¹⁰⁵ It also has an extensive research element, seemingly in part because of the express direction in its terms of reference that it make recommendations for changes in policy and, if necessary, legislation.
101. The Inquiry has conducted its work through a large number of separate investigations into abuse in particular institutions, or types of institution. For example, Phase 1 examined evidence relating to residential child care establishments run by Catholic Orders. Phase 2 continued to examine evidence relating to residential child care establishments run by Catholic Orders. This phase resumed with a case study about residential child care establishments run by the Sisters of Nazareth. The Inquiry is currently in Phase 9, and has considered issues such as abuse in boarding schools and abuse in residential institutions for young offenders.
102. Initially, SCAI was chaired by Susan O'Brien QC, but Ms O'Brien resigned in 2016.¹⁰⁶ Since July 2016, SCAI has been chaired by Lady Smith.
103. The Inquiry describes its work as first involving an investigation stage, in which it examines a broad range of complaints against different institutions. It then selects certain institutions or settings as 'case studies'. Case studies are then further examined by way of public hearings. Lady Smith has stated that the purpose of a sampling approach is to avoid the Inquiry being 'unduly prolonged', and that she seeks to 'identify particular institutions and matters that are representative of the issues being explored by SCAI'.¹⁰⁷
104. The procedures at the public hearings for such case studies very closely mirror the Inquiry Rules 2006, applicable in England and Wales. In particular, the Rules provide for the designation of particular witnesses as 'Core Participants', and provide for the appointment of recognised legal representatives of witnesses.
105. The Inquiry may first send written requests for evidence to any person, asking either for a written statement of evidence, or for the production of evidence.¹⁰⁸ Persons may also be asked to attend at interview, from which the Inquiry team will draft a written statement, which they can then approve.¹⁰⁹

105 Occasional reference is made in the interim reports to the taking of statements at private session, but it appears that the majority of the evidence is taken from evidence at public hearing.

106 The Guardian, '*Chair of Scottish abuse inquiry quits over 'government interference'*' (4 July 2016).

107 SCAI, Case Study no. 9: Volume 1, The provision of residential care in boarding schools for children at Loretto School, Musselburgh, between 1945 and 2021 at p. ix.

108 Rule 8 of the 2007 Rules.

109 Factsheet – for witnesses in the Scottish Child Abuse Inquiry ("SCAI") who are the subject of allegations of abuse, available at <https://www.childabuseinquiry.scot/procedure/factsheet-witnesses-who-are-subject-allegations>.

106. The Chairman can also require the production of a written statement or any other document.¹¹⁰ A person who is required to give evidence will be sent a formal notice with a list of general questions, which tend to be the same questions asked of all witnesses involved with the same case study and will contain details of the allegations against the witness and seek a response from them.¹¹¹
107. Persons giving evidence at an oral hearing of the Inquiry may only be asked questions by the Inquiry panel, counsel to the Inquiry or their own legal representative. Legal representatives for other witnesses, including core participants, must seek the permission of the Chairman in order to put questions to a witness.¹¹² Witnesses are supported by a witness support team, and can claim back the expenses of their attendance at the hearing. A witness can also apply to the Inquiry for assistance in paying the fees of a legal representative to assist them.¹¹³

(ii) Findings to date

108. Following public hearings, 11 case studies have been presented to date.¹¹⁴ In such interim reports, as well as in any final report as may be published, the Chairman makes findings on the basis of the civil standard of proof, namely on the balance of probabilities.
109. Like the IICSA, the Chairman of the SCAI is similarly unconstrained in making findings of actual wrongdoing, including of physical and sexual abuse, in respect of named persons.¹¹⁵ However, Lady Smith has emphasised that under her terms of reference her ‘task is not to make findings about whether any particular individual was guilty of or responsible for the abuse of children’.¹¹⁶ However, in practice it appears that many persons in respect of whom findings of serious wrongdoing were made were either dead or had already been convicted of offences relating to the

110 Pursuant to section 21 of the 2005 Act.

111 *ibid.*

112 Rule 9 of the 2007 Rules.

113 SCAI Factsheet – Legal representation, available at <https://www.childabuseinquiry.scot/procedure/factsheet-legal-representation>.

114 Case Study interim reports are available at <https://www.childabuseinquiry.scot/evidence-library?keywords=&op=submit&evidence-type=75&sort=asc>.

115 See section 2(1) of the 2005 Act; *Maxwell v Department of Trade and Industry* [1974] QB 523.

116 ‘Comments from Lady Smith on the first day of Phase 2 of hearings regarding the prohibition of disclosure or publication of the identities of anonymous applicants and alleged abusers’ (11 December 2017) <https://www.childabuseinquiry.scot/news/respecting-anonymity-witnesses-comments-lady-smith-first-day-phase-2-hearings-regarding>.

abuse of children, or both.¹¹⁷ The Inquiry is, similarly to the IICSA, under an obligation to send warning letters to persons who are likely to be the subject of criticism in a report or interim report.¹¹⁸

110. The Chairman has also made a General Restriction Order, prohibiting the publication of any evidence likely to identify complainants. A similar prohibition is in place in respect of persons subject to abuse allegations before the publication of the report of the Inquiry, unless that person had already been convicted of abusing a child in care.¹¹⁹

(iii) Research

111. The Inquiry also has a significant research component and has published a number of research reports by external academics to date, covering a range of issues.
112. The SCAI also held “roundtables” with experts and stakeholders in different areas of child protection, with a view to informing recommendations as to best practice in protection of children going forward.¹²⁰

(iv) Redress

113. In addition to the SCAI, survivors of abuse in Scotland may apply to the recently established Redress Scotland for compensation.¹²¹ The Scheme compensates people abused in residential care settings before 1 December 2004 who were under the age of 18 at the time. Prior to the establishment of the statutory scheme, the Scottish Government operated an *ad hoc* compensation scheme to compensate victims of abuse who were terminally ill and might not live to see the statutory scheme.¹²²

117 See e.g. Case Study no.4, The provision of residential care for children in Scotland by the Christian Brothers between 1953 and 1983 at St Ninian’s Residential Care Home, Falkland, Fife available at <https://www.childabuseinquiry.scot/evidence/case-study-findings-christian-brothers>.

118 Rule 12(7) of the 2007 Rules.

119 SCAI, ‘Respecting anonymity of witnesses’, available at <https://www.childabuseinquiry.scot/news/respecting-anonymity-witnesses-comments-lady-smith-first-day-phase-2-hearings-regarding>.

120 <https://www.childabuseinquiry.scot/roundtables>.

121 Redress Scotland was established by the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021.

122 BBC News, ‘Over £4m paid out to child abuse survivors’ (28 July 2020), available at <https://www.bbc.com/news/uk-scotland-53566232>.

114. The eligibility requirements are that the person was abused while they were a child and resident in a ‘relevant care setting’ in Scotland.¹²³ Abuse is defined in section 19 as including sexual, physical, and emotional abuse and abuse which takes the form of neglect.
115. When applying for redress, a survivor must specify whether he or she wishes to apply for a fixed rate payment or an individually assessed payment. In order to receive the fixed rate payment, the applicant need only satisfy the decision-making panel that he or she was resident in a relevant care setting in the relevant period and does not need to give evidence of the abuse suffered. The fixed rate payment is set at £10,000.
116. Alternatively, a survivor can also opt for an individually assessed payment. In such an application, the applicant must similarly satisfy the decision-making panel that he or she was resident in a relevant care setting in the relevant period, but must also give evidence of the nature, severity, frequency and duration of the abuse suffered.¹²⁴
117. On consideration of these factors, the decision-making panel makes an award along 5 levels, up to a maximum of £100,000:¹²⁵

Redress Payment Level 1	Redress Payment Level 2	Redress Payment Level 3	Redress Payment Level 4	Redress Payment Level 5
£20,000	£40,000	£60,000	£80,000	£100,000

118. An applicant can seek a review of a decision not to award redress, or of the amount of redress awarded. An applicant who wishes to accept an offer of redress from Redress Scotland, on review or at first instance, must sign a waiver agreeing to abandon any ongoing civil proceedings and commit not to bring any further civil proceedings in respect of the abuse suffered.¹²⁶ The Scheme had, as of March 2023, paid out £20.1 million to 404 applicants.¹²⁷

123 In certain limited circumstances, a next of kin of a person abused while in residential care can apply for a redress payment, namely where the victim of abuse died after having applied for a redress payment. See section 24 of the 2021 Act.

124 Redress For Survivors (Historical Child Abuse In Care) (Scotland) Act 2021: statutory guidance – assessment framework available at <https://www.gov.scot/publications/redress-survivors-historical-child-abuse-care-scotland-act-2021-statutory-guidance-assessment-framework/>.

125 Redress For Survivors (Historical Child Abuse In Care) (Scotland) Act 2021: statutory guidance – assessment framework available at <https://www.gov.scot/publications/redress-survivors-historical-child-abuse-care-scotland-act-2021-statutory-guidance-assessment-framework/>. This guidance provides further detail on the types and extent of abuse that will justify a payment at each of Level 1, 2, 3, 4 and 5.

126 Section 46 of the 2021 Act.

127 Scottish Government, ‘Redress Scheme Payments’ available at <https://www.gov.scot/news/redress-scheme-payments/>.

(v) Criticism and controversy surrounding the SCAI and Redress Scotland

119. The SCAI and the Redress Scheme have been beset by criticism and controversy for a number of years. Criticisms have included the scope of the inquiry, alleged Government interference, as well as delays and rising costs.¹²⁸ The Redress Scheme in particular has been criticised for the ‘paltry’ figures available, particularly the fixed rate payment.¹²⁹
120. In the beginning, the SCAI was criticised for being unduly narrow in remit, insofar as it only considered abuse in residential settings, which the Inquiry defended, noting that its remit was comparatively speaking quite broad.¹³⁰
121. There has also been controversy about alleged Government interference in the inquiry, which caused one inquiry panel member to resign.¹³¹ Shortly thereafter, the Inquiry Chair, Susan O’Brien QC also resigned, similarly alleging Government interference, albeit her resignation came amid a separate controversy.
122. In relation to the Redress Scheme, some survivors said they found the experience retraumatising, and that there were unacceptable delays in the process.¹³² In particular, it appears that the decision-making panels have taken quite a long time to return decisions on entitlement to compensation, with some survivors waiting 10 or 11 months for a decision.¹³³

128 The Times, Child abuse inquiry costs soar as concern raised over compensation panel fees (26 July 2021) at <https://www.thetimes.co.uk/article/child-abuse-inquiry-costs-soar-amid-row-over-fees-clmkzbq29>.

129 The Daily Record, ‘Sex abuse survivors rage as inquiry judge pockets £2m while victims awarded £10k’ (17 July 2023), available at <https://www.dailyrecord.co.uk/news/scottish-news/sex-abuse-survivors-rage-inquiry-30481077>.

130 BBC News, ‘Child abuse inquiry: Angela Constance defends remit’ (10 February 2016) <https://www.bbc.com/news/uk-scotland-35535524>.

131 Quoted in BBC News, Panel member quits ‘doomed’ Scottish Child Abuse Inquiry (28 June 2016), available at <https://www.bbc.com/news/uk-scotland-scotland-politics-36650261>.

132 BBC News, ‘Child abuse survivors lose faith in redress payment scheme’ (16 November 2022), available at <https://www.bbc.com/news/uk-scotland-63648390>.

133 *ibid.*

F. The Canadian Truth And Reconciliation Commission

123. The Canadian Truth and Reconciliation Commission considered abuse, including but not limited to sexual abuse, suffered by indigenous children in so called Indian Residential Schools, which were run in large part by churches, with the assistance of Government funding.¹³⁴ These so-called residential schools were, in the Commission's words:
- ... an education system in name only for much of its existence. These residential schools were created for the purpose of separating Aboriginal children from their families, in order to minimize and weaken family ties and cultural linkages, and to indoctrinate children into a new culture — the culture of the legally dominant Euro-Christian Canadian society.¹³⁵
124. Some 150,000 children were estimated to have been taken from their families and placed in Indian Residential Schools as part of a project of forced assimilation, and as the Commission found, a policy of cultural genocide. The Commission's work was thus intertwined with the deep colonial legacy of the Canadian State, and not solely focussed on the individual abuses suffered by children at these schools. Indeed, the very fact of being forced to attend such schools at all amounted to a terrible injustice.
125. The Truth and Reconciliation Commission of Canada ('TRC') was established in 2008 under the terms of the Indian Residential Schools Settlement Agreement ('IRSSA'). The IRSSA provided approximately \$5 billion for compensation, commemoration, healing, and for the establishment of the TRC.
126. It has been argued that one of the primary roles of the TRC was an educative one, particularly in light of the ignorance of many Canadians of the existence of the Indian Residential Schools system.¹³⁶ The decision to frame the Commission as one of 'truth and reconciliation' drew criticism from some quarters as simply accepting and enshrining colonial oppression of aboriginal peoples, without providing justice and redress.¹³⁷ This criticism drew upon traditional critiques of truth commissions as

134 David B. MacDonald, 'Canada's Truth and Reconciliation Commission Assessing, Context, Process and Critiques' (2021) 29(1) *Griffith Law Review* 150, 152.

135 Truth and Reconciliation Commission, *Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada* (2015), Preface, p. v.

136 Anna Cook, 'Recognizing Settler Ignorance in the Canadian Truth and Reconciliation Commission' (2018) 4(4) Art. 6 *Feminist Philosophy Quarterly* 4.

137 Taiaiake Alfred argued that 'without massive restitution, including land, financial transfers and other forms of assistance to compensate for past harms and continuing injustices committed against our peoples, reconciliation would permanently enshrine colonial injustices and is itself a further injustice': Alfred, *Indigenous Pathways of Action and Freedom* (University of Toronto Press, 2005), p. 152.

tending to serve the interests of the societal elite in absolving itself of responsibility for the previous wrongdoing.¹³⁸

127. However, it appears that the TRC itself took quite a broad understanding of reconciliation, including taking it to mean positive actions of redress where necessary.¹³⁹
128. The Commission was established by the Federal Government pursuant to an Order in Council. Three Commissioners were appointed in 2008 but resigned shortly after being appointed. The Commissioners for the majority of the lifespan of the Commission were, Justice Murray Sinclair as Chair, Chief Wilton Littlechild and Dr Marie Wilson. An Indian Residential School Survivor Committee ('IRSCC'), comprised of members of the Aboriginal community, provided advice and support to the Commission.
129. Gallen compares the composition of the Commission favourably to the Irish approach. Gallen is critical of the Irish practice of only appointing lawyers to head commissions and tribunals, and points to the Canadian and Australian practice of including victims and/or human rights experts. However, he notes that this can create a somewhat unstable Board; the Canadian Truth and Reconciliation Commission had two resignations within its first year.¹⁴⁰
130. The Commission was empowered to receive statements and documents from former students, their families, the wider community and all other interested participants. However, the Commission's process was explicitly informal and consent based. The Settlement Agreement provided that the Commission 'shall not hold formal hearings, nor act as a public inquiry, nor conduct a formal legal process' and that it 'shall not possess subpoena powers, and do not have powers to compel attendance or participation in any of its activities or events'.¹⁴¹
131. Schedule N, Article 2 (h) of the Agreement prevented anyone from naming names, or otherwise identifying people 'without the express consent of that individual, unless that information and/or the identity of the person so identified has already been established through legal proceedings, by admission, or by public disclosure by that individual'.

138 Jay D. Aronson, 'The Strengths and Limitations of South Africa's Search for Apartheid-Era Missing Persons,' *International Journal of Transitional Justice* 5(2) (2011): 262., quoted in Matt James 'A Carnival of Truth? Knowledge, Ignorance and the Canadian Truth and Reconciliation Commission' (2012) 6(2) *International Journal of Transitional Justice* 1.

139 Truth and Reconciliation Commission, *Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada* (2015) at p. 6-8.

140 James Gallen, *Transitional Justice and the Historical Abuses of Church and State* (Cambridge University Press, 2023), p. 143.

141 Schedule N to the Indian Residential Schools Settlement Agreement (IRSSA).

132. Accordingly, the Commission did not have the power to make any findings of misconduct or wrongdoing, or to recommend the bringing of civil or criminal proceedings, unless such a finding had already been established through legal proceedings.¹⁴²

(i) Programme of works

133. In terms of its programme of works, the TRC was directed by its terms of reference to hold a series of both ‘National Events’ and ‘Community Events’, as well as a process of ‘Statement Taking’. It was directed that these National Events should include the following common components:

- (i) an opportunity for a sample number of former students and families to share their experiences;
- (ii) an opportunity for some communities in the regions to share their experiences as they relate to the impacts on communities and to share insights from their community reconciliation processes;
- (iii) an opportunity for participation and sharing of information and knowledge among former students, their families, communities, experts, church and government officials, institutions and the Canadian public;
- (iv) ceremonial transfer of knowledge through the passing of individual statement transcripts or community reports/statements. The Commission shall recognize that ownership over IRS experiences rests with those affected by the Indian Residential School legacy;
- (v) analysis of the short and long term legacy of the IRS system on individuals, communities, groups, institutions and Canadian society including the intergenerational impacts of the IRS system;
- (vi) participation of high-level government and church officials;
- (vii) health supports and trauma experts during and after the ceremony for all participants.

134. In addition to these National Events, the TRC was directed to hold ‘Community Events’ to be situated in the communities in which Indian Residential Schools were located, and to cater to the particular needs of those communities.¹⁴³

142 *ibid.*

143 Schedule N to the Indian Residential Schools Settlement Agreement (IRSSA), para. 10(B).

135. The TRC hosted seven, four-day long, National Events as well as many more local and regional events across the country. The events hosted concerts and talent shows, which were intended to demonstrate the richness of Aboriginal culture, language, and artistic expression.¹⁴⁴ The National Events were also livestreamed on the TRC's website and on social media platforms.¹⁴⁵ Over 9,000 survivors registered to participate in the seven national events, roughly 155,000 persons attended, and the event livestreams attracted an additional estimated 93,350 concurrent views.¹⁴⁶
136. The TRC also engaged in a process of 'Statement Gathering', as directed by its terms of reference. Statements were gathered at public Sharing Panels and Sharing Circles at National, Regional, and Community Events and at Commission hearings.

(ii) Final Report

137. In June 2015, the Commission concluded its work, holding a final event in Ottawa. The TRC published a final report summarising its findings entitled 'Honouring the Truth, Reconciling for the Future'. The TRC's mandate prohibited it from making findings of culpability, and as such it determined that it was not in a position to find Canada guilty of any criminal activities, notwithstanding the fact that there was evidence that the forcible transfer of Indigenous children violated the United Nations Genocide Convention. However, they did reach a finding that the Indian Residential School System amounted to a policy of 'cultural genocide'.¹⁴⁷
138. The TRC reported 3,201 deaths in the schools from 1867 – 2000 mostly from malnourishment, tuberculosis and other diseases caused by poor living conditions,¹⁴⁸ though others have suggested the real number is likely much higher.¹⁴⁹ The Report also found that many children resident in the Indian Residential Schools were sexually and physically abused.
139. It also published a 20-page booklet containing 94 'Calls to Action' to 'redress the legacy of residential schools and advance the process of Canadian reconciliation'. The calls to action were divided into two categories: 'Legacy' and 'Reconciliation'.

144 Truth and Reconciliation Commission, *Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada* (2015), p. 31.

145 *ibid.*

146 Matt James 'Changing the Subject- The TRC, Its National Events, and the Displacement of Substantive Reconciliation in Canadian Media Representations' (2018) 51(2) *Journal of Canadian Studies* 362.

147 Truth and Reconciliation Commission, *Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada* (2015), p. 1.

148 *ibid.*, p. 92.

149 David B. MacDonald, 'Canada's Truth and Reconciliation Commission Assessing, Context, Process and Critiques' (2021) 29(1) *Griffith Law Review* 150, 162.

140. For example, under ‘Legacy’, the TRC recommended that the federal, provincial, and territorial governments review and amend their respective statutes of limitations to “ensure that they conform with the principle that governments and other entities cannot rely on limitation defences to defend legal actions of historical abuse brought by Aboriginal people.” Under ‘Reconciliation’, for example, it was recommended that the Canadian governments include the history of Aboriginal Canadians on school curricula.

(iii) Redress

141. Prior to the establishment of the TRC, two forms of compensation were available to survivors of the Canadian indigenous schools programme. The first was the Common Experience Payment (the ‘CEP’), under which payments were made pursuant to a formula which compensated successful applicants based on a general loss of culture and language as a result of their removal from families and communities.¹⁵⁰ The second was an Independent Assessment Process (the ‘IAP’) which was designed to compensate individuals for specific instances of abuse.¹⁵¹
142. 84% of IAP applications were accepted, with an average amount of approximately \$91,000 being awarded.

(iv) Survivors’ Experience

143. The National Centre for Truth and Reconciliation, published a report detailing survivor perspectives on the Indian Residential Schools Settlement Agreement, called *Lessons Learned: Survivor Perspectives*.¹⁵² The report details a number of aspects that survivors found valuable about the work of the Commission, including the focus on truth-telling and forgiveness and supports provided to survivors. It also records the negative views of survivors regarding the process for claiming compensation payments.

150 David B. MacDonald, ‘Canada’s Truth and Reconciliation Commission Assessing, Context, Process and Critiques’ (2021) 29(1) *Griffith Law Review* 150.

151 *ibid.*

152 *Lessons Learned Survivors Perspectives Report*, NCTR, 20 February 2020. https://nctr.ca/wp-content/uploads/2021/01/Lessons_learned_report_final_2020.pdf

144. The report was prepared based on engagement with approximately 250 survivors.¹⁵³ While the TRC occurred in quite a different context, it is of note that this a much larger representative sample than other comparable research into survivor experiences of such inquiries. The report listed the following as elements of the process that were identified as positive by survivors:

1. Truth-Telling and Forgiveness

‘First and foremost, the process of truth telling and forgiveness that was central to the Truth and Reconciliation Commission was seen as critical. As noted above, many Survivors described the opportunity to tell their own truth, and to have that truth heard and validated, as having positive impacts in their own lives, including in their relations with their families and communities.’

2. Cultural Elements

‘Cultural elements and protocols were well integrated into the TRC, contributing to its success. The Commissioners represented three distinct perspectives: Commissioner Wilton Littlechild is a Survivor himself, Chief Commissioner Murray Sinclair is an inter-generational Survivor and Commissioner Marie Wilson is a spouse of a Survivor. Furthermore, each of the Commissioners demonstrated a high degree of personal cultural awareness and competency.’

3. Supports

‘Dedicated, well-trained and well-equipped health supports were available to participants before, throughout and after the IAP and TRC hearings.’

4. Apology

‘Another positive element in the process was the fact that it was supported by an official apology made by the Prime Minister of Canada on behalf of the Government of Canada and the leaders of all political parties. This had a profound effect on the Survivors in terms of feeling believed and having their personal experiences validated. It was noted that this resulted in a monumental shift in the Canadian public consciousness from Survivors’ experiences being discounted to being widely understood as part of Canada’s history.’

5. Research

‘A significant contribution to the quest for truth and reconciliation was the large amount of research completed by the Truth and Reconciliation through its mandate. This immense body of knowledge formed the foundation for its comprehensive final report including its Calls to Action. This research also informs all continuing measures meant to address the legacy of the residential school system, including the work of the NCTR, of Survivors themselves, and of broader educational efforts.’

145. The Report did also note however some of the challenges faced by survivors in the process, notably the risk of retraumatisation and revictimisation. The majority of these criticisms, particularly in relation to the potential for retraumatisation and revictimization, were directed at the compensation process, IAP, which as noted above was seen as unduly intrusive and demanding of survivors.
146. The IAP process was criticised for the manner in which ‘compensation points’ were ‘awarded’ for provable abuses, which resulted in a highly intrusive and sometimes retraumatising process.¹⁵⁴ As one survivor quoted in the *Lessons Learned* report said of the IAP:¹⁵⁵

For me, the invasiveness, persistence and depth of the questioning we were subjected to inside of our compensation hearings was obscene and did not need to occur to verify whether sexual or physical abuse had occurred. That day of my hearing, and the days that followed, were some of the worst days in my life second only to when my abuse actually occurred.

147. The negative experiences of survivors seeking compensation appears to have had a negative impact on willingness to participate with the later TRC. As one author notes:¹⁵⁶

A 2010 report by the Aboriginal Healing Foundation (based on interviews with 281 Survivors) revealed that 40 per cent found the CEP process emotionally and/or logistically difficult, and endured long wait times in seeking compensation.¹⁵⁷ A large proportion of Survivors did not have records to back up their compensation claims, because many records had either been lost or deliberately destroyed. They were, as the AHF noted, ‘faced with the choice of

154 ‘Lessons Learned Survivors Perspectives Report’, NCTR, 20 February 2020, p. 152.

155 ‘Lessons Learned Survivors Perspectives Report’, NCTR, February 20, 2020.

156 David B. MacDonald, ‘Canada’s Truth and Reconciliation Commission Assessing, Context, Process and Critiques’ (2021) 29(1) *Griffith Law Review* 150, 155-156.

157 Gewn Reimer, Amy Bombay, Lena Ellsworth, Sara Fryer, and Tricia Logan, ‘The Indian Residential Schools Settlement Agreement’s Common Experience Payment and Healing: A Qualitative Study Exploring Impacts on Recipients’ (2010) The Aboriginal Healing Foundation at p.xiii available at <http://www.ahf.ca/downloads/cep-2010-healing.pdf>.

retelling their story and of trying to prove their years of attendance in the hope that the government would validate their experiences.¹⁵⁸ Indeed, ‘Survivors said they were made to feel like liars adding that it was not their fault that school records were lost,’ since the government had destroyed the records when the schools were closed.¹⁵⁹ These experiences then had a knock on effect on Survivor interest to apply for further compensation, and their willingness to engage with the later TRC.

...

Another important point raised by the AHF was the retraumatisation of as many as one third of the surveyed Survivors, who reported ‘negative emotions or traumatic flashbacks,’ and reactions to their memories ‘ranged from feelings of discomfort and loneliness to reactions of panic and depression, sometimes leading to self-destructive behaviours.

148. The *Lessons Learned* Report also noted some of the challenges faced by survivors in the TRC process, notably the risk of traumatisation and revictimisation. However, the majority of these criticisms were directed at the compensation process, IAP, which was seen as unduly intrusive and demanding of survivors.
149. The TRC process received praise for its Survivors Speak volume of its report, which created a ‘master narrative’ of the hurt and suffering endured by survivors.¹⁶⁰
150. Mindful of the approach of the CEP and the IAP, which placed significant hurdles in the way of survivors securing compensation, the TRC was structured in a deliberately non-legalistic way. Thus, the features of Irish and Northern Irish inquiries which have met with criticism – formal, intimidating settings coupled with legalistic procedures – were mostly absent from the TRC’s processes. And this seems to have been the key factor in rendering the TRC a less traumatising experience for survivors who engaged with it.

158 *ibid.*

159 *ibid.*

160 James Gallen, *Transitional Justice and the Historical Abuses of Church and State* (Cambridge University Press, 2023), p. 147.

G. Conclusions

151. The above examples of public inquiries, broadly defined, into child sexual abuse in schools demonstrates a variety of approaches that may be adopted. However, broadly speaking, the inquiries considered in this paper preferred an approach designed to educate the public about systemic abuse, to allow victims to tell their story, and to inform policy going forward. Inquiries have, by and large, not focussed on accountability for individual perpetrators, but rather on failures in institutional responses to child sexual abuse.
152. A consideration of the features of international tribunals is certainly instructive. However, it should be emphasised that the legal and constitutional context in which those inquiries have taken place is very different, and there may be certain features of international inquiries which would not be replicable in an Irish context.

Chapter 18:

Research on Survivors' Experiences of Inquiries

- A. Introduction
- B. Negative Features of Public Inquiries Highlighted by Survivors
 - (i) CICA
 - (ii) Survivor Responses to the Ferns, Dublin Archdiocese and Cloyne Reports
 - (iii) Residential Institutions Redress Board
- C. Research on Survivor Experiences in Inquiries and Retraumatization
- D. Research on Strategies to Limit Retraumatization of Survivors
 - (i) Acknowledgement and/or Validation
 - (ii) Giving Survivors a Voice
 - (iii) Transparency
 - (iv) Supports
- E. Alternative Models of Inquiry: Confidential Committees

A. Introduction

1. The previous chapters considered the law in relation to fair procedures of persons facing accusations of wrongdoing before an inquiry and considered the experiences of a number of inquiries addressing clerical sexual abuse. This chapter looks at the research on survivors' experience of participation in sexual abuse inquiries.
2. One difficulty in assessing the impact on survivors of participation in previous Irish child sexual abuse inquiries is the limited media commentary and academic literature addressing the views and responses of survivors. Instead, almost universally, the predominant focus of discourse following the publication of an inquiry report was the report's broader societal impact, rather than on the views of the survivors themselves.
3. Moreover, while some research, discussed below, has been conducted in respect of the experience of survivors who were witnesses before the Commission to Inquire into Child Abuse ('CICA') and the Residential Institutions Redress Board ('RIRB'), there is considerably less material in respect of the experience of survivors in relation to the Ferns,¹ Dublin Archdiocese,² and Cloyne³ inquiries. The published studies in relation to CICA and RIRB are based on very small sample groups.⁴
4. Similarly, a published study on the impact on survivors of participating in Northern Ireland's Historical Institutional Abuse Inquiry ('HIAI') was based on a study of some 43 survivors who gave evidence to the HIAI.⁵ Given the sample sizes, some caution is therefore necessary in assessing these studies as representative of survivors' experience of those inquiries, let alone the wider experience of survivors in such contexts.
5. One author, remarking upon the dearth of research assessing the response of survivors to the various legal processes seeking to address institutional child abuse, commented that 'we have singularly failed to follow through in terms of measuring the medium and long-term response of victims to the various legal mechanism put in place to address their grievances'.⁶ He further notes that a major study

1 Murphy et al, *The Ferns Report: presented to the Minister for Health and Children*, (October 1995) Dublin: Stationery Office.

2 Murphy et al, *Commission of Investigation Report into the Catholic Archdiocese of Dublin* (July 2009) Dublin: Stationery Office.

3 Murphy et al, *Report by Commission of Investigation into Catholic Diocese of Cloyne* (December 2010) Dublin: Stationery Office.

4 Sinead Pembroke 'Historical institutional child abuse in Ireland: survivor perspectives on taking part in the Commission to Inquire into Child Abuse (CICA) and the redress scheme' (2019) 22(1) *Contemporary Justice Review* 43.

5 Patricia Lundy "'I Just Want Justice": The Impact of Historical Institutional Child-Abuse Inquiries from the Survivor's Perspective' 55 (1&2) *Eire-Ireland: An Interdisciplinary Journal of Irish Studies* 252.

6 Tom O'Malley, 'Responding to Institutional Abuse: The Law and Its Limits', in Tony Flannery (ed.) *Responding to the Ryan Report* (Columbia Press, 2009), pp. 103 -104.

conducted in Oxford in the early 1980's indicated that punishment and retribution did not rank highly on victims' order of priorities; 'Information and, to a lesser extent, compensation were far more important to them'.⁷

B. Negative Features of Public Inquiries Highlighted by Survivors

6. Research indicates that many survivors have found giving evidence to inquiries to be a very difficult experience. Research on the experience of 25 witnesses who gave evidence to CICA and the Redress Board found that the majority of those interviewed felt the inquiry process was retraumatising.⁸
7. Some research has been conducted with participants in CICA about their experience of participation, notably a study of 25 participants before CICA and the Redress Board.⁹ While a sample of just 25 persons cannot claim to be fully representative in light of the thousands of persons who contributed to CICA's work, as the author of the study herself acknowledges,¹⁰ nonetheless the perspectives related by survivors remain instructive, particularly in light of the dearth of research on survivor perspectives.
8. It appears that a number of survivors declined to participate in the study on the basis of the waiver they signed as part of the redress process, fearing participation in the study would breach the terms of that waiver.

7 *ibid*, O'Malley suggested that a similar study could usefully be undertaken in Ireland covering those victims of child sexual abuse who have been through *inter alia* the Redress Board and the Ryan Commission.

8 Sinead Pembroke 'Historical institutional child abuse in Ireland: survivor perspectives on taking part in the Commission to Inquire into Child Abuse (CICA) and the redress scheme', (2019) 22(1) *Contemporary Justice Review* 43-59.

9 Sinead Pembroke, 'Historical institutional child abuse in Ireland: survivor perspectives on taking part in the Commission to Inquire into Child Abuse (CICA) and the redress scheme' (2019) 22(1) *Contemporary Justice Review*, 43-59.

10 As Pembroke outlines: 'This study does not claim representativeness, as no controlled sampling procedures were put in place ... The sample consisted of 19 men and six women.', p. 45.

(i) CICA

9. Pembroke summarised the perspectives of those interviewed about their participation in CICA as follows:¹¹

Many of the participants spoke about the benefits of exposing past abuses, for example how therapeutic telling their story was, and confronting those responsible for their abuse. For some survivors, such as Mark, giving evidence to the Commission was seen in a positive light because:

At the end of the hearing they said “we believe every word you said.”
That done me the world of good ... I said I do not care about the money, I wanted to ask why they put me into the school ... And that was my main reason for going to the redress board.

However, the majority of survivors that were interviewed, felt the inquiry and redress process triggered feelings of shame and stigma in relation to their time in the institution. Rory expressed that:

I most times wished that it never ever came up, that there was never a redress board, that Bertie Ahern never apologised ... I would have been much happier if the whole thing had been left as it was ... and the more you rake it up, if somebody is talking about me saying he’s been in an institution, the more times they do it the worse you get. It increases stigma.

Thus, when the Commission and the Redress scheme were set up, Maire revealed that she did not apply for redress because she did not want to bring up that chapter of her life. Neil, who did apply for redress expressed that in hindsight, if he knew the emotional trauma that was involved in making an application, he never would have taken part.

11 Sinead Pembroke, ‘Historical institutional child abuse in Ireland: survivor perspectives on taking part in the Commission to Inquire into Child Abuse (CICA) and the redress scheme’ (2019) 22(1) *Contemporary Justice Review*, 43-59, 51- 52.

10. A majority of the survivors interviewed felt that the CICA did not deliver justice for survivors, whether framed as procedural justice or as retributive justice. Pembroke outlines that:¹²

During the course of the interviews, many complained that the inquiry did not deliver justice. Justice was defined in retributive and procedural terms. Following years of campaigning to have their abuse investigated, it was often articulated that they hoped the inquiry and redress process would be an avenue for 'justice to prevail'. Survivors were critical of the lack of police investigations that led to prosecutions. This was articulated by John who said that 'the healing process is greatly hampered by the knowledge that many of the abusers who are still alive will never face prosecution'.

...

Consequently, the lack of retributive justice was a major disappointment for survivors interviewed for this study.

11. Pembroke further outlined a number of ways in which survivors felt that CICA failed them in delivering procedural justice:¹³

Survivors also described a lack of procedural justice, and referred to the inquiry and redress process as lacking in impartiality and transparency in the proceedings. David pointed out that:

You did not have a proper tribunal televised to see what went on; the whole thing was smothered off. And that was what caused the problem in the first place; where the state and the church did not understand the boundaries. And this abuse went on then in between and obviously the same when they set up the redress board the same stuff, the same dynamic ...

12 Sinead Pembroke, 'Historical institutional child abuse in Ireland: survivor perspectives on taking part in the Commission to Inquire into Child Abuse (CICA) and the redress scheme' (2019) 22(1) *Contemporary Justice Review*, 43-59 at p. 53.

13 *ibid* at p. 54.

12. Under this rubric, Pembroke further outlines a frustration on the part of survivors that abusers were not named in the final report:¹⁴

In terms of procedural justice, another element that frustrated survivors, was that their abusers were not named. Following a high court action brought by the Christian Brothers, an amendment was made in 2005 to Section thirteen of the Commission to Inquire into Child Abuse Bill, to prevent the Investigation Committee from identifying a person it believed had committed abuse unless convicted by a court. This was identified by some participants, such as Alex, as having negative implications in the administration of justice and legal proceedings:

For me, not naming the abusers shows that nothing has changed; the attitude from the state towards us hasn't changed. That apology really meant nothing. As long as they (the religious orders) have money and powerful people behind them, they'll get away with it.

13. McAlinden and Naylor similarly reported, albeit on the basis of informal conversation with victims groups rather than quantitative research, a feeling among survivors that the CICA Report had failed to deliver justice:¹⁵

In the aftermath of the Ryan Commission Report, however, criticisms began to emerge and many victims were left wanting in terms of 'justice'. In particular, the aspirations of providing an authoritative record of events and holding perpetrators to account had not been realised.

14. The authors go on to offer the following analysis of why the Report may have failed to meet the expectations of survivors:¹⁶

There were a number of institutional and structural factors that limited the extent to which such an inquiry could deliver justice and be truly cognisant of the needs of victims. These can be distilled to two main lines of critique that relate broadly to victim and offender participation.

14 Sinead Pembroke, 'Historical institutional child abuse in Ireland: survivor perspectives on taking part in the Commission to Inquire into Child Abuse (CICA) and the redress scheme' (2019) 22(1) *Contemporary Justice Review*, 43-59 at p. 55.

15 McAlinden, A-M., & Naylor, B. 'Reframing Public Inquiries as 'Procedural Justice' for Victims of Institutional Child Abuse: Towards a Hybrid Model of Justice' (2016) 38(3) *Sydney Law Review* 277-308, 297.

16 McAlinden, A-M., & Naylor, B. 'Reframing Public Inquiries as 'Procedural Justice' for Victims of Institutional Child Abuse: Towards a Hybrid Model of Justice' (2016) 38(3) *Sydney Law Review* 277-308, 297.

First, selectivity in the sampling of cases meant that the Commission reported not on all allegations of abuse, but only on institutions with the largest number of complaints. Focusing on a limited number of exemplary cases tends to individualise narratives of victimhood and obscure broader patterns of victimisation. A narrow legal construction of victimhood and focus on selected testimonies also tends to create ‘hierarchies of pain’ by excluding particular accounts of victimhood and subordinating the experiences of some victims. Moreover, the singular focus on the direct victims of institutional abuse also fails to acknowledge secondary and tertiary victims, including the families of victims, as well as the wider faith community. Second, there were a number of legal challenges to the existence of the Commission by religious orders, as a result of which many abusers were not named publicly but were dealt with anonymously. The failure to publicly identify abusers, due to pending prosecutions in some cases, was a particular concern of victims, many of whom expressed their frustration that those responsible were being protected, while their harm and suffering was not fully acknowledged.

15. In a report in the Irish Examiner assessing the response of survivors to the Redress Board, a number of criticisms were also made of CICA. It was suggested that future inquiries should be ‘non-adversarial’ and that there should be accountability for perpetrators, and greater support for victims. The report noted that CICA did not hold individuals to account and that one victim responded: ‘This is one of the first things that should have been done’. The report further notes the agreement of another victim with this:¹⁷

Carmel agrees. She believes that any future redress mechanism must achieve clear aims: that it be non-adversarial, that there be “no secret deals”, and that “people have to be held accountable”.

She believes a survivor who has already been through redress should be included. And, she says, counselling services need not only to be offered, but expanded, believing there is little point in having people who need access to treatment being plonked on lengthy waiting lists to be seen.

17 Irish Examiner, Focus on redress: ‘Aftershocks’ of residential abuse reverberate (27 June 2021).

16. The criticisms made of CICA by survivors are notable in light of the fact that it was intended, at least with respect to the work of the Confidential Committee, to be more victim-centred than other inquiries. As Gleeson and Ring observe, '[t]he core innovation was that the CICA was to have both therapeutic and investigative functions'.¹⁸ Gleeson and Ring note that the therapeutic objective was to help survivors to 'overcome the lasting effects of abuse' by 'giv[ing] their account to an experienced and sympathetic forum'.¹⁹

(ii) Survivor Responses to the Ferns, Dublin Archdiocese and Cloyne Reports

17. There has been no research of survivors experiences of the Ferns, Dublin Archdiocese and Cloyne reports. There are some indications of how these inquiries were viewed after the publication of the reports by survivors.
18. Following the publication of the Ferns report Colm O'Gorman, a victim of abuse in Ferns, gave evidence to the Oireachtas Joint Committee on Health. Mr O'Gorman spoke in positive terms about the report, but emphasised the need to use the report as a springboard for further reforms in the area of child protection.²⁰ Mr O'Gorman particularly emphasised the need for a constitutional amendment in order to counterbalance the protection of the right to a good name of alleged abusers in the context of public inquiries such as Ferns.²¹ At the same Committee hearing, Ms Therese Gaynor, a representative from One in Four, noted that the publication of the Ferns Report resulted in a dramatic increase of over 130% in people seeking counselling services from One in Four, and that they had suspended their waiting list in light of overwhelming demand in December 2005.²²

18 Kate Gleeson & Sinéad Ring, 'Confronting the past and changing the future? Public inquiries into institutional child abuse, Ireland and Australia' (2020) 29(1) *Griffith Law Review* 109.

19 516 Dáil Debates Col 293.

20 Joint Committee on Health and Children debate – Thursday, 2 February 2006.

21 *ibid.*

22 *ibid.*

19. As regards the Dublin Archdiocese Inquiry, one survivor of child sexual abuse, who did not participate in the Commission, nonetheless described the value of the final report as follows:²³

The Murphy Report meant a great deal to me because it showed that survivors had been telling the truth, it was a vindication. We were not isolated cases – there was a pattern in the way so many child sexual abuse cases had been mishandled. It showed survivors were not angry people making false accusations, looking for money or out to destroy the church, but honest people deserving to be heard and shown respect ...

...

The Murphy Report changed my life: it marked a point, more even than the day my abuser was convicted, where I could move forward and heal from the past.

20. Following, the Cloyne Report, the then Minister for Justice, Alan Shatter T.D., noted he had discussed the report with victims and described the impact of the report on victims in the following terms:²⁴

Last Wednesday I published the Cloyne report ... On that occasion I said it was difficult to read the report and avoid despair. My feelings have been strengthened by the reactions of victims and their families in the week since the report was published. Sadly, some of the victims are no longer with us, but their families have spoken ...

...

I acknowledge the contribution of Judge Yvonne Murphy and her colleagues on the commission of investigation. They have delivered a report of clarity and carried out their difficult task sensitively and meticulously. The victims had to relive painful memories and the commission members had to help them to relive these memories in the least distressing way possible, while at the same maintaining a professional approach. They succeeded admirably in doing this.

23 Marie Collins, 'What the Murphy Report Means to Me' (2013) Vol. 102, No. 408 *Studies: An Irish Quarterly Review*, p. 407.

24 Dáil Éireann debate – Wednesday, 20 Jul 2011, Vol. 739, No. 3.

21. The Irish Times reported the reaction of survivors to proposals after the publication of the report that there be mediated discussions between survivors and the church authorities. The article includes the following response of “Donelle”, including her reaction to the report itself:²⁵

Part of me wants to confront them and tell them what I really feel – I read chapter nine again last night and what really freaks me out about them is that there is no sense of shock or horror or disgust on their part when they heard what Fr Ronat was doing.

There was this sort of matter-of-fact acceptance – any normal person would have been outraged to learn that a priest was abusing children, but they just seemed to take it all in their stride – there was no sense of outrage that this was unacceptable, and that angers me still.

22. These fragmented accounts of survivor reactions taken from Dáil statements and reported survivor comments appear to indicate that the reports were broadly welcomed, with some reservations. However, in the absence of research of the kind carried out in relation to CICA and the RIRB, it would not be appropriate to attempt to draw any firm conclusions in this regard.

(iii) Residential Institutions Redress Board

23. In the research paper on responses to the CICA Report discussed above, Pembroke also outlined a number of serious criticisms made by survivors of the Redress Board process, noting that many survivors found the process to be significantly retraumatising:²⁶

... the redress scheme application procedure itself (writing a detailed statement, and an assessment by a psychologist in order to verify their trauma), resulted in psychological wounds being opened up after years of consignment to the deepest reaches of the mind. This had a negative effect on some survivors’ personal lives and resulted in marital breakdowns. Jack had been married for 25 years and had never told his wife about his time in an Industrial school. Once he began the redress process this revived past traumas that he had put to the back of his mind, and he had to tell his wife. It was finding out that he had concealed this, which led to their marital break down.

25 Barry Roche and Eoin Burke-Kennedy, ‘Mixed reaction from Cloyne victims to meeting proposal’ *The Irish Times* (21 December 2011).

26 Sinead Pembroke, ‘Historical institutional child abuse in Ireland: survivor perspectives on taking part in the Commission to Inquire into Child Abuse (CICA) and the redress scheme’ (2019) 22(1) *Contemporary Justice Review*, 43-59, 52.

24. The redress scheme employed individualised assessments to determine the amount of compensation to award each survivor who applied for redress. The more detail survivors could remember and divulge in their statement, the more points they could accrue. This meant that legal representatives really pressed upon survivors to conjure up traumatic memories from the distant past. Robert admitted:

It was weird and disturbing having complete strangers grade the abuse I suffered. It was like opening a door to some memories that were closed for 40 years. It was like going into a very dark place where the memories were bad and it opened up bad memories I did not even know I had. The process was drawn out as well, which made it worse; it took five years from beginning to end.

25. A further frustration voiced by survivors was the role of lawyers in the process, including a perspective that lawyers benefitted from their suffering in recouping large legal fees:²⁷

... the majority of participants were dissatisfied with the legal profession's involvement in the redress scheme application. Even though the redress scheme did not force survivors to seek legal representation, it was encouraged. Certainly, the complex nature of the application meant that most survivors needed legal representation. Robert revealed that, 'I felt like I was just a number to my solicitor, and I was! I was one of hundreds of other survivors they were representing at the same time!'

Many participants also felt that their solicitor had benefitted financially from their personal trauma.

26. Pembroke further noted survivors' views that the requirement to sign a "waiver" before accepting a settlement from the Redress Board was needlessly retraumatising:²⁸

This caused a lot of distress for survivors because as Kate articulated:

If I tell my story, I can end up going to jail again! The Irish state wants to put me away again! And they won't even put my abusers away!

The waiver form had such a negative effect that four people pulled out from taking part in this study. Even though the waiver form cannot stop survivors from telling their story, this legal overture created a climate of confusion and fear, which contributed to secondary victimisation of survivors of Industrial and Reformatory schools.

27 Sinead Pembroke, 'Historical institutional child abuse in Ireland: survivor perspectives on taking part in the Commission to Inquire into Child Abuse (CICA) and the redress scheme' (2019) 22(1) *Contemporary Justice Review*, 43-59, 52.

28 *ibid* at p. 53.

27. This echoes criticism of the Redress Board process reported by the Irish Examiner in an investigation in 2021. In that reporting, the scheme was criticised by some as offering what they described as ‘dirt money’,²⁹ and as failing to adequately listen to and vindicate their suffering. As one survivor put it:³⁰

I didn’t go into them, but I felt like it was dirt money. I felt like I was in that place again, the institution again, the way I was being treated.

28. The phrase ‘dirt money’ was also used by a survivor by the name of Carmel:³¹

It certainly brought comfort to some, but according to Carmel, not all. “People never felt they were believed”, she says. “They felt they were dirty”. Hence the description by some of the money received as “dirt money”.

29. As is apparent from the above, the environment can prove very challenging for survivors seeking to have their voice and story heard. It is sometimes suggested that the process of giving evidence to inquiries or truth commissions can have a ‘cathartic’ effect for survivors,³² but the evidence for this is disputed, with one commentator recently arguing that ‘[s]trong claims about an emotional or psychological benefit to testifying remain unsustainable’.³³

30. The response of survivors to previous inquiries into child sexual abuse has not been uniform. Whilst many survivors indicated a sense of vindication and of finally being heard through the process, it is evident that for some this came at a personal cost. Gallen provides the following survey of the academic literature in this regard:³⁴

In Ireland, Carol Brennan concludes that the Irish state harmed victim survivors,³⁵ by disabling ownership of the process and compelling compliance with a purportedly therapeutic model.³⁶ Sinead Pembroke notes that the majority of survivors she interviewed felt CICA was non-transparent and ‘triggered feelings of shame and stigma in relation to their time in the

29 Irish Examiner, Focus on redress: ‘Aftershocks’ of residential abuse reverberate (27 June 2021).

30 *ibid.*

31 *ibid.*

32 B Hamber, ‘The Burdens of Truth: An Evaluation of the Psychological Support Services and Initiatives Undertaken by the South African Truth and Reconciliation Commission’ (1998) 55(1) *American Imago* 9, 18, quoted in Meryl Lawry-White, ‘The Reparative Effect of Truth Seeking in Transitional Justice’ (2015) 64 *International and Comparative Law Quarterly* 141.

33 James Gallen, *Transitional Justice and the Historical Abuses of Church and State* (Cambridge University Press, 2023), p. 137.

34 *ibid.*, p. 148.

35 Carol Brennan, ‘Trials and Contestations: Ireland’s Ryan Commission’ in Shurlee Swain and Johanna Sköld (eds), *Apologies and the Legacy of Children in ‘Care’: International Perspectives* (Palgrave Macmillan UK 2015) p. 56.

36 Carol Brennan, ‘Trials and Contestations: Ireland’s Ryan Commission’ in Shurlee Swain and Johanna Sköld (eds), *Apologies and the Legacy of Children in ‘Care’: International Perspectives* (Palgrave Macmillan UK 2015) p. 64.

institution'.³⁷ Pembroke concludes that CICA should have integrated greater survivor participation into its investigations, especially recognising survivors' stated desire for accountability and prosecutions of abusers.³⁸ After initially resisting hearing survivor testimony at all, the McAleese committee ultimately did so but exacerbated the gendered forms of harm experienced by victim-survivors of the laundries by challenging the veracity of victim-survivor testimony.³⁹ Máiréad Enright and Sinéad Ring emphasise that the state's mistreatment of the victim survivor as a source of knowledge amounts to a fresh form of epistemic injustice, reflecting both testimonial injustice in responding to historical abuse in manners that protect the state and hermeneutical injustice in "privileging the state's sovereign ways of knowing and determining historical injustice".⁴⁰

31. However, it is necessary to again emphasise that these negative assessments arise in a context where there is a dearth of empirical data about the views of survivors on Irish child sexual abuse inquiries and as such it is difficult to draw firm conclusions about overall experiences. The sample sizes of the empirical studies in relation to the CICA and the RIRB, in the context of the circa 17,000 survivors who went through those inquiry and redress processes, makes it particularly difficult to extrapolate from the experience of research participants.
32. Moreover, the precise effects of participation in inquiries will, inevitably, vary from circumstance to circumstance and context to context.

37 Sinead Pembroke 'Historical institutional child abuse in Ireland: survivor perspectives on taking part in the Commission to Inquire into Child Abuse (CICA) and the redress scheme' (2019) 22(1) *Contemporary Justice Review* 43, 51.

38 *ibid*, p. 56 – 57.

39 Claire McGettrick et al, *Ireland and the Magdalene Laundries: A Campaign for Justice* (I B Tauris & Company, Limited 2021) at 87.

40 Máiréad Enright and Sinéad Ring, 'State Legal Responses to Historical Institutional Abuse: Shame, Sovereignty, and Epistemic Injustice' (2020) 55 *Éire-Ireland* 68, 88.

C. Research on Survivor Experiences in Inquiries and Retraumatization

33. Nonetheless, one theme that emerges from the academic literature in this area is the suggestion that, whatever the potential benefits for survivors of participating in public inquiries, such participation carries with it with risks of retraumatization.⁴¹ In terms of the experience of survivors in their engagement with such inquiries, Gallen concludes that ‘... existing studies of inquiries and truth commissions show survivor ambivalence about participation and the provision of testimony, with some instances of short-lived benefit, and others of harm to survivors from participation’.⁴²
34. The opportunity to tell one’s story is not always a rewarding experience. Having conducted interviews with HIAI participants in Northern Ireland, Lundy contends that:⁴³
- ... giving survivors the opportunity to tell their stories does not necessarily bring catharsis, for it may even retraumatize and on occasion hinder recovery. Research indicates that the psychological benefits of testimony are generally realized only when societal issues are addressed: uncovering truth, delivering justice, and making reparations.
35. The experience of inquiries such as CICA and the international inquiries studied suggest that in addition to the opportunity to participate in any inquiry, survivors need both meaningful redress for the harms they have suffered and meaningful accountability for the perpetrators of those harms. Keenan, McAlinden and Gallen have argued that inquiries often fail to ‘recognise the abuses as human rights violations’ and fail to address ‘one of the most consistently expressed needs of victims/survivors, namely the need to discover: “Why? Why was I sent there? Why did it happen to me?”’⁴⁴

41 James Gallen, *Transitional Justice and the Historical Abuses of Church and State*, (CUP 2023), at p. 150, notes that ‘Engagement with public inquiries ... presents a risky process for victim-survivors’.

42 *ibid*, p. 137.

43 Patricia Lundy ‘“I Just Want Justice”: The Impact of Historical Institutional Child-Abuse Inquiries from the Survivor’s Perspective’ 55 (1&2) *Eire-Ireland: An Interdisciplinary Journal of Irish Studies* 252, 259.

44 Marie Keenan, Anne-Marie McAlinden, James Gallen, *Non-recent Institutional Abuses and Inquiries: Truth, Acknowledgement, Accountability and Procedural Justice* (Transforming Justice Project, June 2023), p. 28.

36. The literature suggests that retraumatisation of survivors through their participation in inquiries has the potential to arise in at least three different ways:
- (i) First, testing of evidence in an adversarial manner may retraumatise survivors. As one commentator has argued, ‘The legal scrutiny of evidence and testimony may cause frustration or distress for survivors seeking to have their lived experience believed and officially acknowledged, if it is challenged, misrepresented, or disbelieved’.⁴⁵
 - (ii) Second, the potential disconnects between how survivors expect an inquiry to function and how it functions in practice may also have a traumatising effect. Thus, in the context of the HIAI in Northern Ireland, procedural matters such as the late provision of documents to witnesses were cited as a source of additional distress. Factors outside of the Inquiry’s control, such as disconnect or delay between what an inquiry may recommend, and its implementation may also have a negative effect in survivors. For example, the lengthy delay in instituting recommendations such as the introduction in mandatory reporting⁴⁶ and the relatively modest redress programme recommended by the English and Wales inquiry was a source of survivor dissatisfaction with that process. In Northern Ireland, Sir Anthony Hart wrote to all party leaders at Stormont to voice his concern over the delay in bringing forward a promised redress scheme some 6 months after the publication of the HIAI report in 2017.⁴⁷ Equally, delays in processing applications for redress in Scotland have been criticised as a source of trauma to survivors.⁴⁸
 - (iii) Third, classifying some individuals, and not others, as coming within the scope of a given inquiry can lead to retraumatisation.⁴⁹ As noted above, the CICA adopted a ‘sampling’ approach and did not examine every allegation which it received. Some authors have argued that this sampling approach ‘excluded certain accounts of victimhood and subordinated the experiences of some survivors’.⁵⁰

45 James Gallen, *Transitional Justice and the Historical Abuses of Church and State*, (CUP 2023), at p. 138.

46 Haroon Siddique ‘Survivors criticise ‘abhorrent’ failure to act on child sexual abuse inquiry’ *The Guardian*, 5 February 2024, available at <https://www.theguardian.com/uk-news/2024/feb/05/child-sexual-abuse-survivors-england-criticise-failure-make-reporting-mandatory>.

47 ‘Child abuse inquiry chief demands victims’ redress scheme implementation’ *Belfast News Letter*, 13 June 2017, available at <https://www.newsletter.co.uk/news/child-abuse-inquiry-chief-demands-victims-redress-scheme-implementation-1111988>.

48 ‘Child abuse survivors lose faith in redress payment scheme’ *BBC News*, 16 November 2022, available at <https://www.bbc.com/news/uk-scotland-63648390>.

49 James Gallen, *Transitional Justice and the Historical Abuses of Church and State*, (CUP 2023), at p. 138.

50 *ibid* at 11. See also Marie Keenan, Anne-Marie McAlinden, James Gallen, *Non-recent Institutional Abuses and Inquiries: Truth, Acknowledgement, Accountability and Procedural Justice* (Transforming Justice Project, June 2023), p. 21.

D. Research on Strategies to Limit Retraumatization of Survivors

37. In assessing the research in this field, it is difficult to outline a definitive list of features of an inquiry that may avoid or minimise retraumatization in light of the multi-faceted nature of sexual abuse and the range of different contexts in which it can arise. Each survivor's needs will inevitably be different, and it is difficult to identify a clear consensus on any point.⁵¹
38. However, some studies have set out the variation of what survivors say they want from accountability processes:⁵² Victims of such crimes seek, among other things, full disclosure; face-to-face encounters with church authorities to hear them take responsibility for wrongdoing; offender remorse and accountability; offender appreciation of the impact of the abuse on their lives; victim empowerment and a role in the justice process; rebalancing of power; an independent investigation of the facts; validation of their suffering, and support by the State and the Church; and stopping the abuse by the individual and by the institution for current and future victims.⁵³
39. McAlinden and Naylor note the deficiencies in the traditional model of public inquiry as virtually 'indistinguishable from the forensic tenor of court proceedings'.⁵⁴ They suggest that survivors often place a great deal of weight on the making of an apology by responsible actors, something that is also reflected in the survivors' reports from the Canadian Truth and Reconciliation Commission. While the sincerity of an apology may be open to doubt, they nonetheless suggest that apologies from State and Church actors can be a valuable aspect of the process.⁵⁵
40. Another general conclusion that arises from a general review of such inquiries is the need for clear communication and expectation management of survivors.⁵⁶

51 Patricia Lundy "I Just Want Justice": The Impact of Historical Institutional Child-Abuse Inquiries from the Survivor's Perspective' 55 (1&2) *Eire-Ireland: An Interdisciplinary Journal of Irish Studies* 252, 259.

52 See, eg, Jennifer M Balboni and Donna M Bishop, 'Transformative Justice: Survivor Perspectives on Clergy Sexual Abuse Litigation' (2010) 13(2) *Contemporary Justice Review* 133.

53 McAlinden, A-M., & Naylor, B. 'Reframing Public Inquiries as 'Procedural Justice' for Victims of Institutional Child Abuse: Towards a Hybrid Model of Justice' (2016) 38(3) *Sydney Law Review* 277-308, 284.

54 *ibid.*

55 See Anne-Marie McAlinden, *Apologies and Institutional Child Abuse* (ESRI: Apologies, Abuse and Dealing with the Past Project, 2018) for discussion of the necessary elements of apologies in this context.

56 Daly, *Redressing Institutional Abuse of Children* (Routledge, 2014), p. 238.

41. It appears therefore that there are certain features which if incorporated into an inquiry can help mitigate the risk of retraumatisation of survivors. They are as follows:

(i) Acknowledgement and/or validation

42. The research in this field indicates that survivors of sexual abuse: ‘... want to have what happened to them recognised as wrong and so documented by the authorities’.⁵⁷ What precise form this acknowledgment or validation must take, however, is less certain. For one commentator it is as straightforward as: ... an admission of the basic facts of the crime and acknowledgment of the harm’.⁵⁸ In Canada, the making of an official State apology was identified by survivors as having had ‘a profound effect on the Survivors in terms of feeling believed and having their personal experiences validated’.⁵⁹
43. Practical steps such as making interim findings at the end of each module in respect of individual institutions can provide a sense of acknowledgment and validation to those participating in what will inevitably be a lengthy process. This could be a source of encouragement to survivors waiting for their institution to be considered in circumstances where similar inquiries have taken some years to complete their work.

(ii) Giving survivors a voice

44. A number of academics have identified giving a ‘voice’ as a key justice need of survivors⁶⁰ and as an essential component of inquiries that can help to mitigate against retraumatisation concerns:⁶¹

Affording a wider range of victims of institutional child abuse the opportunity to ‘tell their story’, has important cathartic benefits and is perhaps the single most important value of a victim-focused public inquiry process that aims to incorporate a restorative response to such offences.

57 Patricia Lundy “‘I Just Want Justice’: The Impact of Historical Institutional Child-Abuse Inquiries from the Survivor’s Perspective’ 55 (1&2) *Eire-Ireland: An Interdisciplinary Journal of Irish Studies* 252, 257.

58 Judith Lewis Herman, ‘Justice from the Victim’s Perspective’ (2005) 11 *Violence Against Women* 571, 585.

59 National Centre for Truth and Reconciliation, *Lessons Learned: Survivor Perspectives* (2020), p. 16.

60 Patricia Lundy “‘I Just Want Justice’: The Impact of Historical Institutional Child-Abuse Inquiries from the Survivor’s Perspective’ 55 (1&2) *Eire-Ireland: An Interdisciplinary Journal of Irish Studies* 252, 266.

61 McAlinden, A-M., & Naylor, B. ‘Reframing Public Inquiries as ‘Procedural Justice’ for Victims of Institutional Child Abuse: Towards a Hybrid Model of Justice’ (2016) 38(3) *Sydney Law Review* 277-308, 298.

45. Associated with giving participants a ‘voice’ is the involvement of survivors in the inquiry process from an early stage. It has been suggested that this has been a common failing of previous inquiries in Ireland.⁶²

(iii) Transparency

46. Conducting the inquiry in a transparent manner and giving participants sufficient information about what the inquiry is designed to do may also help to mitigate the risk of retraumatisation. As one commentator has highlighted, ‘[p]roviding adequate information and managing expectations are crucial to ensure that participants understand what the inquiry process involves and make informed choices about how they wish to deal with their needs for justice’.⁶³
47. Regularly communicating ongoing work and interim findings in an accessible manner should be considered in this regard: The Scottish Child Abuse Inquiry has used a quarterly short newsletter to update survivors on progress made and what modules are being undertaken/will be considered next. They have also used short videos to communicate interim findings to survivors in a more easily accessible format.

(iv) Supports

48. A prominent feature of a number of inquiries in other jurisdictions has been the level of counselling and other supports available to survivors who engage with the public inquiry. For example, survivors in Canada reported that such supports were essential in order to counter-balance the risk of retraumatisation involved in participation.⁶⁴
49. In terms of practical steps that could be taken, early counselling supports would be of benefit to survivors involved in an inquiry process. At key stages of the process, such as when survivors are preparing witness statements or giving evidence in person, survivors should have access to counsellors. This should include a follow up call from a counsellor to check how they are coping. This proactive approach to providing counselling services to persons participating in the inquiry process recognises that the process can be a source of trauma to survivors and seeks to intervene to support survivors as part of the inquiry process.

62 Marie Keenan, Anne-Marie McAlinden, James Gallen, *Non-recent Institutional Abuses and Inquiries: Truth, Acknowledgement, Accountability and Procedural Justice* (Transforming Justice Project, June 2023), p. 10: ‘On the island of Ireland, one overarching problem is that despite numerous separate inquiries/commissions of investigations into non-recent abuses and related issues, many inquiries do not adequately empower victims/survivors through processes that centre their voices and perspectives and promote meaningful participation.’

63 Patricia Lundy ‘“I Just Want Justice”: The Impact of Historical Institutional Child-Abuse Inquiries from the Survivor’s Perspective’ 55 (1&2) *Eire-Ireland: An Interdisciplinary Journal of Irish Studies* 252, 266.

64 National Centre for Truth and Reconciliation, *Lessons Learned: Survivor Perspectives* (2020), p. 16.

E. Alternative Models of Inquiry: Confidential Committees

50. The Confidential Committee in CICA heard from survivors entirely in private, without lawyers in the room, and with very informal procedures.
51. It could not make any findings against an alleged perpetrator and was described as having an ‘overwhelmingly therapeutic’ purpose.⁶⁵ The 2000 Act was in fact amended to expressly state the requirement that, if the Commission was basing any finding on Confidential Committee evidence, it must have regard to the fact the evidence was untested and/or uncorroborated:⁶⁶
 - (4) In preparing its report, the Commission shall, in so far as any part of the report is based on evidence recorded by the Confidential Committee, have regard to the fact that that evidence received by that Committee could not be tested or challenged by any person and (if it be the case) was not corroborated.
52. One potential difficulty that arises where a Confidential Committee is run alongside a formal Investigative Committee is the need for clear communications with survivors on the limitations and consequences of a Confidential Committee process.
53. It is important to clearly set out the difference between an inquiry and a Confidential Committee process so that those who speak to a Confidential Committee, or its equivalent, are aware that they are choosing not to have their complaint investigated. They should clearly be informed that their testimony to the Confidential Committee will be anonymised so that they, the school that they attended and anyone they accuse of abuse or of mishandling allegations of abuse will not be identifiable in the report of the Confidential Committee. They should further be informed that the Inquiry will not be entitled to rely on their testimony to make findings concerning instances of abuse because their evidence was not tested.⁶⁷
54. Survivors should be told that the procedures before an Investigative Committee, or the equivalent, will involve formal oral hearings at which evidence is given, and witnesses will be examined and cross-examined by lawyers.

65 516 Dáil Debates Col 293.

66 Commission to Inquire into Child Abuse (Amendment) Act 2005, s 5(b).

67 Based on the CICA approach the Mother and Baby Home Commission adopted a two-track Investigative Committee and Confidential Committee. However, many survivors reported not being made aware of the possibility of giving evidence to the Investigative Committee. When the Commission’s findings failed to reflect the evidence given by survivors to the Confidential Committee, survivors were highly critical of the Commission’s approach. A Commission member, Mary Daly, later indicated that it did not feel that it could safely rely on the untested and unsworn evidence of survivors to the Confidential Committee as the basis for its findings: Mairead Enright, ‘Flawed Mother and Baby report cannot be allowed to stand’ *Irish Examiner* 4 June 2021 <https://www.irishexaminer.com/opinion/commentanalysis/arid-40305245.html>.

55. Where, as part of a sampling approach, formal evidence is not sought from certain survivors who go forward to have their complaints investigated, and they are instead directed towards a Confidential Committee to tell their stories, this must be explained to the survivors. They should be made aware of why their formal evidence is not being sought and given full information about the limitations of a Confidential Committee in terms of it not being permitted to make findings of abuse by identifiable institutions so that they can decide whether they wish to go through that process.

Volume 4

Chapter 19:

Critical Analysis of Previous Inquiries' Impact on Policy and Practice

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A. Introduction

1. The Scoping Inquiry's Terms of Reference direct us to consider the impact of previous inquiries on policy and practice, including in the area of child protection. In performing this task, we have been greatly assisted by the expert report provided by Dr Helen Buckley, Child Protection Consultant and Fellow Emeritus of the School of Social Work and Social Policy of Trinity College, Dublin.¹
2. It should be noted at the outset that the causal links between recommendations made by inquiries and the implementation of reforms are not always clear. This is because some of the policy reforms contemplated by the recommendations have already been formulated before or during the currency of the inquiry, and the inquiry recommendation provides the impetus required to implement or resource it.² On other occasions, the recommendation may be implemented but in a different way than that anticipated, again obscuring the link between an Inquiry's recommendation and the implementation of the measure.
3. Where a structured system of implementation of an Inquiry's recommendations is established, identifying the implementation and impact of recommendations is made easier. For example, following the publication of the Report of the Commission to Inquire into Child Abuse ('CICA'), (for the purposes of this chapter hereinafter referred to '**the Ryan Report**'), the Minister for Children and Youth Affairs established the Ryan Report Implementation Group. This group analysed the recommendations of the Report and identified a series of actions in relation to each one.³
4. It should be acknowledged that apart from the issue of implementation, a difficulty lies in assessing the operational impact of changes in policy and practice. As Dr Buckley points out, it is more difficult to assess how recommendations have been operationalised on the ground.⁴ For the most part, the Scoping Inquiry is not in a position to offer detailed comment on how all of the recommendations have been operationalised on the ground.

1 Dr Helen Buckley, *Report on child protection for the Scoping Inquiry into Historical Sexual Abuse in Schools run by Religious Orders*. Dr Buckley's report is set out at Appendix 4.

2 Dr Helen Buckley, *Report on child protection for the Scoping Inquiry into Historical Sexual Abuse in Schools run by Religious Orders*, p. 18.

3 *Ibid*, pp. 21 – 22. Dr Buckley further notes that the Minister published an implementation report that laid out 99 actions to be completed with timelines, identifying reforms that were already underway, as well as current deficits in policy and services. It was then possible to measure how far the actions were addressed during the first few years following publication of the report.

4 *Ibid*, pp. 29.

B. Legislative reforms arising from inquiries

(i) Mandatory reporting

5. The 1993 Kilkenny Report was the first to recommend that there should be a legal obligation on persons responsible for the care of children to report suspected cases of child abuse to the relevant Health Board (as it then was). Further, it was recommended that there should be immunity from legal proceedings for such persons who reported suspicions of child abuse in good faith. The Kilkenny Report recommended that failure to report child abuse should become an offence.⁵
6. The Kilkenny Report further identified that the Guidelines on Procedures for the Identification, Investigation and Management of Child Abuse, issued by the Department of Health in 1987, were not being implemented uniformly by Health Boards and recommended that the Minister for Health prepare revised procedures for dealing with child abuse, to be given statutory effect under the provisions of ss. 68 and 69 of the Child Care Act 1991. It recommended that these revised procedures should include, *inter alia*, a mandatory system of reporting.⁶
7. Following the Kilkenny Report, mandatory reporting was discussed and debated, but it was felt that its disadvantages outweighed its advantages, and it was not introduced at that time. However, the recommendations of the Kilkenny Report providing for immunity for persons reporting child abuse in good faith were introduced, in the form of the Protections for Persons Reporting Child Abuse Act 1998.⁷
8. Further, in 1999, the Children First: National Guidelines for the Protection and Welfare of Children were adopted by the Department of Health and Children as a national policy document. This sets out guidelines for individuals and agencies who have contact with or provide services to children in respect of identifying and reporting child abuse. However, as a policy document, it did not introduce mandatory reporting, but provided guidance as to how child abuse should be identified and reported.

5 McGuinness et al, *Report of the Kilkenny Incest Investigation* (1993) pp. 99-101.

6 *Ibid*, pp. 96-97.

7 The 1998 Act provides immunity from civil liability to a person who communicates their opinion that a child has been or is being subject to abuse provided that he or she has acted reasonably and in good faith in making such communication.

9. The inquiries that followed in the 2000s did not, in fact, in specific terms, recommend a system of mandatory reporting be adopted on a legislative basis. Recommendations were instead made in more general terms. The Ferns Report recommended that every effort should be made by legislation and publicity to promote a more open environment of prompt reporting of inappropriate sexual behaviour towards children⁸ and endorsed the system of mandatory reporting which was voluntarily adopted by the Catholic Church in its Framework Document of 1996.⁹ Further, it was recommended that every person to whom a complaint of child sexual abuse is made, be it a member of the public authorities or a member of the clergy, should immediately create a written record of the complaint.¹⁰ Many professional organisations and employers made it a condition of registration, membership and employment that suspected child abuse should be reported to the relevant authority.
10. The Ryan Report recommended that the Children First guidelines should be uniformly and consistently implemented throughout the State in dealing with allegations of abuse.¹¹ Further, the Report highlighted that childcare services depend on good communication between all departments and agencies responsible.¹² The Ryan Report recommended that overall responsibility for this process should rest with a designated official.
11. In addition, the Ryan Report made a number of broader recommendations in respect of the implementation of the regulatory framework governing child sexual abuse in schools; it was recommended that rules and regulations be enforced, breaches be reported, and sanctions applied, and further that a culture of respecting and implementing rules and regulations and of observing codes of conduct should be developed.¹³
12. Although not specifically recommended by the Ryan Report, the action plan set out in the First Progress Report of the Ryan Report Implementation Plan outlined that legislation should be drafted to provide that all staff employed by the State and staff employed in agencies in receipt of State funding have a duty to comply with the Children First national guidelines.¹⁴

8 Murphy et al, *Ferns Report* (2005) p. 263.

9 Ibid, p. 264.

10 Ibid, p. 263.

11 Ryan et al, *Report of the Commission to Inquire into Child Abuse* (2009) p. 464.

12 Ibid, p. 463.

13 Ibid, pp. 462 and 463.

14 Ryan Report Monitoring Group, *Report of the Commission to Inquire into Child Abuse 2009 Implementation Plan: First Progress Report* (July 2010), p. 19, Action 85.

13. In 2010, the Ombudsman for Children published an investigation into the implementation of the Children First guidelines and was highly critical in her findings. The investigation found that there was a failure to ensure clarity and consistency regarding the basis for reporting abuse concerns across the Health Service Executive ('HSE') and that there was a lack of consistency in implementation in respect of the investigation of child protection issues.¹⁵
14. Following the publication of the Cloyne Report in 2011, the Minister for Children and Youth Affairs announced her intention to introduce mandatory reporting on a legislative basis.¹⁶ Whereas other inquiries had dealt with earlier periods of time when complaints of abuse were made, the Cloyne Report dealt with incidents of abuse complained of between 1996 and 2004. This was a period when child abuse was known about, and the Catholic Church had introduced its own guidelines as to the handling of abuse allegations, including requiring allegations of child abuse to be reported to the relevant authorities, and for steps to be taken to protect the child complainant. The Cloyne Report found that the diocese of Cloyne had failed to comply with Catholic Church's 1996 voluntary guidelines as to the handling of child sexual abuse allegations. That finding caused considerable disquiet and was instrumental in the decision to introduce mandatory reporting.
15. In the following years, legislation was introduced to place mandatory reporting on a statutory footing. The Criminal Justice (Withholding of Information on Offences Against Children and Vulnerable Persons) Act 2012 provides that a person shall be guilty of an offence if they know or believe that a scheduled offence has been committed against a child or vulnerable person and fail, without reasonable excuse, to disclose that information to An Garda Síochána as soon as reasonably practicable.¹⁷
16. The Children First Act 2015, which came fully into effect on 11th December 2017, places obligations to report on certain categories of persons who have contact with children, such as clergy, teachers and others, who are referred to in the legislation as a "mandated person".¹⁸

15 Ombudsman for Children, *A report based on an investigation into the implementation of Children First: National Guidelines for the Protection and Welfare of Children* (2010) pp. 55, 59-65.

16 "The days of voluntary compliance are over when it comes to child protection"; Speech by Minister Frances Fitzgerald T.D., Publication of Cloyne Report, 13th July 2011, available at <https://merrionstreet.ie/en/category-index/speech-by-minister-frances-fitzgerald-publication-of-cloyne-report-13th-july-2011.40043.shortcut.html>.

17 For a detailed account of the offences covered by this Act and the reporting obligations arising, see Chapter 20.

18 The provisions of the 2015 Act are discussed in detail in Chapter 20.

17. It seems that the impetus for the introduction of mandatory reporting was the findings of previous inquiries. Walsh has identified that parliamentary debates in the Oireachtas on both items of legislation were motivated by the findings of previous inquiries into institutional abuse.¹⁹ Dr Buckley's view is that the Cloyne report was the final catalyst to the introduction of mandatory reporting, together with years of advocacy for its introduction by NGOs, in particular the Children's Rights Alliance.

(ii) Sharing of 'Soft' Information on Child Sexual Abuse Allegations

18. Soft information is information consisting of suspicions or allegations of misconduct. A number of inquiries have recommended the sharing of such information between relevant agencies and bodies, in view of the commonly cited position that a large number of persons often had concerns or suspicions regarding certain individuals prior to any specific finding of child sexual abuse.

19. In this regard, the Ferns Report recommended the holding of inter-agency meetings between the HSE, the Gardaí and the relevant Diocese, in the case of clerical child sex abuse. The Ferns Report further recommended that the authorities at this meeting should raise and share suspicions, rumour or innuendo in relation to misconduct of any member of the clergy.²⁰ It was further recommended that all documents in relation to allegations, rumours or suspicions of child sexual abuse created or maintained by these authorities should attract by law the same right of disclosure on an Order for Discovery as that conferred on State documents under the title 'Executive Privilege'.²¹

20. The Murphy Report noted that in October 2005, a committee was established by the HSE to implement the formation of inter-agency review groups of the kind described in the Ferns Report, but that the HSE had indicated that it was not in a position to proceed with the proposed committees due to the difficulties that arose surrounding the legality of the discussion and the use of information that amounts to rumour, suspicion, innuendo or allegations of abuse.²² However, Dr Buckley notes that Tusla²³ is of the view that such inter agency groups are no longer necessary, due to changes in the child safeguarding landscape.²⁴

19 K. Walsh, *The Development of Child Protection Law and Policy: Children, Risk and Modernities* (Routledge, 2020), Chapter 8.

20 Murphy et al, *Ferns Report* (2005), p. 265.

21 Ibid.

22 Murphy et al, *Commission of Investigation: Report into the Catholic Archdiocese of Dublin* (2009), p. 86.

23 Tusla was established in 2014 and took over responsibility for child care from the HSE.

24 See Dr Helen Buckley, *Report on child protection for the Scoping Inquiry into Historical Sexual Abuse in Schools run by Religious Orders*, pp. 16, and elsewhere in this chapter.

21. Relatedly, the Murphy Report indicated that it considered that the law should be clarified in order to confer on the HSE a duty to communicate to relevant parties, such as schools and sports clubs, concerns about a possible child abuser.²⁵ The Murphy Report further recommended that the recording of alleged abuse by health boards²⁶ ought to be recorded by the name of the alleged abuser and by any organisation with which they are associated, rather than according to the name of the child, as was the practice at the time.²⁷
22. The Cloyne Report similarly observed that in circumstances where people had great concern about a priest's behaviour before any allegation of child sexual abuse was made, it might be of considerable assistance to centrally record any 'soft information' such as suspicions or rumours, in identifying situations which could give rise to concern.²⁸
23. These recommendations, while not given effect to via interagency meetings, appear to have been broadly implemented by way of the National Vetting Bureau (Children and Vulnerable Persons) Act 2012, which requires scheduled organisations to provide 'specified information' to the National Vetting Bureau.²⁹
24. It does not appear that the recommendation of the Ferns Report, that all documents in relation to allegations, rumours or suspicions of child sexual abuse created or maintained by authorities such as Tusla or the Gardaí should attract a form of privilege akin to executive privilege has been implemented. The procedure concerning the disclosure of 'soft information' concerning an individual under the 2012 Act, is governed by the provisions of that Act and are discussed elsewhere in this Report.³⁰

(iii) Creation of New Criminal Offences

25. Several criminal offences have been introduced as a result of the recommendations of inquiries. The Ferns Report recommended that consideration be given to the introduction of a new criminal offence which would apply where any person 'wantonly or recklessly engages in conduct that creates a substantial risk of bodily injury or sexual abuse to a child or wantonly or recklessly fails to take reasonable steps to alleviate such risk where there is a duty to act'.³¹ This recommendation was

25 Murphy et al, Commission of Investigation: Report into the Catholic Archdiocese of Dublin (2009) p. 107.

26 The Health Service Executive was established in 2005 took over the functions of the Health Boards.

27 Ibid, p. 106.

28 Murphy et al, *Commission of Investigation Report into the Diocese of Cloyne* (2010), p. 19.

29 See Chapter 20 for a discussion of these provisions.

30 Ibid.

31 Murphy et al, *Ferns Report* (2005), p. 266.

given effect by the Criminal Justice Act 2006, which provides for the indictable offence of reckless endangerment of a child.³²

26. As discussed above, the Criminal Justice (Withholding of Information on Offences Against Children and Vulnerable Persons) Act 2012 has also been implemented as part of a suite of measures taken in respect of mandatory reporting.

(iv) Powers of Tusla

27. A number of recommendations have been made by inquiries in respect of the statutory powers of Tusla, and its precursors,³³ to intervene in situations of non-familial abuse.
28. The Ferns Report first drew attention to the fact that the Child Care Act 1991 does not address the issue of protection of children from danger in the community, but is focused on the risk of harm to children in the home. The Report refers to case law that interpreted the 1991 Act³⁴ as imposing a wide duty on the Health Board (as it then was) to take appropriate measures to protect unidentified children who might be at risk in the future,³⁵ but did not provide a statutory or regulatory framework to clearly delimit the Health Board's functions in this regard.³⁶
29. The Murphy Report agreed with the analysis of the Ferns Report into the limited powers of health boards in respect of its intervention in circumstances of non-familial abuse.³⁷ Similarly, the Cloyne Report highlighted the absence of a specific statutory basis for the HSE's power to investigate non-familial abuse. The Cloyne Report recommended that statutory provisions in relation to child sexual abuse should be clear and unambiguous and should not be dependent on a purposive interpretation of the 1991 Act.³⁸

32 Section 176 of that Act. See Chapter 20 for further discussion of the 2006 Act. Oireachtas debates on this legislation indicate that this offence was introduced on foot of the recommendation of the Ferns Report: Seanad Éireann debate, 30 June 2006, Criminal Justice Bill 2004 <https://www.oireachtas.ie/en/debates/debate/seanad/2006-06-30/4>; Parliamentary Questions to Minister for Justice and Equality No. 397, 31 March 2015, <http://ipo.gov.ie/en/JELR/Pages/PQ-31-03-2015-397>.

33 Prior to Tusla's establishment in 2014, such recommendations were made as regards the HSE and, prior to that, the various Health Boards.

34 *MQ v Gleeson and Ors* [1997] IEHC 26.

35 Murphy et al, *Ferns Report* (2005), pp. 50-52.

36 *Ibid*, p. 52. The Report recommended that an in-depth study be conducted on the full remit of the HSE's powers in relation to this issue and that express statutory recognition be given to those powers.

37 Murphy et al, *Commission of Investigation: Report into the Catholic Archdiocese of Dublin* (2009), pp. 105-106.

38 Murphy et al, *Commission of Investigation Report into the Diocese of Cloyne* (2010), pp. 89-91.

30. These recommendations were not addressed for a number of years, and indeed currently remain to be implemented. As highlighted by the reports of the Special Rapporteur on Child Protection, Tusla considers that there is a lack of clarity as to its express powers under the 1991 Act to protect unidentified children from the potential risk associated with on-going contact with a person who is alleged to have abused a child in the past.³⁹
31. Following a review of the Child Care Act 1991 undertaken by the Department of Children, Equality, Disability, Integration and Youth ('DCEDIY') the Heads and General Scheme of the Child Care (Amendment) Bill 2023 were published in April 2023. These envisage that the Children First Act 2015 will be amended to provide clear statutory authority to Tusla to assess reports received from non-mandated persons and members of the public in relation to harm to a child.⁴⁰ The General Scheme has now been referred to the Office of the Attorney General for drafting.⁴¹
32. In addition, the Ferns Report identified that the Health Board, as was then responsible for the provision of child protection services, had no express statutory power to obtain or seek a court order prohibiting a person suspected of child abuse from having contact with the child otherwise than in the context of the family home. Further, the Health Board did not have statutory powers to prevent a suspected abuser from acting in a capacity such as a teacher or sports coach or a priest, occupations that would bring them into close contact with children.⁴²
33. In addition, the Ferns Report recommended that the Minister for Health and Children should review the desirability of introducing legislation empowering the High Court, on the application of the HSE or another suitable body, to bar or otherwise restrain any person from having unsupervised access to children where reasonable grounds exist for the belief that the person has abused or has a propensity to abuse children. It does not appear that that recommendation has been implemented to date.
34. Tusla introduced the Child Abuse Substantiation Procedure ('CASPs') (Tusla, 2022) guidelines to assist their staff. Dr Buckley's report observes that whilst considered to have limitations⁴³ the guidelines provide a framework for Tusla staff to investigate whether any risk is posed by persons subject to abuse allegations to known and unknown children.⁴⁴

39 Geoffrey Shannon, *Eleventh Report of the Special Rapporteur on Child Protection* (2018); O'Mahony, *Thirteenth Annual Report of the Special Rapporteur on Child Protection* (2020).

40 Department of Children, Equality, Disability, Integration and Youth, *Heads and General Scheme of the Child Care (Amendment) Bill 2023*, (April 2023).

41 See further discussion of 2023 Bill in Chapter 20.

42 Murphy et al, *Ferns Report* (2005), p. 56.

43 See Conor O'Mahony, *Annual Report of the Special Rapporteur for Child Protection 2021*; Statement by IASW July 2022.

44 Dr Helen Buckley, *Report on child protection for the Scoping Inquiry into Historical Sexual Abuse in Schools run by Religious Orders*, p. 17.

C. Reforms of childcare policy and services arising from inquiries

(i) Structural Reform

35. Although not a specific recommendation of the Ryan Report, the publication of the Report undoubtedly prompted certain structural reforms in the public sector in respect of the provision of child welfare and protection services in the State. As noted above, the Department of Children and Youth Affairs was established in June 2011, which had the effect of consolidating a range of functions that were previously the responsibilities of the Departments of Health, Education and Skills, Justice and Law Reform, and Community, Rural and Gaeltacht Affairs. This was done in an effort to improve the effectiveness of supports and services.⁴⁵
36. In addition, Tusla was established in January 2014 upon the commencement of the Child and Family Agency Act 2013, which transferred responsibility for the delivery of such support services from the HSE to a dedicated statutory agency.⁴⁶
37. It is apparent that alongside these structural reforms, the Ryan Report yielded additional resource allocation by the Government to certain child protection services. Notably, the recruitment of social workers was formally exempted from the public service moratorium on recruitment and replacement of staff, which was in place in 2010, and as a result an additional 270 social work posts were filled by 2014.⁴⁷

(ii) Standard and Reviews

38. Arising from the Ryan Report, it is evident that there were some reforms to national childcare policy beyond the legislative changes referred to above. The Report recommended first that the lessons of the past in respect of failures of systems and policy, of management and administration and of senior personnel, should be learned by the State, requiring internal departmental analysis.⁴⁸ The Ryan Report Implementation Group noted that in this regard, the Department of Education and Science completed an analysis of how the failings outlined by the Ryan Report through its senior management forum, business planning and risk register

45 Ryan Report Monitoring Group, *Ryan Report Implementation Plan: Fourth Progress Report* (December 2014), p. 2.

46 This brought together staff from the HSE, the Family Support Agency and the National Educational Welfare Board. See *ibid*, pp. 2-4.

47 Ryan Report Monitoring Group, *Report of the Commission to Inquire into Child Abuse 2009 Monitoring Group, Ryan Report Implementation Plan: First Progress Report* (July 2010), p. 13, Action 58; Ryan Report Monitoring Group, *Ryan Report Implementation Plan: Fourth Progress Report* (December 2014), p. 10.

48 Ryan et al, *Report of the Commission to Inquire into Child Abuse* (2009), p. 461.

processes. Further, it was stated that in 2010 Mr. Justice Ryan made a presentation to the Senior Management Forum on this topic following the publication of the Ryan Report.⁴⁹

39. In addition, the Ryan Report recommended that childcare policy should be child-centred, with the needs of the child being paramount, and advised that national childcare policy should be clearly articulated and reviewed on a regular basis.⁵⁰ Further, it was recommended the provision of childcare services should be reviewed on a regular basis; including reviews of out-of-home care services and of legislation, policies and programmes relating to children in care.⁵¹
40. It appears that these recommendations were implemented in large part; the Ryan Report Implementation Group identified that the Office of the Minister for Children and Youth Affairs would develop a new National Children's Strategy to cover the period 2011-2010; and as a result *Better Outcomes, Brighter Futures: the National Policy Framework for Children and Young People 2014-2020*, was published in 2014, the first children's policy framework in the State.⁵²
41. A mid-term review of this policy framework was issued in 2018 and the final report in respect of progress-tracking was published in 2022. A new policy framework for children and young people for the period 2023-2028 is in the process of development. The DCEDIY published its blueprint for this policy framework in September 2022.
42. The Ryan Report Implementation Group further notes that the HSE/Tusla adopted a suite of performance indicators targeted at providing information on how their services are performing, which were reviewed each year.⁵³ In 2016, Tusla and the Department for Children and Youth Affairs established the Outcomes for Children National Data and Information Hub, which seeks to centralise mapping outcomes, indicators and services for children and young people to inform planning and delivery of services.

49 Ryan Report Monitoring Group, *Ryan Report Implementation Plan: Fourth Progress Report* (December 2014), p. 25 (Part 2, p. 2), Action 2.

50 Ryan et al, *Report of the Commission to Inquire into Child Abuse* (2009), p. 462.

51 Ibid.

52 Ryan Report Monitoring Group, *Report of the Commission to Inquire into Child Abuse 2009 Monitoring Group, Ryan Report Implementation Plan: First Progress Report* (July 2010), p. 6, Action 22.

53 Ryan Report Monitoring Group, *Ryan Report Implementation Plan: Fourth Progress Report* (December 2014), p. 39 (Part 2, p. 17), Action 25.

43. Data and information on Tusla's child protection and welfare services is published annually in the Agency's annual *Review of Adequacy Reports*, on the adequacy of childcare and family support services available, which are issued pursuant to s 8 of the Child Care Act 1991. Monthly data is also available on Tusla's website.
44. Finally, s 9 of the Child and Family Agency Act 2013 also provides that Tusla shall in performing its functions in respect of an individual child under the Child Care Act 1991, regard the best interests of the child as the paramount consideration and shall, when planning and reviewing the provision of services ensure that consideration is given to the views of children.

(iii) Inspections

45. In respect of the inspection of services for children, the Ryan Report was prescriptive; it was stated that independent inspections were essential and that all services for children should be subject to regular inspections in respect of all aspects of their care. The Ryan Report further highlighted a number of requirements of a system of inspection, including:
 - that there be a sufficient number of inspectors;
 - that the inspectors be independent;
 - that the inspectors should talk with and listen to the children;
 - that there are objective national standards for inspection of all settings where children are placed;
 - that unannounced inspections should take place;
 - that complaints to an inspector should be recorded and followed up; and
 - that inspectors should have power to ensure that inadequate standards are addressed without delay.⁵⁴

54 Ryan et al, *Report of the Commission to Inquire into Child Abuse* (2009), p. 463.

46. The Health Information and Quality Authority (HIQA) was established by legislation in 2007 under the Health Act 2007. This Act had been passed, but was not in force, prior to the publication of the Ryan Report. The Department of Health and Children issued Standards for Children’s Residential Centres (1999) and Standards for Foster Care (2003) and these services were inspected by the Social Services Inspectorate (established in 1999), with the reports published on their website. HSE inspectors inspected residential centres run in the voluntary and private sector. The functions of the Social Services Inspectorate were incorporated into HIQA on its establishment. HIQA developed two sets of standards for approval by the relevant Minister the National Standards for the Protection and Welfare of Children, launched in 2012, and the National Standards for Residential Services for Children and Adults with Disabilities in 2013. HIQA has subsequently published National Standards for Special Care Units in 2015 and National Standards for Children’s Residential Centres in 2018.
47. The Ryan Report Implementation Group notes that a Government decision was taken in 2010 to prioritise the inspection by HIQA of all child protection services and children’s residential services, in advance of commencing the relevant sections of the Health Act 2007.⁵⁵ The inspection of child protection and welfare services commenced in October 2012.⁵⁶ Beginning in November 2013, HIQA also assumed responsibility for the regulation of residential and residential respite services for children and adults with disabilities provided by the HSE, private organisations or voluntary bodies.⁵⁷ It was noted by the Ryan Report Implementation Group that HIQA consults with children as part of inspections and during the development of standards and that it performs announced and unannounced inspections.⁵⁸
48. HIQA now inspects and monitors Tusla-run children’s residential centres, Tusla and private foster care services, special care units, Oberstown Children Detention Campus (the only children’s detention centre in the State) and Tusla’s Child Protection and Welfare Services. It does not have legal authority to inspect voluntary and private children’s residential centres, which remains under the remit of Tusla’s regulation team. Inspection reports of both agencies are made publicly available online. HIQA is currently in the process of developing National Standards for Children’s Social Services, which are intended to replace national standards for individual services, referenced above.⁵⁹

55 Ryan Report Monitoring Group, *Ryan Report Implementation Plan: Second Progress Report* (July 2011), p. 28.

56 Ryan Report Monitoring Group, *Ryan Report Implementation Plan: Fourth Progress Report* (December 2014), p. 48 (Part 2, p. 26), Action 39.

57 *Ibid*, p. 27 (Part 2, p. 5), Action 6.

58 *Ibid*, pp. 12 and 42.

59 HIQA, *Evidence review to inform the development of National Standards for Children’s Social Services* (July 2020).

(iv) Data Collection and Record-Keeping

49. There were a number of recommendations made by the Ryan Report in relation to the collation of data with respect to child protection services. It was recommended that the Department of Health and Children should maintain a central database containing information relevant to childcare in the State. It was suggested that this database include, while protecting their anonymity, the social and demographic profile of children in care, their health and educational needs, the range of preventative services available and interventions used.⁶⁰
50. The Ryan Report further recommended that there should be a record of what happens to children when they leave care in order to inform future policy and planning of services.
51. Finally, the Ryan Report recommended that the full personal records of children in care be maintained, kept secure and up to date, including reports, files and records essential to validate the child's identity, and their social, family and educational history.⁶¹
52. These recommendations seem to have had a mixed impact on policy and practice. The Outcomes for Children National Data and Information Hub, referenced above, does not disaggregate publicly available data on child protection service users based on their demographics. The National Child Care Information System ('NCCIS') is a system launched by Tusla in 2018, which centralises the recording of critical data on children who are the subject of a child protection or welfare referral. Tusla state that this case management system allows for accuracy and up-to-date activity recording facilitating better service planning and delivery,⁶² and has indicated that the NCCIS has facilitated other reporting developments, such as the compilation of Child in Care in Education Reports, recording the number of children in care who are in full-time or part-time education, including the education type.⁶³ The Ryan Report Implementation Group also indicated prospectively that information with respect to ethnicity of children receiving Tusla services will form part of the dataset of the NCCIS.⁶⁴ However, it is not clear whether this system provides other data disaggregated on the basis of demographics, health needs, or the other criteria recommended by Ryan Report.

60 Ryan et al, *Report of the Commission to Inquire into Child Abuse* (2009), p. 462.

61 Ibid, p. 464.

62 Child and Family Agency, *Annual Report 2018*, p. 27.

63 Child and Family Agency, *Annual Report 2020*, p. 24.

64 Ryan Report Monitoring Group, *Ryan Report Implementation Plan: Fourth Progress Report* (December 2014), p. 47 (Part 2, p. 25), Action 38.

53. In relation to consulting with persons leaving care at age 18 in respect of their experiences of the childcare system, the Ryan Report Implementation Group noted in 2014 that a working group had devised a 'leaving care exit interview procedure' for young people turning 18 years of age who are due to leave statutory care and have a minimum of 3 months care experience. This procedure had been piloted but it is unclear whether it was implemented in practice.⁶⁵
54. Further, one action specified in the Ryan Report Implementation Plan was the holding of a longitudinal study to follow young people who leave care for 10 years, to map their transition to adulthood. This was not implemented by 2014 due to what Tusla described as resource constraints.⁶⁶ In January 2022, the Minister for Children, Equality, Disability, Integration and Youth launched the research and data project, which was referenced in the Ryan Report Implementation Plan, to include a study of those who left care ten years ago and a longitudinal cohort study of young people leaving care.⁶⁷
55. In relation to the maintenance of the personal records of children in care, the Ryan Report Implementation Plan proposed that the HSE would facilitate the development of a national archive, to be managed professionally, for the records of all children in care, and that the HSE would ensure that records created in non-statutory agencies are secured in its national archive. These recommendations were not implemented by 2014, again due to resource constraints.⁶⁸ It is apparent that the records of children in care are currently maintained by Tusla and that the NCCIS is the central repository/archive for current children in care records.⁶⁹

65 Ibid, p. 69 (Part 2, p. 47).

66 Ibid, p. 6.

67 Department of Children, Equality, Disability, Integration and Youth, 'Press release: Minister O'Gorman launches largest ever examination of the lives of children in care and adults who were in care as children' (26 January 2022).

68 Ryan Report Monitoring Group, *Ryan Report Implementation Plan: Fourth Progress Report* (December 2014), p. 6 and Part 2, p. 45.

69 Dáil Éireann Debate, National Archives, Parliamentary Question No. 153 and Answer of the Minister for Children, Equality, Disability, Integration and Youth (25 November 2020) <https://www.oireachtas.ie/en/debates/question/2020-11-25/153/>.

(v) Provision of Care

56. Following the publication of the Ferns Report, it appears that a number of working groups were established to implement its recommendations. As stated in Dr Buckley's Report, the Office of the Minister for Children and Youth Affairs set up a monitoring group to agree on actions following the Ferns recommendations and it is understood that regular interagency updating meetings took place between the Department and the HSE, which may have included the Gardaí. However, as Dr Buckley points out, neither the timeline nor the records of the meetings are available so that it is not possible to ascertain the final outcome of the working groups.⁷⁰
57. The Ferns 4 (Children) Working Group was tasked with examining the needs of children and young persons and their families who had been affected by sexual abuse. A progress report in 2009 identified a number of findings and recommendations in, amongst other things, the need for a standardised approach to assessment services, the provision of therapy services outside Dublin and the need for a framework of services spanning the entire country.⁷¹
58. A multi-agency National Steering Committee for Ferns 4 was established in October 2011, to implement certain key actions including the provision of an out-of-hours service for initial assessments, the creation of a multi-agency referral team, joint specialist interviews between social work services and the Gardai, and the provision of medical forensic examination centres.⁷² Dr Buckley notes that the final report of the steering committee for Ferns 4 gave a detailed outline of a proposed national assessment and therapy service for children who had been sexually abused, recommending that centres be set up in Dublin, Cork and Galway.
59. In response, a multi-agency referral team, known as Barnahus West, was piloted and established in Galway in 2019, to provide integrated services from Tusla, the HSE and the Gardai to children who have experienced sexual abuse. It was announced by the Minister for Children, Equality, Disability, Integration and Youth in 2023 that two further centres providing the same model of service will be rolled out in the east and south of the country.⁷³

70 Dr Helen Buckley, *Report on child protection for the Scoping Inquiry into Historical Sexual Abuse in Schools run by Religious Orders*, p. 18.

71 HSE, *Review of Adequacy for HSE Children and Family Services* (2009), p. 30.

72 HSE, *Review of Adequacy for HSE Children and Family Services* (2011), pp. 40-42.

73 Department of Children, Equality, Disability, Integration and Youth, Press Release: Minister O'Gorman launches European Union/Council of Europe Joint Project "Support the implementation of the Barnahus project in Ireland", 31 January 2023.

60. Ferns 5 was to advise on the needs and strategic direction of the HSE in the treatment of adults, teenagers and children who displayed sexually harmful behaviour. The 2014 final draft report of Ferns 5 proposed the setting up of a Juvenile Sexual Behaviour Service under a national steering committee. Dr Buckley notes that the latest information from Tusla is that the national steering group was replaced by a National Inter Agency Prevention Programme for children who display sexually harmful behaviour. This programme has some full-time staff but is reliant on the release of other staff from social work departments and the probation service and is subject to operational pressures. It is developing, but not available in all regions at this point.⁷⁴
61. As observed by Dr Buckley, it seems that the actions to be implemented by the HSE/Tusla following the Ferns Inquiry have been broadly implemented, although some are still in process. There is no other information available from the DCEDIY on the outcomes from the other Ferns Project groups.
62. Separate to the above, there were also a number of recommendations made by the Ryan Report in relation to the provision of care. It was outlined that children in care need a consistent care figure, and it was recommended that continuity of care, with a consistent professional figure with overall responsibility, should be an objective wherever possible. Further, it was recommended that the supervising social worker should have a detailed care plan, the implementation of which should be regularly reviewed, and that where possible the family should be involved in developing and reviewing the care plan.⁷⁵
63. The Ryan Report recommended that children who have been in State care should have access to aftercare services and that childcare services should continue contact with young people once they have left care as minors.⁷⁶
64. The Ryan Report further recommended that children in care should not, save in exceptional circumstances, be cut off from their families and that priority should be given to supporting ongoing contact with family members for the benefit of the child. Finally, the Ryan Report recommended that children in care should be able to communicate concerns without fear and that the Department of Health and Children must examine international best practice to establish the most appropriate method of giving effect to this recommendation.⁷⁷

74 Dr Helen Buckley, *Report on child protection for the Scoping Inquiry into Historical Sexual Abuse in Schools run by Religious Orders*, p. 19.

75 Ryan et al, *Report of the Commission to Inquire into Child Abuse* (2009), p. 464.

76 Ibid.

77 Ibid, p. 463.

65. There were a number of actions set out in the Ryan Report Implementation Plan which sought to give effect to these recommendations. It was identified that the HSE would ensure that all children in care have an allocated social worker and a care plan.⁷⁸ In response, funding was made available by the HSE for the recruitment of an additional 270 social workers. By the publication of the Implementation Group's final Progress Report in 2014, 94% of children in care were reported to have an allocated social worker and 91% had a written care plan.⁷⁹ According to the data made available most recently by the Child and Family Agency, at the end of 2021, 88% of children in care had an allocated social worker, and 97% had a written care plan.⁸⁰
66. In relation to the provision of aftercare services, the Ryan Report Implementation Plan provided that the HSE will ensure the provision of aftercare services for children leaving care in all instances where the professional judgement of the allocated social worker determines it is required and further that the HSE will ensure that care plans include aftercare planning for all young people of 16 years and older.⁸¹ In response, the HSE published the *National Policy and Procedures Document for Aftercare Service Provision* in 2011, which was updated by Tusla in 2017 via the publication of the *National Aftercare Policy for Alternative Care*. These provide that all eligible young people should have an aftercare plan.⁸²
67. This recommendation also yielded a legislative change with respect to the provision of aftercare services. Section 45 of the Child Care Act 1991 originally provided that Tusla may assist a young person between the age of 18 and 21 (or up to 23 years where the person is engaged in a course of education), where it is satisfied that they have a 'need for assistance'. The Child Care (Amendment) Act 2015 substituted this provision and imposed a statutory duty on Tusla to undertake an assessment of need for an eligible child or eligible young person. According to the most recent data published by Tusla at the end of 2021, 82% of all young people in receipt of an aftercare service had an aftercare plan.⁸³

78 Ryan Report Monitoring Group, *Report of the Commission to Inquire into Child Abuse 2009 Monitoring Group, Ryan Report Implementation Plan: First Progress Report* (July 2010), p. 8, Action 33.

79 Ryan Report Monitoring Group, *Ryan Report Implementation Plan: Fourth Progress Report* (December 2014), p. 44 (Part 2, p. 22).

80 Child and Family Agency, *Annual Review on the Adequacy of Child Care and Family Support Services Available* (2021), p. 81.

81 Ryan Report Monitoring Group, *Report of the Commission to Inquire into Child Abuse 2009 Monitoring Group, Ryan Report Implementation Plan: First Progress Report* (July 2010), pp. 14 and 15.

82 Ryan Report Monitoring Group, *Ryan Report Implementation Plan: Fourth Progress Report* (December 2014), pp. 61 and 63 (Part 2, pp. 39 and 41).

83 Child and Family Agency, *Annual Review on the Adequacy of Child Care and Family Support Services Available* (2021), p. 95.

68. The Ryan Report Implementation Plan set out a number of actions in relation to the maintenance of ongoing contact between children in care and families. It was provided that Tusla should ensure that each child's care plan should reflect the plan for contact with family members, and it was reported in 2014 that this was implemented as part of an updated standardised care planning process.⁸⁴ Further, it was reported that a protocol was developed and would be implemented by Tusla in relation to contact between siblings who live apart in separate placements, and that Tusla will provide practical support to family members and friends to facilitate contact with the child in care, such as adequate assistance with transport arrangements or costs.⁸⁵
69. Finally, it does not appear that the Ryan Report Implementation Plan addressed the Ryan Report's recommendation in relation to international best practice on the communication of children's concerns without fear. However, it appears that Tusla have recently sought to embed the participation of children and young people in consultation and decision-making processes via the Child and Youth Participation Strategy 2019-2023.

D. Reforms in relation to inter-agency cooperation

70. A number of recommendations were made by previous public inquiries in relation to inter-agency co-operation in the field of child protection and welfare services, which appear to have been quite recently incorporated into proposed legislation. As previously referred to, the Ferns Report made a number of recommendations in relation to the holding of inter-agency meetings between the relevant diocese, the HSE, and An Garda Síochána, in circumstances where continuing problems or a series of problems arise in relation to child sexual abuse.⁸⁶ At these meetings, it was recommended that suspicions, rumour or innuendo in relation to misconduct of any member of the clergy could be raised. It was recommended that the convening of meetings of the Inter Agency Review Group ('IARG') and the recording and maintenance of its records should be the responsibility of the HSE. As noted above, Dr Buckley has noted that Tusla are of the view that such inter agency groups are no longer necessary, due to changes in the child safeguarding landscape and the decline in allegations of sexual abuse against clerics.

84 Ryan Report Monitoring Group, *Ryan Report Implementation Plan: Fourth Progress Report* (December 2014), p. 65 (Part 2, p. 43).

85 *Ibid*, p. 66 (Part 2, p. 44).

86 Murphy et al, *Ferns Report* (2005) p. 265.

71. In broader terms, the Ryan Report made recommendations in relation to communication between childcare services in all relevant public bodies, including communicating concerns and suspicions. It was recommended that overall responsibility for this process should rest with a designated official. In line with this recommendation the Ryan Report Implementation Group proposed draft legislation to provide that all staff employed by the State have a duty to share relevant information in the best interests of the child and a duty to co-operate with other relevant services in the best interests of the child.⁸⁷ It appears that this proposal is contemplated within the Heads of Bill and General Scheme of the Child Care (Amendment) Bill 2023, which provides for a duty of relevant bodies to cooperate with Tusla and with each other for the purpose of promoting the development, welfare and protection of children. This proposed provision also covers the sharing of information, voluntarily or on request.

E. Reforms in relation to An Garda Síochána

72. Several recommendations issued by the Ferns Report addressed the role of the Gardai in the investigation of child sexual abuse complaints. First, it was recommended that in order to enhance public confidence, investigating Garda officers should be trained in how to interview children appropriately and be able to provide a child-friendly and secure environment.⁸⁸
73. Further, it was recommended that all Gardaí should notify their superior officers in writing in relation to any decision taken by them not to investigate or proceed with a referral for prosecution to the Director of Public Prosecutions ('DPP') any offence concerning a complaint of child sexual abuse. It was also recommended that a local Superintendent should consult with the Domestic Violence and Sexual Assault Investigation Unit in Dublin to seek their advice where issues in relation to the desirability of maintaining surveillance on an alleged or suspected perpetrator of an offence of child sexual abuse.⁸⁹
74. Finally, the Ferns Inquiry stated that it believed that arrangements for joint investigation of suspected child abuse cases between An Garda Síochána and the HSE should be more firmly established in order to ensure efficiency in outcome.⁹⁰

87 Ryan Report Monitoring Group Ryan, *Report Implementation Plan: Fourth Progress Report* (December 2014), p. 75 (Part 2, p. 53).

88 Murphy et al, *Ferns Report* (2005) p. 264.

89 Ibid, p. 267.

90 Ibid, p. 259.

75. Reports of the Garda Inspectorate are instructive in identifying progress in relation to some of the above recommendations. In its review of policies and practices of the Garda Síochána relating to the investigation of child sexual abuse carried out in 2012, it was recommended by the Inspectorate *inter alia* that the An Garda Síochána specially trains a cadre of front-line Gardaí in each Garda district to take reports alleging child sexual abuse and that only specially trained Gardaí take statements from child and adult victims of child sexual abuse.⁹¹ It was also recommended that the Gardaí publish information for complainants on how, where and when they can make a complaint about child sexual abuse, and that victim-friendly options of making a complaint are devised to encourage reporting.
76. In 2017, a follow up review was carried out by the Garda Inspectorate on the same topic, which assessed that many of the recommendations in relation to training and interviewing were not implemented.⁹² The Inspectorate noted that in 2010, the Garda Síochána published a policy entitled '*Investigation of Sexual Crime, Crimes Against Children and Child Welfare*', which was revised in 2013. In conducting its 2017 review, the Inspectorate found that many aspects of the policy were not in place or are not consistently applied in the investigation of offences.⁹³ It was identified that while Child Protection Units were established in some garda districts, there was no training course and most members in units had not received any specialist child protection training.⁹⁴
77. The Inspectorate found in 2017 that the use of specially trained interviewers was by then embedded as standard practice in the Gardaí, but that the process of joint interviewing of children by Gardaí and social workers had ceased, raising the potential for two separate interviews by the Gardaí and Tusla, potentially causing unnecessary trauma for the child.⁹⁵ In the 2017 report, the Inspectorate recommended that the Gardaí ensure there is sufficient suitably trained members to conduct interviews with suspects and take statements from adult victims of child sexual abuse, and that the Garda Síochána, in conjunction with Tusla, move to a standard operating procedure for conducting joint interviewing of child victims.⁹⁶

91 Garda Inspectorate, *Report of the Garda Inspectorate: Responding to Child Sexual Abuse* (2012), p. 57.

92 Garda Inspectorate, *Responding to Child Sexual Abuse, A follow up Review from the Garda Inspectorate* (2017), pp. 45-46.

93 *Ibid*, pp. 18-19.

94 *Ibid*, p. 19.

95 The absence of joint interviewing was also acknowledged by HIQA in its investigation report published in 2018. Health Information and Quality Authority, *Report of the investigation into the management of allegations of child sexual abuse against adults of concern by the Child and Family Agency (Tusla) upon the direction of the Minister for Children and Youth Affairs* (2018), p. 12.

96 Garda Inspectorate, *Responding to Child Sexual Abuse: A follow up Review from the Garda Inspectorate* (2017), p. 34.

78. In respect of inter-agency co-operation and joint investigation of child sexual abuse between the Gardai and the agency responsible for the provision of child protection services, there appears to have been progress of a limited nature. In 2012, the Inspectorate identified inter-agency co-operation as a difficulty in the investigation of child protection cases and recommended that the Gardaí should include the promotion of inter-agency working with the HSE as a priority in the organisation's business plans.⁹⁷
79. In the Inspectorate's 2017 follow-up report, it was assessed that these recommendations were partially implemented, However it was found that action was still required to ensure the use of shared electronic systems, agreed records and data, and that electronic sharing of child protection notifications was not in place.⁹⁸ Similarly, a HIQA investigation identified in 2018 that there was no electronic data transfer interface between the ICT systems in both agencies and that notifications of suspected child sexual abuse cases had to be sent by fax or posted, which was not efficient, appropriate or secure.⁹⁹ In 2022 Tusla and An Garda Síochána commenced an ICT system for digital transfer of child protection notifications.
80. The Joint Working Protocol for An Garda Síochána/Tusla in respect of the Children First Guidelines was agreed between the agencies in December 2017. An Inter-Agency Implementation Group was established in 2018 in response to the Garda Inspectorate's 2017 follow-up review, and appears to have published one progress report, in October 2018. This indicated that a memorandum of understanding on sharing information between An Garda Síochána and Tusla was nearing completion.¹⁰⁰ However, news reports issued as recently as 2023 indicate that any data-sharing agreement between the two agencies has not yet been finalised.¹⁰¹

97 Garda Inspectorate, *Report of the Garda Inspectorate: Responding to Child Sexual Abuse* (2012), p. 57.

98 Garda Inspectorate, *Responding to Child Sexual Abuse: A follow up Review from the Garda Inspectorate* (2017), p. 42.

99 Health Information and Quality Authority, *Report of the investigation into the management of allegations of child sexual abuse against adults of concern by the Child and Family Agency (Tusla) upon the direction of the Minister for Children and Youth Affairs* (2018), p. 11.

100 Inter-Agency Implementation Group in Respect of Garda Inspectorate Report "Responding to Child Sexual Abuse, A follow up Review December 2017", *First Progress Report of the Inter-Agency Implementation Group*, 11 October 2018, p. 17.

101 O'Keefe, 'Gardaí working on plan to share child abuse information', *Irish Examiner*, 22 May 2023; O'Keefe 'Action needed to improve co-operation among child sex abuse services', *Irish Examiner*, 8 May 2023; O'Keefe, 'Budget further delays Tusla and Gardaí electronically sharing child sex abuse disclosures' *Irish Examiner*, 27 December 2021.

81. Dr Buckley states that it was intended that investigation teams would be multi-agency and include Tusla staff, who were included in training for several years. However, joint training has declined considerably. Dr Buckley states that specialist interviewing is currently under review with An Garda Síochána, and there is a plan for the development of joint training.¹⁰²
82. In respect of notification by a Garda to his or her superior of a decision not to investigate a complaint of sexual abuse or to refer a file to the DPP it appears that the provisions of the Garda Síochána Act 2005 deal broadly with this recommendation. That Act provides that the DPP is entitled to give directions to members of the Gardaí in relation to the institution and conduct of prosecutions, which directions are binding.¹⁰³ The DPP issued a direction in 2011¹⁰⁴ that a decision as to whether a prosecution in respect of an offence of a sexual nature should or should not be instituted is to be taken by the DPP.
83. In respect of the other recommendations made by the Ferns Inquiry such as consultation with the Domestic Violence and Sexual Assault Investigation Unit in Dublin in respect of surveillance of alleged abusers; and publicization of Garda complaints procedures, it is unclear to what extent these have been implemented and what effect these may have had on policy and practice. Following on from the Garda Inspectorate Report in 2017, Protective Services Units were established in every Garda division. There are now 27 such units specialising in the investigation of sexual crimes, including child protection and domestic abuse.¹⁰⁵

102 Dr Helen Buckley, *Report on child protection for the Scoping Inquiry into Historical Sexual Abuse in Schools run by Religious Orders*, p. 17. The recommendation for specialist joint training was made more recently by the Expert Assurance Group, which was set up following HIQA's report into Tusla's handling of the historical sexual abuse allegations against Sergeant Maurice McCabe, in its 2019 Final Report.

103 Garda Síochána Act 2005, s. 8(4).

104 General Direction No. 3, paragraph 2(d), available at <https://www.dppireland.ie/app/uploads/2022/01/General-Direction-No.-3-21.11.08.pdf>.

105 See discussion in Chapter 16.

F. Recommendations issued to the Catholic Church/private bodies responsible for child protection

(i) Reforms in relation to child safeguarding policies

84. In relation to private actors with responsibility for child protection, the Ferns Report made the recommendation that the Diocese of Ferns and every other organisation that employs, qualifies or appoints persons to positions where they have unsupervised access to children should prepare, publish and revise from time to time a code of conduct dealing with the manner in which the employee interacts with young people.¹⁰⁶
85. The Ryan Report recommended, without distinguishing between public and privately-run institutions, that management at all levels should be accountable for the quality of services and care. It was further recommended that the manager of an institution should be responsible for inter alia;
- ensuring that staff are well trained;
 - ensuring on-going supervision, support and advice for all staff;
 - ensuring rules and regulations are adhered to;
 - establishing whether system failures caused or contributed to instances of abuse; and
 - putting procedures in place to enable staff and others to make complaints and raise matters of concern without fear of adverse consequences.¹⁰⁷
86. These recommendations have been largely implemented by the provisions of the Children First Act 2015 which require risk assessments and child safeguarding statements to be prepared by each provider of a relevant service.¹⁰⁸

106 Murphy et al, *Ferns Report* (2005) p. 264.

107 Ryan et al, *Report of the Commission to Inquire into Child Abuse* (2009), p. 463.

108 See discussion on the requirements of the Risk Assessment and Child Safeguarding Statement in Chapter 20.

(ii) Reforms in relation to the Catholic Church

87. Previous inquiries made a number of recommendations in relation to the management processes of the Catholic Church. The Ferns Inquiry endorsed the mandatory system of reporting as adopted by the Catholic Church in its Framework Document of 1996, and recommended that, in light of the key role of the Bishop in the Diocese as the manager and leader of priests, Bishops should be supported by management training.¹⁰⁹ The Ryan Report made the broader recommendation that the Congregations examine how such abuse was allowed to take place within their communities.¹¹⁰
88. The Murphy Report identified that the functioning of child protection procedures was heavily dependent on the current Archbishop and the Director of the Child Protection Service and stated that institutional structures need to be sufficiently embedded to ensure that the structures and procedures can survive uncommitted or ineffective personnel.¹¹¹
89. Further, the Murphy Report identified that clear and precise rules were required to ensure that priests suspected of abusing children are removed from ministry and that there needed to be a clear power available to bishops to require priests to stand aside.¹¹²
90. Dr Buckley's report comments that the recommendation for management training for bishops has only been partially covered. Bishops now receive safeguarding training from the National Board for Safeguarding Children in the Catholic Church in Ireland ('NBSCCCI')¹¹³ and the Vatican issued an apostolic letter which sets out the accountability of a bishop in terms of safeguarding. However, she points out that there are some limitations as priests are still regarded as self-employed, so the normal organisational management systems do not apply to their work. Rather than performance reviews or disciplinary procedures, priests are subject to a process called 'fraternal correction'. Dr Buckley's report points to the church's current safeguarding structure comprised of various officers, trainers and volunteers as playing a key monitoring role as does the NBSCCCI but dioceses are still under the stewardship of the bishop, with the limitations as she describes.¹¹⁴

109 Murphy et al, *Ferns Report* (2005) p. 264.

110 Ryan et al, *Report of the Commission to Inquire into Child Abuse* (2009), p. 461.

111 Murphy et al, *Dublin Archdiocese Commission of Investigation Report into the Diocese of Cloyne* (2010), p. 4.

112 Ibid, pp. 79-80.

113 See Chapter 20 for a discussion of the Catholic Church Standards for Child Protection issued by the NSBCCCI.

114 Dr Helen Buckley, *Report on child protection for the Scoping Inquiry into Historical Sexual Abuse in Schools run by Religious Orders*, p. 16.

91. In response to the publication of the Ferns Report in 2005, the Minister for Children and the HSE requested that the Irish Bishops' Conference commence an audit of child protection practices. An audit questionnaire was finalised by the HSE in October 2006 and circulated, however the Cloyne Report states that this was 'not an audit in the usual sense of that word'.¹¹⁵ This questionnaire, the Commission noted, was more accurately described as a survey or an information collection exercise, as there was no independent examination of the evidence in order to determine the accuracy of the responses received. The majority of bishops answering the audit refused to answer one section of the questionnaire which sought statistical details about the numbers of complaints received, numbers reported and related details. Dr Buckley notes that the HSE revised the Questionnaire in response to legal challenges from the dioceses and whilst some of the diocese declined to answer the questions initially, all of the dioceses ultimately did so.¹¹⁶
92. A report entitled *Audit of Catholic Church's current Child Protection Policy, Practices and Procedures & compliance with Ferns Report* was sent to the Minister for Children in January 2008. The report stated that the 'audit has provided a substantial information base on the Church's child protection policies, practices and procedures' and that there was no prima facie case of 'serious non-compliance with the Ferns report recommendations'. As observed by the Cloyne Report, no information was provided on how child protection policies in place in each Diocese were operating in practice and found that it was difficult to see how such a statement could be made.¹¹⁷
93. This audit was revisited in 2009, with additional requests for information made of dioceses and with cross-referencing of information on allegations with the records of Gardai and the HSE. Volume I of the revised results, published in 2012, considered the 24 dioceses in the country and found that there had been substantial improvements made to the ability of a dioceses to enhance the safeguarding of children over the course of the audit. Some dioceses, it was found, did not perform satisfactorily which was identified as being due to poor data collection, poor standards of record keeping and inconsistent application of reporting procedures.¹¹⁸

115 Murphy et al, *Dublin Archdiocese Commission of Investigation Report into the Diocese of Cloyne* (2010), p. 97.

116 Dr Helen Buckley, *Report on child protection for the Scoping Inquiry into Historical Sexual Abuse in Schools run by Religious Orders*, p. 19.

117 Cloyne Report p. 99.

118 HSE, *Audit of Safeguarding Arrangements in the Catholic Church in Ireland, Volume 1 Dioceses Report* (2012), pp. 45-49.

94. The second volume of the audit was published in 2017 and considered the compliance of the 135 congregations in ministry in Ireland with the Church guidance documents in place since 1996 in relation to child protection. The Audit found that there were some delays in reporting allegations to the statutory authorities on the part of some religious orders, but that the majority of religious orders were implementing other risk management mechanisms such as removing individuals from ministry upon receipt of notifications of abuse and devising forms of safety plans aimed at curtailing potential risks to children.¹¹⁹ Further, the audit identified that while there were delays by many in developing appropriate safeguarding documents, there had been more recent significant developments in adopting and implementing safeguarding processes. Dr Buckley observes that on reviewing the conclusions and recommendations of the audits at the current time, it is evident that the NSBCCCI has been able to address the majority of the matters raised. She is concerned to note however, that some of the Orders have declined to take part in NSBCCCI Reviews because of concerns about data protection.¹²⁰

G. Other recommendations and impacts

(i) Supports for survivors

95. In relation to survivors of institutional abuse, the Ryan Report recommended that counselling services should be available to ex-residents and their families to alleviate the effects of childhood abuse and its legacy on following generations. In addition, the Ryan Report recommended that family tracing services be continued to assist those who were deprived of their family identities in the process of being placed in care.¹²¹ It was also recommended by CICA that a memorial should be erected to victims of abuse in institutions as a permanent public acknowledgement of their experiences.¹²²

119 Child and Family Agency, *Audit of Religious Orders, Congregations and Missionary Societies' Safeguarding Arrangements and Management of Allegations of Child Sexual Abuse Volume II* (2017), pp. 992 and 993.

120 Dr Helen Buckley, *Report on child protection for the Scoping Inquiry into Historical Sexual Abuse in Schools run by Religious Orders*, p. 20.

121 Ryan et al, *Report of the Commission to Inquire into Child Abuse* (2009), p. 462.

122 Ryan et al, *Report of the Commission to Inquire into Child Abuse* (2009), p. 461.

96. In relation to counselling services, the Ryan Report Implementation Plan provided that a once-off investment of €2 million was provided to the National Counselling Service to purchase therapy services in 2010 and 2011. Further, the National Counselling Service was exempted from the public service moratorium on recruitment and replacement of staff which was in place at the time.¹²³ In relation to family tracing services, the Ryan Implementation Group reported in 2014 that funding was provided by the Department of Education and Skills to Barnardos' Origins Tracing Service for this purpose.¹²⁴
97. The Education Finance Board provided grants to former residents and their families for the purposes of assisting them to access educational programmes. This Board did not process any applications received after November 2011, as its funds were fully allocated, and was dissolved in March 2013, when its functions were taken over by the Residential Institutions Statutory Fund Board (also known as Caranua).¹²⁵ Caranua was responsible for the management of contributions of €110m (€111.38m including interest) provided by the religious congregations following the publication of the Ryan Report in 2009, by funding approved services to support the needs of former residents who, as children, suffered abuse in relevant institutions.
98. While ex-residents and their family members were eligible to apply to the Education Finance Board, only survivors of abuse who received awards through the Residential Institutions Redress Board, the courts, or settlements with religious congregations, were eligible to apply for funding supports from Caranua.¹²⁶ Criticisms have been made of Caranua by survivors and advocates.¹²⁷ As the Statutory Fund administered by the Board was finite in nature under the provisions of the Residential Institutions Statutory Fund Act 2012, Caranua ceased to accept applications from 1 August 2018. After that date, it mainly focused on processing applications already in hand and finalised this work by March 2021. In 2023, following an independently facilitated process of consultation with survivors and survivor groups, the Government approved proposals for the preparation of legislation to provide for a package of ongoing health, education, and other supports to survivors and for the dissolution of Caranua. The Support for Survivors of Residential Institutional Abuse Bill was published in April 2024 and is before the Oireachtas.

123 Ryan Report Monitoring Group Ryan, *Ryan Report Implementation Plan: Fourth Progress Report* (December 2014), p. 28 (Part 2, p. 6).

124 *Ibid.*, p. 34 (Part 2, p. 12).

125 *Ibid.*, p. 29 (Part 2, p. 7).

126 Residential Institutions Statutory Fund Act 2012, s. 3.

127 Clifford, "'They feel badly let down': Institutional abuse survivors grow old waiting for the State to act', *Irish Examiner* (8 March 2023); Byrne, 'Caranua: "The abuse has never stopped"', *Sunday Business Post* (26 March 2017).

99. Finally, plans for a memorial were progressed, but have stalled since 2013, when planning permission for the original proposal was refused.¹²⁸ In 2021, the Department of Education reported that consultations with a survivor forum on the memorial were ongoing and that a €500,000 capital allocation had been set aside for the project.¹²⁹ In March 2022, the Government approved proposals for a National Centre for Research and Remembrance ('**NCR**R') to be located on the site of the former Magdalen Laundry on Sean McDermott Street in Dublin 1. The Centre will stand as a site of conscience to honour all those who were resident in Industrial Schools, Reformatories, Magdalen Laundries, Mother and Baby and County Home Institutions, and related institutions, and will include a museum and exhibition space and repository of records. It is anticipated that a planning permission application for the National Centre campus will be submitted in 2024.

(ii) Constitutional reform

100. Support for constitutional reform was expressed in the Kilkenny Incest Investigation Report in 1993, where it was observed that the 'very high emphasis on the rights of the family in the Constitution may consciously or unconsciously be interpreted as giving a higher value to the rights of parents than to the rights of children'.¹³⁰ It was recommended that the Constitution be amended so as to include a specific and overt declaration of the rights of children.
101. While it was not within the remit of the Roscommon Inquiry to recommend legislative changes, the Report noted that the Government had committed to holding a referendum on inserting children's rights into the Constitution. This was significant in the context of the relevant investigation, as it was noted that the failure to consult with and to hear the voice of the six children involved was a notable feature in the case.¹³¹
102. Kilkelly notes that while it was perhaps surprising that the other inquiries did not make a recommendation for constitutional reform, it may be explained by the fact that the Kilkenny and Roscommon Inquiries concerned State intervention in the family, to which the Constitution grants particular status and protection.¹³²

128 Ryan Report Monitoring Group, *Ryan Report Implementation Plan: Fourth Progress Report* (December 2014), p. 24 (Part 2, p. 2).

129 Casey, 'No decision on memorial for victims of childhood abuse, 12 years after report's publication', *Irish Examiner* (15 January 2021).

130 McGuinness et al, *Kilkenny Incest Investigation Report* (1993), p. 96.

131 Gibbons et al, *Roscommon Child Care Case: Report of the Inquiry Team to the Health Service Executive* (2010), p. 84.

132 Kilkelly, 'Learning Lessons from the Past: Legal Issues Arising from Ireland's Child Abuse Reports' (2012) 2(1) *Irish Journal of Applied Social Studies* 20.

103. The referendum on children's rights and the insertion of Article 42A into the Irish Constitution was passed in November 2012, but as a result of legal challenges to the outcome of the referendum, the amendment did not come into effect until 28 April 2015. It is clear that the amendment was motivated to a considerable extent by the revelations concerning historical child sexual abuse in the State which emerged in the early 2000s, and, indirectly, by the findings of public inquiries.¹³³

(iii) Miscellaneous impacts

104. The Ferns Inquiry recommended that the Department of Health and Children should launch and repeat from time to time a nationwide publicity campaign in relation to child sexual abuse, which would assist parents in safeguarding their children. It was recommended that such a campaign focus on several matters including that children should never regard themselves as responsible for acts of sexual abuse perpetrated on them by adults; that abuse is perpetrated by persons in every walk of life; that abuse may cause serious and lasting psychological damage; that child sexual abuse of any kind is a serious criminal offence; and that children should be assured of support and care by State authorities when they make a complaint.¹³⁴
105. Kilkelly observes that the *Parents Who Listen, Protect* campaign was launched by the HSE in 2007 in response to this recommendation, however five years following the publication of the Ferns Report,¹³⁵ children's charities complained that there was no explicit anti-abuse campaign launched which implemented the recommendation thoroughly and engaged with both children and adults in relation to abuse.¹³⁶ The first Children First Awareness Week was launched by the Department of Children, Equality, Disability, Integration and Youth in November 2021, which sought to raise awareness of Children First and remind wider society, including organisations working with children and young people, of our collective responsibility to keep children safe in our communities.

133 The then-Taoiseach Bertie Ahern's speech introducing the Bill to amend the Constitution in the Oireachtas in 2007 makes several references to the history of child abuse in the State Children's Rights Alliance, "Speech, An Taoiseach, Bertie Ahern, TD, on the publication of 28th Amendment of the Constitution Bill 2008" (19 February 2007). In addition, Walsh notes that repeated references were made to a number of child protection scandals, including the Kilkenny Incest Investigation during the debates of the Joint Committee on the Constitutional Amendment on Children. K. Walsh. *The Development of Child Protection Law and Policy: Children, Risk and Modernities* (Routledge, 2020), Chapter 8.

134 Murphy et al, *Ferns Report* (2005) p. 262.

135 Kilkelly, *Barriers to the Realisation of Children's Rights in Ireland* (August 2007), p. 56

136 O'Sullivan, 'Still no anti-abuse campaign after Ferns', *Irish Examiner*, 19 April 2010.

106. In a separate recommendation, the Ferns Report recognised that every effort must be made to avoid unnecessary damage to the reputation of a priest accused of sexual abuse and to afford him an opportunity to establish his innocence at the earliest practical date. It was recommended that any priest who disputes an allegation of child sexual abuse made against him should be entitled to legal aid under the Civil Legal Aid Act 1995 to contest the issue irrespective of his financial resources; and that further the complainant should also have civil legal aid irrespective of his or her means in order to establish the claim against the alleged abuser. It does not appear that this recommendation has been implemented.¹³⁷
107. Going beyond the recommendations included in the public inquiries considered, the Ryan Implementation Group Reports indicate that the Ryan Report has prompted other reforms in relation to childcare and child protection. For instance, the Department of Education and Skills updated its child protection procedures and guidelines in respect of child abuse complaints;¹³⁸ there were improvements in inspection procedures regarding the protection of vulnerable adults with disabilities in institutional care;¹³⁹ the practice of placing separated children who were seeking asylum in hostels was ended and those children were instead accommodated in mainstream care;¹⁴⁰ the National Review Panel was established in 2010 for the investigation of serious incidents including the deaths of children in care and known to the child protection system;¹⁴¹ and a joint protocol was agreed between the Irish Youth Justice Service and the HSE regarding children and young people in detention.¹⁴²

137 Dr Buckley in her Report observes that different arrangements exist within the different dioceses, but that once a criminal charge has been made, a priest may be granted criminal legal aid to defend himself against such charges. Dr Helen Buckley, *Report on child protection for the Scoping Inquiry into Historical Sexual Abuse in Schools run by Religious Orders*, p. 17.

138 Ryan Report Monitoring Group, *Ryan Report Implementation Plan: Fourth Progress Report* (December 2014), p. 26 (Part 2, p. 4).

139 *Ibid.*, p. 27 (Part 2, p. 5).

140 *Ibid.*, p. 43 (Part 2, p. 21).

141 *Ibid.*, p. 46 (Part 2, p. 24).

142 *Ibid.*, p. 59 (Part 2, p. 37).

H. Conclusions

108. Dr Buckley in her report notes that the implementation of the Ryan Report recommendations shows mixed outcomes. Dr Buckley finds that the Children First Act 2015 addressed the majority of recommendations pertaining to child protection. She also finds that the majority of child welfare and youth justice services now operate more transparently, with consistent publication of data and inspections, and strengthened governance arrangements.¹⁴³ Dr Buckley finds, however, that desired outcomes in relation to all the actions that were deemed both ‘complete’ and ‘ongoing’ by the Ryan Report Review Group have not been achieved based on the evidence from Tusla’s Review of Adequacy Reports, HIQA reports, National Review Panel reports and a recent review of Child and Adolescent Mental Health Services (‘CAMHS’), which are not under the remit of Tusla.¹⁴⁴
109. Dr Buckley is of the view that the underachievement of these outcomes partially stems from a shortage of qualified staff and variables that are out of the control of Tusla or would have required interagency and cross departmental agreement to be fully implemented. She gives many examples of these outcomes, such as noncompliance with Child in Care Regulations and Child Protection Standards, waiting lists and poor governance in CAMHS, and the failure of Tusla to achieve the target of 100% allocation of social workers to children in care.¹⁴⁵
110. Dr Buckley also comments that some of the recommendations made had unintended consequences, such as increased reporting under the Children First Act 2015, causing frontline services to struggle to meet their requirements. The expansion of services in all areas, which she finds a positive move, has been impacted by a shortage of social workers in frontline child protection and welfare services. Dr Buckley observes that it has been suggested in other jurisdictions that the proliferation of administrative responsibilities arising from inquiry recommendations detracts from reflective consideration of practice issues, and states that there is no doubt that the current focus on compliance within child protection and welfare services is occupying an increasing proportion of Tusla’s day to day operations.¹⁴⁶

143 Dr Helen Buckley, *Report on child protection for the Scoping Inquiry into Historical Sexual Abuse in Schools run by Religious Orders*, p. 23.

144 Ibid.

145 Dr Helen Buckley, *Report on child protection for the Scoping Inquiry into Historical Sexual Abuse in Schools run by Religious Orders*, Ibid. Dr Buckley further points to the National Review Panel annual reports that have highlighted a lack of continuity in mental health services, lack of coordination between youth justice and Tusla’s alternative care services, lack of suitable placements for children with challenging behaviour, lack of coordination between HSE disability services, limited therapeutic and assessment services and Tusla’s alternative care services.

146 Ibid p. 24.

112. Dr Buckley concludes:

With the passing of time, it has been difficult to establish how precisely the recommendations were implemented and it is evident that some have been washed out in light of further and more recent policy and service developments. The Ferns report made some specific recommendations for the government, the Church, the Gardai and the child protection services and these have by large been addressed though maybe not in the precise manner intended. The Ryan report recommendations were interpreted in the form of a comprehensive and ambitious action plan, the implementation of which depended on several factors. Although there has been major development in child protection policies and services in the interim, and once off actions were mostly completed, it can be seen from several compliance and quality assurance reports and reviews that the aspirations underpinning the action plan have not uniformly come to fruition or have been subject to variables outside the control of individual departments or agencies. This indicates that if the impact of an inquiry is judged by the successful implementation of actions arising from recommendations, it may be wiser to temper them to take account of the many external factors that are likely to impact on their achievement¹⁴⁷

112. As has been set out by Dr Buckley, the impact of the Ferns and Ryan Reports on policy and practice in child protection has had somewhat mixed outcomes. Nonetheless, it seems fair to say that the recommendations of the inquiries under consideration here have had a considerable impact on policy and practice, and considerable progress has been made in many areas. However, implementation of some recommendations was only achieved after a long period of time, and in some instances has not yet been achieved, decades after the recommendations were made. The fact that some of the recommendations yet unimplemented are the subject of recent draft legislation and renewed efforts at implementation points to their continuing relevance, notwithstanding the lapse of time. The former Special Rapporteur for Child Protection, while acknowledging the deep commitment of many working in Government and the Oireachtas to protecting children, commented that a system which can take anything from 5 to 20 years to deliver legislative reforms, is not responsive enough.¹⁴⁸ His suggestion that there should be a timeframe of no more than five years from initiating to implementing reform seems a reasonable one.¹⁴⁹

147 Dr Helen Buckley, *Report on child protection for the Scoping Inquiry into Historical Sexual Abuse in Schools run by Religious Orders*, pp. 28 – 29.

148 Conor O'Mahony, *Annual Report Special Rapporteur for Child Protection 2022*, pp. 33 to 34.

149 Ibid p. 34.

113. What also emerges is that the provision of services on foot of recommendations made is proving a challenge. This appears to be in large part because of shortages of qualified staff within Tusla and the HSE. HIQA have commented in a number of reports that staff vacancies within Tusla were impacting on service provision in some areas.¹⁵⁰ Dr Buckley notes Tusla's comments to her that the disestablishment of the National Social Work Qualification Board in order to provide a base for CORU, resulted in a lack of integrated training or workforce planning for social workers in the past 20 years. The problem of staff recruitment and retention is acknowledged within Tusla. The Final EAG report¹⁵¹ noted that Tusla had approved a workforce strategy aimed at managing the shortage of social workers, identified by HIQA as a barrier to improving standards.¹⁵² The Irish Association of Social Workers ('IASW') issued a scoping report in 2022 suggesting solutions to the problem, including increased training places and education grants, and calling for the establishment of a dedicated government department to deal with the issue.¹⁵³ It is however clear that this an issue which is likely to take some time to resolve, so it is necessary to address it expeditiously.
114. While clearly there are important reforms that have not yet been implemented, it must be acknowledged that overall, much has been achieved in the area of child protection and safeguarding, and that the recommendations of previous inquiries have played their part in bringing about those improvements.

150 HIQA, *Report of An Inspection of a Child Protection and Welfare Service: Midwest* (7 – 9 September 2021); HIQA, *Overview Report: Monitoring and Regulation of Children Services* (June 2022).

151 *Final Report of the Expert Assurance Group to the Minister for Children and Youth Affairs* (September 2019).

152 Ibid pp. 40 – 41. The EAG report also notes that substantive work had been done in establishing a Social Work Education Group comprising all relevant stakeholders to address the shortfall in the graduate pool. However, EAG found that it was unlikely progress would be made in 2020 because of absence of funding for bursaries and the development of a national placement framework to address the supply and capacity of third level institutions to expand the number of social work places.

153 IASW Press Release, 'Social Workers Call for Radical Change to Address Crisis in Services' (9 December 2022).

Chapter 20:

A Critical Analysis of Child Protection within the Primary and Post Primary Sector

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A. Introduction

1. The Terms of Reference direct that this Inquiry ‘outline findings of best practice that emerge from workstreams as relevant and appropriate to future practice in the area of child protection’. In furtherance of that objective, the Terms of Reference further directed that the Inquiry commission an expert report providing:

A critical analysis of current child protection systems and frameworks within the primary and post primary school sector, including identifying any potential impediments to reporting, investigation and response to allegations and incidents of sexual abuse. A historical context, covering the decades during which these allegations were made, will also be provided.

2. The Inquiry commissioned Dr Helen Buckley, Fellow Emeritus of the School of Social Work and Social Policy at Trinity College, Dublin, to provide an expert report in the terms directed by the Terms of Reference, and her report is available at Appendix 4 to this report
3. This chapter looks at the procedures and guidelines as well as legislation dealing with various aspects of child safeguarding and protection, some of which are specific to schools, and some of which have a more general application. Drawing on the detailed analysis of Dr Buckley, this chapter concludes by making a number of recommendations for further improvement of the existing framework of child protection in schools.
4. It is important to bear in mind that child protection and safeguarding encompasses all aspects of child welfare and abuse and is not confined solely to safeguarding against sexual abuse, as will be seen in the discussions that follow.

(i) Child Protection: The Views of Survivors

5. Child protection and safeguarding in schools is an important issue for survivors. A number of survivors wanted actions about child safeguarding when asked what the Government should do in response to revelations of sexual abuse in schools.
6. Broadly speaking, survivors wanted action to ensure that child protection was effective, and that increased resources and oversight be dedicated to safeguarding. Survivors also wanted research on developing knowledge of risks for safeguarding purposes, increased vetting measures, awareness raising about safeguarding, and adequate sex education in schools so that children were better able to distinguish between problematic and healthy behaviour.

7. The Scoping Inquiry received a number of submissions on child protection and safeguarding. Briefly summarised, they made the following points:
- That child safeguarding had made progress in Ireland over the decades, and that progress was set out, and the improvements acknowledged. Remaining gaps were identified as: (a) religious rituals, particularly confession as a ritual which can give rise to situational opportunities for coercion of children; and (b) the absence of sex education and open conversations about sexuality.
 - It was necessary that schools were “psychologically safe” for children, requiring children to have voice and agency, and not to fear speaking up about abuse happening in any area of their lives, in school or otherwise.
 - That the religious institutions in the context of a judicial inquiry have an opportunity to move beyond the narratives of denial, to restore their credibility. This required acknowledgement of harm and relinquishing of power and is the challenge an Inquiry can put to the Church today.

B. Sex Education in Schools

8. We commence our consideration of child protection measures in schools with a discussion of the development of sex education in Irish schools, before moving to consider the development of the legislative framework in relation to child protection, and how this is being applied on the ground in schools.

(i) Curriculum changes: The Development of Sex Education in Schools

9. The Stay Safe programme, introduced to primary schools in 1991, offers professional development for teachers, training for boards of management and information sessions for parents. A revised Stay Safe programme was introduced in 2016. The programme is described as a personal safety skills programme for primary schools to reduce vulnerability to child abuse and bullying through provision of a personal safety education for children.¹

1 See PDST website, <https://www.pdst.ie/staysafe>.

10. Sometimes referred to as the Child Abuse Prevention Programme ('CAPP'), the programme, taught from junior infants to sixth class, provides the following:
- Lessons on safe and unsafe situations, bullying, inappropriate touch, secrets, telling, and stranger danger.
 - Empowering children with self-protective skills.
 - Encouraging children to recognise and resist abuse or victimisation.
 - Teaching children to always seek help from a trusted adult when faced with unsafe, threatening, or abusive situations.
11. With the introduction in 2011 of revised guidelines,² primary schools were obliged to implement the Stay Safe programme.³ The teaching of Social, Personal & Health Education ('SPHE') is compulsory in primary and junior cycle classes. Similarly, all post-primary schools were required to have a Relationship and Sexuality Education programme ('RSE') at senior cycle.⁴

(ii) National Council for Curriculum Assessment 2019 Review of SPHE and RSE

12. The National Council for Curriculum Assessment ('NCCA') at the request of the Minister for Education carried out a major review of sex education in Irish schools, which commenced in 2018. Following this Review, a new SPHE curriculum (which includes RSE) is being introduced. The new SPHE curriculum for junior cycle was rolled out in September 2023, with the senior cycle curriculum due this year (2024) and primary school curriculum due to commence in 2025. The new junior cycle curriculum in SPHE is a 100-hour course divided into four areas:
- Understanding myself and others;
 - Making healthy choices;
 - Relationships and sexuality; and,
 - Emotional wellbeing.
13. The NCCA Review consulted widely with all stakeholders, including teachers, students, school principals, parents, patrons, and other relevant organisations. A report was published in 2019 setting out the results of the consultation process and recommendations.⁵

2 Department of Education, *Guidelines and Procedures for Child Protection* (2011).

3 Dr Helen Buckley, *Report on child protection for the Scoping Inquiry into Historical Sexual Abuse in Schools run by Religious Orders*, p. 37.

4 Ibid, p. 40. Department of Education, *Child Protection Procedures for Primary and Post-Primary Schools* (revised 2023), p.58.

5 National Council for Curriculum Assessment, *Report on the Review of Relationships and Sexuality Education (RSE) in primary and post-primary schools* (December 2019).

14. The Report explains that RSE began to be developed in 1995. In 1996, the RSE interim curriculum and Guidelines from the NCCA were introduced into primary and post primary schools. In 1999, RSE became a mandatory part of the primary school curriculum and in 2000 a mandatory part of Junior cycle SPHE framework. The Minister for Education in requesting the review asked that it encompass the curriculum for RSE, and that the following aspects be considered:⁶
- Consent, and what it means and its importance;
 - Developments in contraception;
 - Healthy, positive sexual expression and relationships;
 - Safe use of the internet;
 - Social media and its effects on relationships and self-esteem; and,
 - LGBTQ+ matters.
15. The above topics are now included as part of the new curriculum.
16. Teacher training and confidence was identified as a critical factor in supporting the improvement of the quality of RSE education. In particular, the Review recommended greater development of specialist training and professional development in the area.⁷ The Review further highlighted a need for further consideration of specialist qualifications in the area, noting it is the only subject at post primary level that can be taught without any qualification or accreditation from the Teaching Council and this impacts on its status, and on teacher confidence.⁸ The Review also noted that a research project was being undertaken by the TEACH-RSE, research team in Dublin City University, to examine the experience and needs of student teachers in relation to their professional development in SPHE/RSE.⁹
17. The findings of the TEACH-RSE project were published in 2021, making wide ranging recommendations, including that RSE be a mandatory/core component in primary and post-primary initial teacher training, with elective/subject specialism options in RSE to be offered to students in addition.¹⁰ It also recommended that accredited SPHE/RSE post graduate qualifications be developed, as well as providing for continuing professional learning and development in SPHE/RSE for teachers.¹¹

6 Ibid, p. 5.

7 Ibid pp. 83, 84.

8 Ibid, p. 75.

9 Ibid, p. 80.

10 Maunsell et al, *TEACH-RSE: Research Report: Teacher Professional Development and Relationships and Sexuality Education*, (DCU, 2021).

11 Ibid. Currently, the HSE offers online resources to teachers to support the revised SPHE curriculum for junior cycle. It also offers a two-day training course for post-primary teachers, aimed at developing the necessary skills, competencies, and attitudes for effective teaching and learning in junior cycle SPHE (Skills for Facilitating SPHE – HSE.ie).

18. In consultations with students during the NCCA Review there were indications that schools were effectively implementing the Stay Safe programme. Messages around keeping safe, friendship and bullying taught in the Stay Safe programme were mentioned by 5th class students in discussions with them about SPHE.¹² Whilst the review was not examining the efficacy of the Stay Safe programme, these observations are reassuring about the teaching of the Stay Safe programme.
19. In addition, a number of participants noted that (the newly introduced) child protection and safeguarding inspections would potentially improve RSE within schools as the inspectors would be asking students about their experience of same as part of such an inspection.¹³ The Review in commenting on this said that increased inspection and monitoring of SPHE/RSE in primary and post primary schools would be welcome.¹⁴
20. One of the issues discussed with stakeholders in the Review was the extent to which the ethos of a school may influence the delivery of the RSE curriculum. Those representing denominational school trusts and management bodies highlighted the importance of RSE to the holistic development of young people, and that ethos could never be a barrier to this.¹⁵
21. Those who had concerns felt that some faith-based schools prohibit teaching about certain topics and overlay the curriculum with a particular set of beliefs. The Professional Development Service of Teachers¹⁶ ('PDST') expressed the hope that the new review would supply answers to the dilemma teachers face regarding the ethos of their schools and what resources they wish to use. The Association of Secondary Teachers stated that the ethos of the school should not determine the manner in which RSE is provided to students, who have a right to objective and factual RSE regardless of the type of school they attend.¹⁷

12 National Council for Curriculum Assessment, *Report on the Review of Relationships and Sexuality Education (RSE) in primary and post-primary schools* (December 2019), p.16.

13 Ibid p. 40.

14 Ibid p. 78.

15 Ibid p. 58.

16 Now a new service called Oide.

17 Ibid p. 59.

22. The review found a degree of ambiguity as to how people perceive school ethos, and how it affects the school's approach to RSE. The Review acknowledged that ethos can be a source of tension and uncertainty for some schools and teachers in relation to some aspects of the SPHE/RSE, but concluded that at this point school ethos can be separated out from other factors that influence the teaching of RSE. The Review found that the key enabler of more confident and comprehensive teaching of RSE is the development of teacher competence and confidence. Teachers also need to be supported by a clearly articulated curriculum and a clear RSE school policy that is enabling and supportive. Enhanced support materials and opportunities for teachers within and across schools to share practice are also required.¹⁸

(iii) 'Flourish'

23. In April 2021, the Irish Catholic Bishops Conference published the 'Flourish' programme. This is described by the Catholic Education Partnership ('CEP')¹⁹ as an RSE resource for use in Catholic primary schools. CEP state that it aims to view RSE through a Catholic lens and is designed for use in conjunction with the Department of Education's RSE programme and does not replace the RSE component of SPHE. The programme intends to foster moral development based on the Church's teachings. There is also a Relationship and Sexuality Education Guidance document for Catholic post primary schools, prepared by the Council for Education of the Irish Episcopal Conference.

(iv) Conclusions on development of sex education in schools

24. To some extent the content of the RSE curriculum, or how it is taught, is likely to be a controversial subject for some parents and schools. What is evident, however, is that RSE, as currently taught, is intended to convey to children information about puberty, the changes to their bodies, and human sexuality. If taught through the lens of the Flourish programme, the same basic information will be conveyed, albeit from the perspective of Catholic teaching.

18 Ibid p. 77. See also the discussion on Ethos and Curriculum implementation at p.58-60.

19 <https://catholiceducation.ie/rse-primary/>.

25. The general sense from those in the survivor engagement process was that survivors wished children to be armed with the kind of knowledge and information they did not themselves have during their childhood and adolescence. Survivors spoke about their naivety, their ignorance and complete lack of understanding of sexual matters. It seems that sex education at a minimum provides basic knowledge and information to students, and the new RSE curriculum aims to extend the subject to ensure it covers issues which students have identified as relevant to them in their lives.
26. The new SPHE curriculum is intended to provide comprehensive sex education for children across the entire school cycle. There are likely to be remaining issues concerning teacher training pre and post qualification, which the NCCA have highlighted. Systemic issues of this kind will likely take some years to resolve. It remains to be seen to whether school ethos is a major factor in how RSE is taught in some schools, and whether the elements mentioned by the Review as necessary for a consistent delivery of the RSE curriculum across all schools will be put in place.
27. It is also not yet fully clear what will be the impact of the Flourish programme on the delivery of the new SPHE curriculum in Catholic schools. This is likely, at least to some extent, to depend on the views of parents in relation to the new curriculum. There have been some objections from parents to the new SPHE programme and the Minister for Education has said that parents may withdraw their children from SPHE classes if they object to the content.²⁰
28. It is far too early to assess the efficacy of the new SPHE curriculum, which has yet to be rolled out to senior cycle students and the primary school sector. Much will depend on the ability of the educational sector to improve teacher training in the subject so that sufficient numbers of teachers can teach the curriculum confidently.

C. Legislative reform of child protection

(i) The position prior to legislation: Guidelines and procedures in child protection

29. Prior to the relatively recent introduction of various pieces of primary legislation, child protection was dealt with by means of guidelines and procedures.²¹ In 1991, the Department of Education issued 'Procedures for dealing with allegations or suspicions of child abuse' to assist school management and teachers to handle disclosures of abuse from children.²²

20 Carl O'Brien, 'Parents will have right to withdraw children from new sex education classes' *The Irish Times* (22 February 2023).

21 See Dr Helen Buckley, *Report on child protection for the Scoping Inquiry into Historical Sexual Abuse in Schools run by Religious Orders*, p. 1 and p. 5, for a discussion of the early development of child protection guidelines.

22 *Ibid*, pp. 33-34.

30. In 1999, the Department of Health & Children (now the Department of Children, Equality, Disability, Integration and Youth ('DCEDIY')) The Department of Education and Science followed in 2001, with 'Child Protection Procedures and Guidelines' intended for primary schools, with guidelines for post primary schools issued in 2004.²³ In 2011, the Health Service Executive ('HSE') issued 'Children First: National Guidance for the Protection and Welfare of Children'.²⁴ The Department of Education followed with revised Child Protection Procedures for Primary and Post-Primary Schools.²⁵

(ii) The Children First Act 2015: The Act and Guidelines applicable to Recognised Schools

31. The Children First Act 2015 ('the 2015 Act') came fully into effect in December 2017. The Act prescribes child protection measures applicable to "relevant services" including all schools, recognised and unrecognised,²⁶ and introduces mandatory reporting for registered teachers²⁷ and others.

32. In 2017, the Department of Education published updated guidelines on the coming fully into force of the 2015 Act and further revised those guidelines in 2023, being the 'Child Protection Procedures for Primary and Post Primary Schools' ('the 2023 Procedures'). These guidelines incorporate the most recent DCEDIY guidelines, issued in 2017 and Tusla's guidelines.

(a) Mandatory Reporting under the 2015 Act

33. A registered teacher is required to report child protection concerns to Tusla when they know, believe, or have reasonable grounds to suspect that a child has been, is being, or is at risk of being harmed as a result of information the registered teacher received or became aware of in the course of their employment as a teacher.

34. Similarly, if a child discloses to a registered teacher their belief that they have been, are being or are at risk of harm, the registered teacher must report the disclosure to Tusla as soon as practicable. A registered teacher must also report disclosures of abuse made to them by a child, where made in the course of their employment as a teacher, and not a personal capacity.²⁸

23 Ibid, p. 35.

24 Ibid, p. 9.

25 Ibid, p. 37.

26 Unrecognised schools do not receive state funding and are independent of the Department of Education. See also paragraph 131 et seq.

27 Teachers registered with the Teaching Council under the Teaching Council Act 2001.

28 Children First Act 2015 s. 14 (1).

(b) What amounts to harm?

35. Harm is defined in the 2015 Act as assault, ill treatment, or neglect of the child in a manner that seriously affects, or is likely to seriously affect the child's health, development, or welfare, and includes sexual abuse of the child. Ill treatment is defined by the 2015 Act as abandoning or cruelly treating a child or procuring or allowing the child to be abandoned or cruelly treated.²⁹ Neglect is defined as depriving the child of adequate food, warmth, clothing, hygiene, supervision, safety or medical care.³⁰
36. Sexual abuse is defined as offences against the child specified in the Third Schedule to the Act, wilful exposure of the child to pornography and wilful sexual activity in the presence of the child.³¹ The Third Schedule, lists a wide variety of sexual offences against children.

(c) Mandatory Reporting: What the Procedures say³²

37. The threshold for reporting neglect, ill-treatment/emotional abuse, and physical abuse is where the registered teacher knows, believes, or has reasonable grounds to suspect that the child is suffering any of those circumstances to the point where the child's health, development or welfare have been or are being seriously affected, or are likely to be seriously affected.³³
38. The Procedures state that all sexual abuse falls within the category of seriously affecting a child's health, development, or welfare, so that all concerns about sexual abuse must be reported to Tusla. The only exception to this, is sexual activity between older teenagers as set out below.³⁴ Thus, once a teacher has concerns about the sexual abuse of a child, the threshold for reporting is reached.

29 Children First Act 2015, s. 2.

30 Ibid.

31 Ibid Section 2.

32 In this and the following sections a reference to procedures is a reference to the 2023 procedures, unless otherwise indicated, as they incorporate the DCEDIY and Tusla guidelines and are specifically directed to recognised schools.

33 Department of Education, *Child Protection Procedures for Primary and Post Primary Schools (2023)* paragraphs 4.3.1 to 4.3.4.

34 Ibid paragraph 4.3.5, p.28.

(d) *Non-statutory Best Practice Reporting*

39. The Procedures provide for non-statutory reporting obligations so that Tusla should be informed if school personnel have ‘reasonable grounds for concern’ that a child may have been, is being, or is at risk of being abused or neglected. Tusla is also to be informed of concerns that an adult poses a risk to children, even if no specific child is named in relation to the concerns. If unsure whether to report, the Designated Liaison Person (‘DLP’) may contact Tusla to informally discuss concerns.³⁵
40. The safety and wellbeing of a child must take priority over the concerns about an adult against whom allegations are made.³⁶ It is not necessary to prove that abuse has occurred to report a concern to Tusla. All that is required is that the person has reasonable grounds for concern. It is Tusla’s role to assess concerns that are reported.³⁷

(e) *Exceptions to Mandatory Reporting*

41. Sexual activity between a child aged between 15 to 17 years with another person who is not more than 2 years older than the child concerned is generally exempted from mandatory reporting obligations.³⁸

(f) *Bullying*

42. Bullying can give rise to an obligation to make a report to Tusla in serious cases where the behaviour is regarded as possibly abusive.³⁹ The DLP is to seek advice from Tusla if in doubt about whether an incident should be referred.⁴⁰ The principal of a recognised school must report such concerns to the Board of Management.⁴¹

35 Ibid paragraph 2.3.6, p.17.

36 Ibid paragraph 3.2.3 p.19.

37 Ibid paragraph 2.2 p.10.

38 This exemption is subject to the following conditions, as provided for in s. 14(3) of the 2015 Act:

1. The registered teacher believes there is no material difference in capacity or maturity between the parties; and
2. The relationship is not intimidatory or exploitative of either of them; and
3. The child concerned makes known to the registered teacher that he or she does not want the sexual activity to be reported; and
4. The registered teacher must also be of the view that the child concerned does not believe that he or she has been, is being, or is at risk of harm.

39 Bullying is defined at p. 16-17 of the Guidelines as ‘unwanted negative behaviour verbal, psychological or physical conducted by an individual or group against another person or persons which is repeated over time’ *and* includes cyberbullying.

40 Ibid, p.17.

41 Ibid, paragraph 5.5.1, p.37.

(g) Child Safeguarding Statements under the 2015 Act

43. All schools, recognised or unrecognised, must comply with s. 11 of the 2015 Act⁴² requiring that a written child safeguarding statement is drawn up, sometimes referred to as a Risk Assessment and Child Safeguarding Statement, (**‘the Safeguarding Statement’**). The Safeguarding Statement must be in accordance with any guidelines under s. 6 of the 2015 Act issued by the DCEDIY, and any guidelines issued by Tusla in respect of child protection.
44. The Safeguarding Statement requires an assessment and identification of potential harm to the child while availing of the school’s services, together with procedures to manage the risks arising as far as practicable. Risk assessment refers to harm defined by the 2015 Act and not general health and safety risks.⁴³ The Department of Education provides a mandatory template for the Safeguarding Statement.
45. The Safeguarding Statement must specify the school’s procedures in respect of:
- A member of staff who is the subject of any investigation in respect of a child in the school;⁴⁴
 - the recruitment of staff of the school with regard to their suitability to work with children;⁴⁵
 - the provision of information and, where necessary, instruction and training, to staff in relation to the identification of harm.⁴⁶
46. The child safeguarding statement must be displayed in a prominent place in the school, and it must be made available to staff⁴⁷ and, on request, to parents and guardians, Tusla and members of the public.⁴⁸
47. The Safeguarding Statement must specify procedures for reporting child safeguarding issues to Tusla, in accordance with the 2015 Act or the DCEDIY guidelines under s. 6 of the Act.⁴⁹ The Safeguarding Statement must also specify the procedures for maintaining a list of mandated persons in the school,⁵⁰ and for the appointment of a ‘relevant person’.⁵¹

42 All relevant services must comply with s. 11 of the 2015 Act, including recognised and unrecognised schools.

43 Department of Education, *Child Protection Procedures for Primary and Post Primary Schools (revised 2023)* paragraph 8.8.2, p. 59.

44 Section 11(b) of the 2015 Act.

45 Section 11(c) of the 2015 Act.

46 Section 11(d) of the 2015 Act.

47 Section 11 (5)(a) of the 2015 Act.

48 Section 11(5) (b) (i)(ii) & (iii) of the 2015 Act.

49 Section 11(e) of 2015 Act.

50 Section 11 (f) of 2015 Act.

51 Section 11(g) of 2015 Act.

(h) Boarding School Procedures

48. In 2023, for the first time, the Department of Education published ‘Child Protection and Safeguarding Procedures for Boarding Facilities associated with Recognised Schools’ to assist boards of management of boarding schools with their child protection and safeguarding, and to ensure that those arrangements are put in place across all boarding facilities.

(i) Designated Liaison Persons

49. The appointment of a DLP in each school was first recommended by the 2001 Department of Education’s ‘Child Protection Guidelines and Procedures’. DLPs, however, are not provided for in the 2015 Act. The DLP, prior to the introduction of mandatory reporting, was the person, normally the school principal, responsible for receiving reports of child protection concerns from school staff and passing them on to Tusla. Since mandatory reporting, as set out above, all registered teachers now have mandatory reporting obligations, and may report a concern individually, or jointly with the DLP.
50. The procedures discuss the duties of the DLP in recognised schools.⁵² The DLP is also the ‘relevant person’ who must be appointed under the 2015 Act by a ‘relevant service’, which includes all schools.⁵³ The relevant person must be named in the Safeguarding Statement and is described in the 2015 Act as the first point of contact in the school concerning the safeguarding statement.
51. The role of the DLP is to act as the resource person to any member of staff who has a child protection concern and should be knowledgeable about child protection and have sufficient training to fulfil the role.⁵⁴ The DLP is the person to liaise with outside agencies and is responsible for ensuring that reporting procedures are followed, recorded, and reported promptly to Tusla.⁵⁵
52. While the 2015 Act does not provide for the appointment of a DLP, the procedures require that the boards of management of recognised schools designate a DLP and a deputy DLP, and that it is expected that the DLP will normally be the principal and that where possible, the deputy DLP will be the deputy principal.⁵⁶

52 Ibid, paragraph 3.5.

53 Ibid, definition of ‘relevant person’ glossary of terms.

54 Ibid, p.22 paragraph 3.5.

55 Ibid, paragraph 3.5.10.

56 Ibid, paragraph 3.5.2 p.21.

53. The Deputy's role is defined as acting as a substitute when the DLP is absent, rather than acting as a support to the DLP.⁵⁷ In a one teacher school, the DLP will be the principal and there is no need to appoint a deputy DLP.⁵⁸ However, as explained in Dr Buckley's report, revised procedures intended to be introduced by the Department of Education in 2024 are likely to include an expanded role for the Deputy DLP.⁵⁹

(iii) The Criminal Justice (Withholding of Information on Offences Against Children and Vulnerable Persons) Act 2012

54. The Criminal Justice (Withholding of Information on Offences Against Children and Vulnerable Persons) Act 2012 ('the 2012 Act') provides that it is a criminal offence to withhold information about a serious offence, including sexual offences, against a child (a person under 18 years) or a vulnerable person. For the purposes of this chapter, we are concerned only with offences against children.

55. The offence created by the 2012 Act requires that:

- A person knows or believes that an offence specified in Schedule 1 of the Act has been committed by another person against a child; and
- has information which he or she knows or believes might be of material assistance securing the apprehension, prosecution, or conviction of that person for that offence; and,
- fails, without reasonable excuse, to disclose the information as soon as practicable to An Garda Síochána.⁶⁰

57 Ibid, paragraph 3.5.3 p. 22.

58 Ibid, paragraph 3.5.11 p. 22.

59 Dr Helen Buckley, *Report on child protection for the Scoping Inquiry into Historical Sexual Abuse in Schools run by Religious Orders*, p. 40.

60 Criminal Justice (Withholding of Information on Offences Against Children and Vulnerable Persons) Act 2012, s. 2(1).

56. The obligation to disclose information is in addition to, and not in substitution for, any other obligation to disclose information to An Garda Síochána or any other person, but the person does not have to disclose information to An Garda Síochána more than once.⁶¹ A defence is provided for circumstances where a child requests that the information not be reported to An Garda Síochána.⁶² Similarly, if the child is under 14 years, it is a defence if the parent or guardian of the child made it known to the person charged with the offence, on behalf of the child, that the information should not be disclosed to An Garda Síochána, and the person charged relied on that view.⁶³
57. It is also a defence for a person or a parent or guardian to show that a member of a 'designated profession' who is providing or provided services to a child in relation to the injury suffered made known their view that the offence should not be disclosed to An Garda Síochána.⁶⁴
58. The parent or guardian and the designated professional should have regard to the wishes of the child when considering whether or not to report to An Garda Síochána.⁶⁵ An organisation or body that provides services to children harmed as a result of physical or sexual abuse, may apply to the Minister to be designated as a prescribed organisation.⁶⁶ Such organisations, or persons employed by such organisations, benefit from defences under the Act.⁶⁷

61 Ibid, s. 2(5).

62 Under s. 4 of the 2012 Act, it is a defence if the child concerned, who was capable of forming a view on the matter, made known that he or she did not wish the offence to be reported to An Garda Síochána, and the person accused of withholding information relied on that view. The child has to be over 14 years of age to be capable of forming a view on the matter.

63 Ibid, s. 4(4). The parent or guardian concerned must have had:

- (i) a reasonable basis for forming the view that the information should not be disclosed, and has acted, and continues to act, bona fide in the best interests of the child; and
- (ii) the parent or guardian cannot be a family member of the person known or believed to have committed the offence.

64 Ibid, s. 4(8). Members of a designated profession for the purposes of the Act are:

- (i) A medical practitioner,
- (ii) A registered nurse or midwife, or
- (iii) A registered psychologist.

65 Ibid, s. 4(9).

66 Criminal Justice (Withholding of Information on Offences Against Children and Vulnerable Persons) Act 2012, s. 5(1). The services provided by the organisation must relate to 1) the resolution of personal, psychological, or social problems through guidance counselling or otherwise, 2) the care of persons in need of protection, and the services require the exercise of skill or judgment. (s. 5(10)).

67 Section 4(12) and (13) provide for the parameters of this defence, and provide that it is a defence for such persons to show that they formed the view that the offence should not be disclosed, and they had reasonable grounds for forming the view that this was for the purpose of protecting the health and well-being of the child.

59. The Court of Appeal in the recent case of *McGrath v HSE* stated, *obiter*, that the obligation in the 2012 Act to report to An Garda Síochána is engaged by the knowledge that an offence has been committed against a child in the past, and this refers to any time in the past.⁶⁸
60. The Child Care (Amendment) Bill 2023 proposes to amend the Children First Act 2015 by the inclusion of a provision that where Tusla receive a report that an offence has been committed under the Act against a person when that person was a child, Tusla shall refer the report to the Garda Síochána as soon as practicable.⁶⁹ The Scoping Inquiry understands, however, that this proposal would put existing Tusla practice on a statutory footing.
61. The offences in Schedule 1 to the Act are wide ranging, and include murder, manslaughter, rape, sexual assault, reckless endangerment, cruelty to children, and other offences.

(iv) The National Vetting Bureau (Children and Vulnerable Persons) Act 2012

62. The National Vetting Bureau (Children and Vulnerable Persons) Act 2012 (as amended) provides that ‘relevant organisations’⁷⁰ must apply for Garda vetting in respect of anyone they employ or engage to carry out ‘relevant work or activities’,⁷¹ being work or activities relating to children that are specified in Schedule 1 of the 2012 Act.

68 *McGrath v HSE* [2023] IECA 298, at para. 97: The obligation in the 2012 Act on the other hand, is not framed around the moment in time when a person receives information, but rather is engaged by the knowledge that an offence has been committed against a child in the past, and it is clear in my view that this refers to any time in the past.

69 The Heads and General Scheme of the Child Care (Amendment) Bill 2023, Head 44 p. 79.

70 “A relevant organisation” means a person (including a body corporate or an unincorporated body of persons)—(a) who—(i) employs (whether under contract of employment or otherwise) any person to undertake relevant work or activities,(ii) enters into a contract for services with any person for the provision by that person of services that constitute relevant work or activities,(iii) permits any person (whether or not for commercial or any other consideration) to undertake relevant work or activities on the person’s behalf,(iv) is a provider of courses of education or training, including internship schemes, for persons and, as part of such education or training or scheme, places or makes arrangements for the placement of any person in work experience or activities where a necessary part of the placement involves participation in relevant work or activities, but does not include an individual who does any of the matters referred to in *subparagraphs (i) to (iv)* in the course of a private arrangement, (b) who carries on the business of an employment agency within the meaning of the Employment Agency Act 1971 for the employment of persons to undertake relevant work or activities, (c) established by or under an enactment (other than the Companies Acts) whose functions include the regulation, registration, licensing or other authorisation (howsoever described) of persons who undertake relevant work or activities, or (d) who represents for the purposes of the vetting procedures under this Act, another person, trade, profession or body, organisation or group or other body of persons that undertakes relevant work or activities.

71 Relevant work or activity is any work or activity which is carried out by a person, a necessary and regular part of which consists mainly of the person having access to, or contact with, children in respect of the work or activities set out in schedule 1 of the National Vetting Bureau Act 2012.

63. The Vetting Bureau's function is to establish whether the person being vetted has any criminal convictions or whether there is any 'specified information' in respect of the person. Specified information, or 'soft information', concerns a finding or allegation of harm to another person received by the National Vetting Bureau from An Garda Síochána or a 'scheduled organisation,' as defined by the 2012 Act.⁷²
64. A scheduled organisation includes the Health Service Executive, Tusla, the Teaching Council, Health Information Quality Authority ('HIQA') and other similar bodies.⁷³ If such bodies become aware, as a result of an investigation or disciplinary procedure carried out by them that a person may pose a risk to a child, then they must report that concern to the Bureau. Failure to make such a report is an offence.⁷⁴
65. In dealing with a vetting application the Bureau must notify the relevant organisation if the vetting subject has any previous convictions for abuse of children. In addition, if there is specified information in relation to that person that is considered to reasonably give rise to a bona fide concern that the person may pose a risk of harm to children, that information can be disclosed in accordance with the Act. This information can include allegations of wrongdoing, or findings of a disciplinary tribunal. The Bureau must evaluate whether that information requires to be disclosed. The vetting subject is to be informed of an intention to disclose specified information, may make submissions, and has a right of appeal in respect of a decision to disclose.

(a) Exemptions from Vetting

66. An exemption is made for certain private arrangements for the provision of work or activities.⁷⁵ Vetting obligations also do not apply in respect of individuals who volunteer on an occasional basis and for no commercial consideration at a school, sports or community event or activity, except where such assistance includes coaching, mentoring, counselling, teaching, or training of children.⁷⁶

72 Specified information is information from the Gardaí or a scheduled organisation that is considered to reasonably give rise to a bona fide concern that the vetting subject may harm any child or vulnerable person, cause any child or vulnerable person to be harmed, put any child or vulnerable person at risk of harm, attempt to harm any child or vulnerable person, or incite another person to harm any child or vulnerable person.

73 As set out in s. 19 of the National Vetting Bureau (Children and Vulnerable Persons) Act 2012.

74 Ibid, s. 27.

75 'Relevant organisation' is defined in s. 2 of the National Vetting Bureau (Children and Vulnerable Persons) Act 2012 as excluding work or activities provided as part of a 'private arrangement', which is further defined as: '... an arrangement made by an individual for the provision by any person of relevant work or activities—

(a) for, or for the benefit of, the individual, or

(b) for, or for the benefit of, a child or vulnerable person who is a member of the individual's family ...'

76 Ibid, s. 3(c).

(b) Review of the 2012 Act

67. A review of the 2012 Act is currently underway. In April 2021, the Minister for Justice announced the establishment of an Interdepartmental Group to review the 2012 Act (**‘the Review Group’**). The Review Group is to make recommendations on a range of issues for amending the legislation and strengthening the Garda vetting process and to engage in public consultation as part of its work. The Review group hoped to make its recommendations by the end of 2021. This date was subsequently extended to the second quarter of 2022.⁷⁷ The Review Group expect to finish their work in 2024.
68. In announcing the establishment of the Review Group, the Minister stated that a key focus would be on the introduction of a mandatory system of re-vetting every 3 years.⁷⁸ While the 2012 Act provides for the re-vetting of employees following the expiry of a specified period, this provision has not been commenced.⁷⁹ Currently there is no requirement for re-vetting unless the person moves job or position within the categories of relevant organisations.
69. The Review Group will also review the approach to the connected issue of vetting for specific employments, which will include consideration of moving to a system in which a person is vetted for particular work, rather than a particular employment. Under this proposal a person employed by the HSE or Tusla as a social worker, for example, would not need to be re-vetted (within 3 years) for a change of work location within the basic social worker grade, but would be re-vetted on promotion. Likewise in relation to volunteering, a person vetted to coach, for example, under 14’s in GAA could switch to a different sport without being re-vetted. Vetting certificates could also be withdrawn before the expiry of the 3-year period where new information comes to light that points to an immediate and substantive risk to children or vulnerable adults.⁸⁰
70. The Special Rapporteur for Child Protection proposed a similar reform, that is, that vetting certificates could be withdrawn when new information comes to light. He highlighted that that the National Vetting Bureau currently may only share information in the context of a vetting application and he proposed re-vetting where the Bureau it is notified by Tusla of specified information concerning an individual and it is indicated that the individual is working in a relevant organisation.⁸¹

77 Órla Ryan, ‘Recommendations for reform of garda vetting pushed back due to ‘complex’ nature of review’ *TheJournal.ie* (19 February 2022).

78 Department of Justice, ‘Press Release: Minister McEntee moves to reform vetting arrangements and legislation’ (26 April 2021), available at <https://www.gov.ie/en/press-release/c935f-minister-mcentee-moves-to-reform-vetting-arrangements-and-legislation/>.

79 Section 20 of the National Vetting Bureau (Children and Vulnerable Persons) Act 2012.

80 Department of Justice, ‘Press Release: Minister McEntee moves to reform vetting arrangements and legislation’ (26 April 2021), available at <https://www.gov.ie/en/press-release/c935f-minister-mcentee-moves-to-reform-vetting-arrangements-and-legislation/>.

81 Conor O’Mahony, ‘Annual Report of the Special Rapporteur on Child Protection’ (2020), p.58.

(v) The Criminal Law (Sexual Offences) Act 2017

71. The Criminal Law (Sexual Offences) Act 2017 creates offences relating to the sexual exploitation of children, which encompasses grooming, including by way of online contact with children in order to make arrangements for meeting with a child for the purpose of sexual exploitation. Underage consensual sexual relationships between peers, where sexual activity falls within strictly defined age limits, and where the relationship is not exploitative or intimidatory are exempted.

(vi) Criminal Justice Act 2006

72. Section 176 of the Criminal Justice Act 2006 creates the offence of reckless endangerment of children. A person having authority or control over a child or an abuser, commits an offence if she or she intentionally or recklessly endangers the child by causing or permitting the child to be left in a situation that creates a substantial risk of the child being harmed or sexually abused, or he or she fails to take steps to protect a child from such risks, while knowing the child was in such a situation.

D. The Catholic Church Guidelines

73. The Catholic Church, insofar as it is a 'relevant service', is bound by the provisions of the Children First Act 2015. Members of the clergy are also mandated reporters for the purposes of the 2015 Act. Thus, where children are involved in church ministries, whether educational or otherwise, a risk assessment and safeguarding statement must be completed, and the Church authorities must comply with the DCEDIY guidelines under the 2015 Act,⁸² as well as guidelines issued by Tusla and the mandatory reporting requirements of the 2015 Act. The requirements of the vetting legislation must also be complied with.
74. The National Board for Safeguarding Children in the Catholic Church in Ireland ('NBSCCCI') was established in 2006 by Catholic Church bodies and continues to date. The NBSCCCI's function is to provide advice and assistance in relation to child safeguarding in the Catholic Church, to monitor compliance with legislation, policy, and best practice in this area, and to report annually on these activities.

82 Department of Children and Youth Affairs, 'Children First: National Guidelines for the Protection and Welfare of Children' (2017).

75. The NBSCCCI in 2008 issued seven standards for child protection and safeguarding within the Catholic Church and updated the Standards in 2016. The 2008 Standards required mandatory reporting of suspicions of child abuse by Catholic Church bodies and personnel. Each Standard is the subject of a separate detailed guidance manual, together with relevant template documents.⁸³ The Standards incorporate the requirements of the 2015 Act and guidelines and are tailored specifically to the Church and its activities with children.
76. The Standards require that each Church authority establish a Child Safeguarding Committee, who appoint a Local Safeguarding Representative ('LSR'). In some areas, there are Local Child Safeguarding Councils or Parish Safeguarding Committees who assist parish priests or local superiors. Each of these has a role in ensuring that the safeguarding provisions set out in the Standards are adhered to.
77. The Standards give guidance on a wide range of issues, including:
- Visiting clergy or clergy taking up a ministry must provide declarations and confirmations of good standing, detailing their previous positions and outlining any concerns. There are standard forms provided for this purpose to be completed by the cleric and his superior in his former ministry;
 - Creating a code of behaviour with children is outlined together with dealing with breaches of that code;
 - One to one contact with children by clerics, trips away with children and the participation of children with specific needs are discussed;
 - Guidance on the use of emails, text messages, photography, CCTV & webcams;
 - Guidance as the safeguarding rules applicable for clerics in external organisations or Church bodies.⁸⁴

83 The seven standards are: Creating and Maintaining Safe Environments; Procedures for Responding to Child Protection Suspicions, Concerns, Knowledge, or Allegations; Care and Support for the Complainant; Care and Management of the Respondent; Training and Support for Keeping Children Safe; Communicating the Church's Safeguarding Message; Quality Assuring Compliance with Standards. There is also a separate appendices and Glossary to the Standards. They are available at <https://www.safeguarding.ie/policy-guidance/view-all-the-guidance>.

84 NBSCCCI, 'Standard 1: Creating and Maintaining Safe Environments'.

78. In relation to confession, the Standards include guidance on safeguarding specifying that sacramental confession for children should be in a place where both priest and child may be seen but not heard, preferably in a church or oratory and that when children attend confession all efforts should be made to provide a safe and open environment.⁸⁵ If children and young persons are using church property including where schools visit the church as part of sacramental preparation, those situations should be considered on a case by case basis by the Church Authority concerned.⁸⁶
79. One-to-one meeting with children and young people, should not generally occur and should be supervised by two adults, save for 2 circumstances:
- (i) reactive situations, where a child or young person unexpectedly requests a meeting or a young person has to be removed from a group as part of a code of behaviour; or
 - (ii) as part of a structured piece of work, (the example given is one-to-one music tuition).
80. If speaking to a young person alone, the cleric should try to do so in an open environment in view of others or, if that is not possible, meet in rooms with visual access, or with the door open, or in an area where others are nearby. Another adult should be informed that the meeting is taking place and the reason for it and a detailed record of the meeting should be kept. Meetings should take place at appropriate times and in appropriate venues.
81. In addition to the church authorities, where children attend churches as part of sacramental preparation, a school is required to consider this as part of its own risk analysis for safeguarding purposes and put in place procedures to manage the risk involved.⁸⁷

85 NBSCCCI, 'Standard 2: Procedures for Responding to Child Protection Suspicions, Concerns, Knowledge, or Allegations Guidance issued to Church Bodies'.

86 Ibid, p. 35.

87 The Department of Education's mandatory template for risk assessment and child safeguarding statement gives this circumstance as an example of a risk that if relevant, should be taken into account by a school.

82. The NBSCCCI must be informed by church bodies of allegations of abuse that they receive, and it carries out an audit of those allegations annually. In addition, the NBSCCCI carries out reviews of church bodies, to monitor compliance with the Standards. The National Board have now completed a review of all dioceses pursuant to the most recent 2016 Standards and have in addition reviewed 13 religious orders. Reviews are voluntary on the part of the Church body concerned. Dr Buckley expresses the view that notwithstanding that some religious orders have opted out of reviews because of advice on data protection laws, the NBSCCCI's reports give reasonable confidence about child protection and safeguarding in the Catholic Church.⁸⁸
83. According to the Standards, the NBSCCCI is invited by the Church authority to carry out an independent review of its safeguarding practice in relation to the applicable indicators of the safeguarding standards, at a frequency agreed with the NBSCCCI. Dr Buckley in her Report expresses the view that although NBSCCCI reviews are carried out relatively infrequently, and only at the request of the Order or dioceses concerned, there are a number of factors which may underpin confidence that the dioceses are compliant with safeguarding requirements; firstly, the reports are published, a fact that is likely to highlight those that have not come forward for review. Any reports that show deficiencies will attract scrutiny to see if improvements have been made. Secondly, the safeguarding structure, which involves a significant number of lay persons, can act as a type of quality assurance and thirdly, the Pope issued an apostolic letter in 2019 which sets out the safeguarding accountability of a bishop, stating that negligence will be considered a crime under canon law. Finally, she states, almost all the bishops in the 26 dioceses have been replaced since the audits commenced and it may be reasonably assumed that the new appointees are aware of the commitment that they must now show to safeguarding.⁸⁹
84. Dr Buckley also states that between 2009 and 2016, all Bishops and religious leaders invited the NBSCCCI to review their practices, and all reports can be viewed on the NBSCCCI's website. The 2016 Revised standards reflected changes in response to the Reviews.⁹⁰

88 Dr Helen Buckley, *Report on child protection for the Scoping Inquiry into Historical Sexual Abuse in Schools run by Religious Orders*, p. 53.

89 Dr Helen Buckley, *Report on child protection for the Scoping Inquiry into Historical Sexual Abuse in Schools run by Religious Orders*, p. 31.

90 *Ibid*, p. 30.

E. Tusla's Role in Investigating Child Abuse Allegations

85. Tusla's role in investigating child abuse allegations currently arises under s. 3 of the Child Care Act 1991, which provides that Tusla is to promote the welfare of children who are not receiving adequate care and protection, and in performing that function, Tusla may take such steps as it considers requisite to identify such children and co-ordinate information from all relevant sources relating to children in its area.
86. This provision has been interpreted by the courts as giving Tusla the power to investigate allegations of abuse, and to mitigate any risks identified, including sharing information arising from such investigations with relevant third parties. However, the section does not provide a framework for investigating allegations, or what steps may be taken by Tusla to mitigate risk. Successive inquiries have recommended the enactment of specific provisions to clarify Tusla's role.⁹¹ Lack of clarity has led to a considerable number of High Court challenges about Tusla's role, and the rights of alleged abusers in the context of such investigations.⁹²
87. The Heads and General Scheme of the Child Care (Amendment) Bill 2023 ('**the 2023 Bill**') proposes to address this issue. The 2023 Bill proposes to remove the issue of investigation of complaints and any sharing of information arising from such investigations from the Child Care Act 1991 and place them within the Children First Act 2015. The proposed amendments to the 2015 Act propose a specific power and duty on Tusla to receive and assess reports of abuse from persons who are not mandated reporters.
88. Tusla expressly retains the same powers as it had under the 1991 Act, or any other enactment.⁹³ Where Tusla reasonably believes that there is an immediate and serious risk of harm to a child on foot of a report it receives, it may take whatever steps it deems necessary to protect the child, including disclosure to another person of such information as is necessary and proportionate to protect the child.⁹⁴ Tusla's Child Abuse Substantiation Procedure ('**CASP**'), and any other or amending guidelines on dealing with allegations of abuse, are placed on a statutory footing under the provisions of the 2023 Bill.⁹⁵

91 See discussion in Chapter 19.

92 See the discussion in Conor O'Mahony, *Annual Report of the Special Rapporteur on Child Protection* (2020), at p. 51 to 60 for a detailed discussion of the issues engaged.

93 *Ibid*, Head 44(2).

94 *Ibid*, Head 44(3) .

95 *Ibid*, Head 44(5).

89. The 2023 Bill requires that if Tusla, following a preliminary enquiry of a report of harm, has a bona fide concern under s. 19(1) of the 2012 Act, it shall notify the Garda Vetting Bureau (**'the Bureau'**) as soon as practicable in writing of that belief, and the reasons for it.⁹⁶
90. These proposals are broadly in line with the proposals of the Special Rapporteur for Children. He suggested that by allowing Tusla to report their 'bona fide' concerns to the Bureau, the Bureau could utilise the provisions of the 2012 Act, which already provides for a balancing of the rights of the alleged abuser with the requirement to protect children from harm and has procedures to protect the alleged abusers rights. Subject to those procedures, the Chief Bureau Officer can determine whether the specified information should be disclosed to a relevant organisation under the Act. In this way, Tusla may avoid the necessity to investigate and make specific finding as to whether abuse took place on the balance of probabilities, in respect of complaints where a bona fide concern arises. As the Special Rapporteur's report points out, the threshold of 'bona fide concern' is a more flexible one than a requirement to find that abuse did or did not take place on a balance of probabilities.⁹⁷ In dealing with allegations of historical abuse, a key aim of Tusla's investigations is preventing future cases of abuse by sharing information concerning alleged abusers.⁹⁸ This may be achieved through the proposed amendments, so that the mechanisms of the Bureau under the Act can be invoked in determining whether specified information should be disclosed to a relevant organisation.
91. The Bill also provides for placing inter-agency co-operation on a statutory footing, setting out a list of state bodies, including government departments, An Garda Síochána and Tusla, referred to as 'relevant bodies', who may cooperate with each other for the purpose of promoting the development welfare and protection of children and eligible adults.

96 Ibid, Head 44(6) (b). There is a similar obligation under Head 44(6)(a) to report to An Garda Síochána where it is believed that that an offence under the Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012 has been committed.

97 Conor O'Mahony, *Annual Report of the Special Rapporteur on Child Protection* (2020), at p. 54.

98 Conor O'Mahony, *Annual Report of the Special Rapporteur on Child Protection* (2020), at p. 56.

F. How Are Child Protection Provisions in Schools Being Implemented?

92. Child protection provisions are extensive and complex. They require registered teachers and other school staff to have knowledge of the legislation and the procedures and processes laid out in the 2023 Procedures, and to make sometimes very difficult judgment calls. It is useful therefore to examine what is known about how child protection and safeguarding provisions are being applied on the ground in schools.
93. Dr Buckley in her report, considers the available research which examines the experiences of DLPs and teachers in schools both before and after mandatory reporting was introduced. She also looks at training for DLPs, teacher training, both pre and post qualification, and training in child protection for other school staff.

(i) Research on the Implementation of the Stay Safe Programme

94. A 1999 evaluation⁹⁹ of the Stay Safe programme indicated that both parents and children had shown significant improvements in knowledge and attitudes concerning child protection since the introduction of the programme in 1991
95. A survey conducted in 2005/6 by the Department of Education and the Child Abuse Prevention Programme on the implementation of the Stay Safe programme indicated a need for further training.¹⁰⁰ Dr Buckley states, referring to study by Shanahan, that a targeted training programme was delivered to 700 schools but undertaken only by schools that elected to avail of it.¹⁰¹

(ii) Research on the Implementation of the 1991 Procedures

96. As mentioned earlier in this chapter, the first procedures aimed at schools which provided guidelines for handling children reporting abuse to their teachers, were the 1991 'Procedures for dealing with allegations or suspicions of child abuse' guidelines issued by the Department of Education'.

99 D. McIntyre and A. Corr, 'Evaluation of the effectiveness of the Stay Safe Primary Prevention Programme for child sex abuse' (1999) 23(12) *Child Abuse & Neglect* 1307 – 25; Dr Helen Buckley, *Report on child protection for the Scoping Inquiry into Historical Sexual Abuse in Schools run by Religious Orders*, p. 34.

100 Cited by Dr Buckley at p. 35 of her report.

101 Ibid. P. Shanahan, 'An Exploration of the Child Protection Training Experience of newly Qualified Primary School Teachers in Ireland' (2011) Unpublished MSc thesis, School of Social Work and Social Policy, Trinity College, Dublin.

97. Dr Buckley refers to a small-scale study which examined the implementation of the 1991 Guidelines,¹⁰² conducted in ten primary schools in the northwest of Ireland found that during the period of the study the 1991 guidelines were neither disseminated widely nor considered useful and that teachers were uncomfortable with their duty to report suspected child abuse.

(iii) Research on the Implementation of the 2001 and 2004 Guidelines

98. A review carried out by the Irish National Teachers' Organisation ('INTO') in late 2007¹⁰³ (presented to Congress in 2008) concerning the implementation of updated child protection guidelines points to some continuing difficulties. Dr Buckley explains that the study raised several issues that impacted on schools' capacity to fulfil their child protection responsibilities, including communication difficulties with the statutory child protection system and the potential for disrupted relationships between DLPs and families as a consequence of reporting. The study points out that no recognition is given to these issues, nor support offered to DLPs to deal with them.¹⁰⁴
99. A study¹⁰⁵ in 2009 illustrated a major gap between DLPs and some other teaching staff when it surveyed newly qualified teachers from 103 different primary schools about knowledge of and familiarity with their school's child protection policies. The study found that compliance with the requirement to inform new staff about them was weak. Half of the respondents did not know if their school had a policy, and of those who were aware, only half had read it. Less than half knew if there was a DLP in their school, and nearly two thirds of respondents reported uncertainty or lack of confidence in being able to identify suspected child abuse.

102 J. Kelly, 'What do Teachers do with Child Protection and Child Welfare Concerns which they Encounter in the Classrooms?' (1997) Vol. 1 *Irish Journal of Social Work Research* 9-22.

103 INTO, *Review of the Role of INTO members Acting as Designated Liaison Persons under the Child Protection Guidelines 'Children First': Report to Congress* (2018).

104 Dr Helen Buckley, *Report on child protection for the Scoping Inquiry into Historical Sexual Abuse in Schools run by Religious Orders*, p. 36.

105 Buckley & McGarry, 'Child Protection in Primary Schools; a contradiction in terms or a potential opportunity' (2011) 30(1) *Irish Educational Studies* 113 – 128.

(iv) Research on the Experiences of DLPs in Schools Pre- and Post- the Introduction of Mandatory Reporting

100. The 2007 INTO study surveyed 330 DLPs about their experiences of training and their views on the child protection training needs of teachers generally. Some participants also took part in two focus groups which discussed their experiences of identifying and reporting suspected child abuse. Dr Buckley's report points out that the study found that fewer than half of the DLPs in the State who were charged with reporting child abuse had had any training at that point, and 70% of those who had undergone training found it to be inadequate.¹⁰⁶
101. Dr Buckley expresses concern that subsequent research reveals that some of the findings of the 2007 INTO study persisted, such as reported communication difficulties with the statutory child protection system and the potential for disrupted relationships between DLPs and families as a consequence of reporting.¹⁰⁷
102. Dr Buckley cites a 2018 study, examining child protection in primary schools from the perspective of DLPs¹⁰⁸ which again reports many of the same issues: DLPs reported a sense of isolation, challenges in dealing with 'newcomer' and culturally different families, difficulties dealing with families where child protection concerns were reported and the judgement calls that were required.

(v) Studies Following the Implementation of Mandatory Reporting

103. A further survey cited by Dr Buckley¹⁰⁹ looks at the experiences of 387 DLPs from different primary schools around the country following the introduction of mandatory reporting. The participating DLPs cited guidelines, other staff, professional networks, management bodies and Tusla as supports. However, a significant number of challenges were also reported by DLPs including:
- 'unending' paperwork;
 - A sense of being ill prepared and inadequately trained;
 - lack of response from Tusla;
 - the business of reporting families;
 - pressure involved in making judgement calls;
 - emotional toll; time constraints; isolation; and
 - a sense of responsibility for other staff's skills.

106 Dr Helen Buckley, *Report on child protection for the Scoping Inquiry into Historical Sexual Abuse in Schools run by Religious Orders*, p. 36.

107 Ibid.

108 M. Nohilly, 'Becoming and Being a DLP: Designated Liaison Persons' experience of the role in the Irish primary school' (2018) 37(1) *Irish Educational Studies* 19 – 32.

109 M. Nohilly and M. Tracey, 'Child Protection in Irish Primary Schools: Supports and Challenges in the role of Designated Liaison Person for child protection' (2022) 52 *British Journal of Social Work* 4914 – 1432.

104. The researchers for that study recommended additional training and a dedicated support network for DLPs, a framework for interagency working particularly with Tusla and a review of the administrative burden to make it workable.
105. A more recent, as yet unpublished, study by the same authors, referred to by Dr Buckley,¹¹⁰ indicates DLP's dissatisfaction with the quality of training. DLPs participating reported that training is repeated but is not refreshed or differentiated in line with their experiences. DLPs also criticised what they described as the excessive 'box ticking' and bureaucracy associated with inspections.¹¹¹

(vi) Research and training for teachers and other school personnel

(a) Training in Child Protection for DLPs

106. The 2001 guidelines were followed by a programme of training for DLPs designed and delivered by a collaborative team from the Department of Education and Science, the HSE and the INTO. Between 2001 and 2003, training was provided to 5000 designated DLPs. The INTO also responded to the 2001 procedures by signalling a commitment to providing direct advice to DLPs and individual teachers. It advocated that schools immediately appoint DLPs and facilitate their attendance at training seminars.
107. Teacher Professional Learning, including training in child protection was provided by the PDST, now Oide.¹¹² A one day in-person seminar is provided for newly appointed DLPs, although this training was disrupted during the pandemic. The service currently provides online training for DLPs and deputy DLPs. The DLP module covers the legal and policy context and guidance on how to implement child protection procedures. The third part of the training module covers record keeping and oversight. Tusla provides a Children First e-learning module, and a Mandated Person e-learning module, both of which provide certification. Dr Buckley comments that these are useful to school staff, although the Tusla module is intended for all mandated persons and does not specifically reference the child protection procedures for schools.¹¹³ There are a number of plans to expand training for DLPs and Deputy DLPs to provide for in person training in line with proposed new 2024 Procedures, and to provide refresher training.¹¹⁴

110 Dr Helen Buckley, *Report on child protection for the Scoping Inquiry into Historical Sexual Abuse in Schools run by Religious Orders*, p. 50.

111 Ibid.

112 Dr Helen Buckley, *Report on child protection for the Scoping Inquiry into Historical Sexual Abuse in Schools run by Religious Orders*, p. 44.

113 Ibid.

114 Ibid, p. 45.

(b) *Research on pre-qualification teacher training in Child Protection*

108. As pointed out by Dr Buckley,¹¹⁵ in 1991 there was no compulsory requirement for child protection input in teacher education in Ireland which was frequently taught as part of an elective module, determined at college level, and comprised an average of 3.5 hours child protection teaching out of 1,500 training hours.
109. The 2009 survey of recently qualified teachers referred to above,¹¹⁶ looked at the amount and quality of child protection training on pre-qualification courses. One third of the newly qualified teachers interviewed could not remember if they had any child protection input in their course. Of those that did remember it, three quarters said that the total input had been between 1 and 4 hours in a two-year course. Dr Buckley points out that it is unsurprising that two thirds of those who had received this level of input found it to be inadequate.¹¹⁷
110. A later empirical study, conducted in 2013,¹¹⁸ found that pre-service child protection training was inadequate to instil a sense of professional responsibility in teaching staff. The study also revealed teachers' frustration about the lack of post qualification child protection training for teachers other than DLPs.¹¹⁹
111. Dr Buckley cites a review of Irish and international research in 2015 by Bourke and Mounsell,¹²⁰ which noted that training in child protection tends to focus on procedures and guidelines, to the exclusion of more qualitative aspects of safeguarding. Dr Buckley states that:¹²¹

The review identified implicit obstacles to reporting including teachers' individual belief systems, interpretations of what constitutes abuse or neglect, a sense that the harm of reporting outweighs the benefits, poor interagency cooperation, perceptions that the child protection system is not helpful and fears that the teacher-parent and teacher-child relationship will be damaged by reporting.

115 Ibid, p. 34.

116 Buckley & McGarry, 'Child Protection in Primary Schools; a contradiction in terms or a potential opportunity?' (2011) 30(1) *Irish Educational Studies*, 113; Dr Helen Buckley, *Report on child protection for the Scoping Inquiry into Historical Sexual Abuse in Schools run by Religious Orders*, p. 50 - 51.

117 Dr Helen Buckley, *Report on child protection for the Scoping Inquiry into Historical Sexual Abuse in Schools run by Religious Orders*, p. 50.

118 R. Buckley, *Child Abuse Reporting In Ireland and the Socio Legal Implications of Introducing a Mandatory Reporting Law* (2013). PhD Thesis, Trinity College Dublin.

119 Dr Helen Buckley, *Report on child protection for the Scoping Inquiry into Historical Sexual Abuse in Schools run by Religious Orders*, p. 50.

120 A. Bourke, and C. Maunsell, 'Teachers Matter': The Impact of Mandatory Reporting on Teacher Education in Ireland' (2015) 25 *Child Abuse Review*, 314 – 324.

121 Dr Helen Buckley, *Report on child protection for the Scoping Inquiry into Historical Sexual Abuse in Schools run by Religious Orders*, p. 50.

(c) Current Pre- Qualification Teacher Training in Child Protection

112. Dr Buckley states that some academics involved in graduate and post graduate teacher training courses regard training in child protection as still at a very basic level. The standards set by Céim, the Irish Teaching Council,¹²² require qualified teachers to:
- ... show an understanding of and practise within the statutory framework pertaining to education, including child protection guidelines, and any other identified, relevant, national priorities.
113. Likewise, student teachers going on placement are expected to:
- Be familiar with the school's Code of Behaviour, Child Protection Policy, and other relevant policies.
114. However, as Dr Buckley points out, there is no requirement for a specific type of module or a substantial level of training in teacher education colleges. She states that while there will be a minimum, mainly information based, input to prepare students in child protection, her view is that it cannot be claimed that there has been or is currently a greatly increased focus on child protection in teacher education courses.¹²³
115. Dr Buckley's discussions with key informants indicated that all students complete the Tusla or Department of Education online child protection training session and are Garda vetted prior to placement. However, other child protection inputs in the colleges are left to the discretion of individual course directors and vary between institutions. She notes that there are some very impressive examples of child protection modules currently being delivered by very knowledgeable and committed staff, but that they are not a standard requirement.¹²⁴

(d) Training in Child Protection for Other School Personnel

116. The Department of Education has provided online training for all school staff in child protection.¹²⁵ Dr Buckley points out, however, that there is currently no provision for whole school in-person training. She observes that while boards of management and inspectors need to be satisfied that all of school staff avail of training, 'it is difficult to see how this can be established'.¹²⁶

122 The Teaching Council, *Ceim: Standards for Initial Teacher Education* (2020), p. 21.

123 Dr Helen Buckley, *Report on child protection for the Scoping Inquiry into Historical Sexual Abuse in Schools run by Religious Orders*, p. 51.

124 Ibid.

125 An online module for all school personnel to assist them in understanding their statutory requirements under the Children First Act 2015 is also provided. TUSLA provides the Children First e-learning module and a Mandated Person e-learning module, referred to above, both of which provide certification.

126 Dr Helen Buckley, *Report on child protection for the Scoping Inquiry into Historical Sexual Abuse in Schools run by Religious Orders*, p. 51.

(e) Child Protection Resources made available to schools

117. In addition to training materials, the Department of Education has developed mandatory templates to assist schools to implement the procedures.¹²⁷ Dr Buckley observes that the template for the Child Safeguarding Statement and Risk Assessment is comprehensive.¹²⁸

(vii) Role of the Department of Education in safeguarding

118. Dr Buckley's Report comprehensively examines the role of the Department of Education in child protection and safeguarding in schools. She sets out that amongst other matters, the Department produces and regularly reviews child safeguarding procedures and has an overview role and some specific functions to strengthen safeguarding in schools, including training and inspection. The Department has developed procedures for responding to child protection concerns that are made directly to its staff which make it clear that the Department's responsibility is not to investigate but to refer concerns to Tusla and if relevant, to a school or to An Garda Síochána.
119. Dr Buckley explains that the Department of Education has a Child Protection Oversight Group that oversees implementation of internal departmental procedures and coordinates the Department's activities in cases where there are serious concerns regarding the compliance of school with child protection obligations. It receives regular updates concerning compliance of schools and number and types of allegations received in the Department and it reports to the Management Board on a quarterly basis. The Department furnishes the reports to the Minister.¹²⁹
120. In addition, the Department of Education participates in the Children First Interdepartmental Implementation Group whose role is to promote consistent compliance by Government Departments with the Children First Act 2015.¹³⁰

127 Including the child safeguarding and risk assessment template, the checklist for review of the child safeguarding statement and the notification regarding the board of management's review of the safeguarding statement.

128 Dr Helen Buckley, *Report on child protection for the Scoping Inquiry into Historical Sexual Abuse in Schools run by Religious Orders*, p. 44. Dr Buckley also notes that other non-mandatory templates and documents to assist DLPs are available, as well as FAQs and guidance notes.

129 Dr Helen Buckley, *Report on child protection for the Scoping Inquiry into Historical Sexual Abuse in Schools run by Religious Orders*, p. 42.

130 Ibid.

(a) Safeguarding in Boarding Schools

121. In 2023 the Department of Education, for the first time, developed child protection procedures for boarding schools. There are relatively few boarding facilities associated with recognised schools that operate in the State.¹³¹ Dr Buckley set out the main procedures for boarding schools, which are based on those for primary and post-primary schools but allow for different factors such as the possibility of separate DLPs and boards of management for day and boarding schools.¹³²
122. Dr Buckley points out that safeguarding risk assessments in boarding schools are of critical importance, as children are away from their parents and families. The mandatory template for the Safeguarding Statement for boarding schools highlights the potential risks of use of technology, collective bullying, use of substances, children being in the unsupervised company of older students, interpersonal relationships, inappropriate attachments and emotional vulnerability, the fact that some children may need to stay in school over weekends, and that some may be international students with different languages and cultural backgrounds.¹³³

(b) Child Protection and Safeguarding Inspections

123. Dr Buckley states that one of the most important safeguarding functions in the Department of Education is the inspectorate.¹³⁴ A 'Level 3' inspection focuses only on child protection and safeguarding and is comprised of an initial inspection followed by a final inspection, several weeks apart.¹³⁵ The inspections conclude with a meeting between the inspector and the school principal and DLP. Interviews are held with DLPs, board of management chairs and a sample of personnel. Parental consent is obtained to allow 'focused discussions' with pupils. The inspector meets with the parents' associations as well as conducting an online survey of parents.
124. Ten checks are made during the inspection, which are further divided into a number of sub-checks. They cover the requirements of the Department of Education's guidelines and require inspectors to check the minutes of board meetings, the school's record keeping, actual records and implementation of the SPHE curriculum and the RSE programme (post-primary) and the Stay Safe programme (primary) by the school.¹³⁶

131 Ibid, p. 41.

132 Ibid.

133 Ibid.

134 Ibid p. 43.

135 Level 1 inspections may relate to subject or programme specific evaluations, and Level 2 inspections may relate to 'whole school' evaluation. See Department of Education, *A Guide to Inspection in Post-Primary Schools* (Updated January 2024), p. 16.

136 Ibid.

125. When a school is less than fully compliant, the report provides evaluative comment and advises actions that may be required. If non-compliance with safeguarding requirements is noted at the final inspection, the inspectorate will continue to engage with the school until full compliance is achieved. Reports are published on the gov.ie website.¹³⁷
126. Dr Buckley reports that plans are underway within the Department of Education to rebalance the Level 3 safeguarding inspections to focus both on compliance related issues and more qualitative components relating to aspects of school culture.¹³⁸

(c) Child Protection and Safeguarding Inspections of Boarding Schools

127. The Department of Education has recently developed a framework for safeguarding inspections of boarding facilities which is very similar to the framework for safeguarding inspections in schools. The inspection process is committed to including the views of boarders (through focus groups) and their parents about the boarding experience, atmosphere and climate and their understanding of whom to approach with any concerns. Like the framework for school inspections, the boarding facility framework requires the facility to show how identified risks are mitigated.¹³⁹

(d) Frequency of Safeguarding Inspections

128. Dr Buckley view is that currently child safeguarding inspections are not frequent enough to really illustrate how well the safeguarding system is working. She observes that 170 inspections have been carried out from a total of 3,800 schools since safeguarding inspections were introduced in 2019. In contrast, Level 1 and Level 2 inspections take place in most post-primary schools annually, less frequently in primary schools. However, any child protection concerns are likely to elicit a full Level 3 safeguarding inspection. Dr Buckley states that the Department of Education's view is that the awareness of a potential inspection acts as a strong incentive for schools to address child protection in schools.¹⁴⁰ However, Dr Buckley reports that the Department is currently considering various options to increase the number child safeguarding inspections.¹⁴¹

137 Ibid.

138 Dr Helen Buckley, Report on Child Protection for the Scoping Inquiry into Historical sexual Abuse in Schools run by Religious Orders, p. 45.

139 Ibid p. 43.

140 Ibid p. 44.

141 Ibid p. 45.

G. Child Protection in Unrecognised Schools¹⁴²

129. Tusla confirmed to the Scoping Inquiry that there are 59 unrecognised schools in the State, listed at Appendix 11. Unrecognised schools run by religious orders, or their respective education trusts, are within the remit of the Scoping Inquiry. Unrecognised schools range from schools that are indistinguishable from recognised schools in terms of curriculum and approach to education, to schools offering alternatives to mainstream education.
130. When Tusla was established in 2014,¹⁴³ it replaced the National Educational Welfare Board ('NEWB') as the body with oversight of non-recognised schools under the Education (Welfare) Act 2000 ('the 2000 Act').¹⁴⁴ The relevant directorate within Tusla for unrecognised schools is Children Services Regulation. Within that directorate, the Alternative Education Assessment and Registration Service ('AEARS') is responsible for registration of children not attending recognised schools.¹⁴⁵

(i) Unrecognised Schools are subject to the 2015 Act and Other Legislation

131. Unrecognised schools are, in common with recognised schools, all 'relevant services' within the meaning of the 2015 Act. They are also subject to the DCEDIY's Children First: National Guidance for the Protection and Welfare of Children ('the 2017 Guidance') and Tusla's guidelines¹⁴⁶ on child protection pursuant to the 2015 Act.
132. Therefore, unrecognised schools must comply with the requirements for risk assessments and a child safeguarding statement containing the information set out earlier in this chapter. The DCEDIY and Tusla guidelines do not include the mandatory template for risk assessment and child safeguarding statement included in the Department of Education's 2023 Guidelines, but provide guidance on compiling the Safeguarding Statement.¹⁴⁷

142 See Chapter 12 on the Irish Education System. Unrecognised schools do not receive state funding and are independent of the Department of Education. The Education Act 1998 s. 10 provides that the minister must be satisfied that: the school will be viable in terms of numbers attending; the needs of the students could not reasonably be met by existing schools; the curriculum in accordance with the 1998 Act will be taught; school inspections by Inspectorate will be permitted; health safety and building standards will be complied with and the school will operate in accordance with the regulations made by the Minister.

143 Tusla was established by the Child and Family Agency Act 2014.

144 Section 10(1) of the Education (Welfare) Act 2000.

145 Dr Helen Buckley, *Report on child protection for the Scoping Inquiry into Historical Sexual Abuse in Schools run by Religious Orders*, p. 46.

146 Tusla, *Child Safeguarding: A Guide for Policy, Procedure and Practice*, (2nd edn., 2019) available at https://www.tusla.ie/uploads/content/Tusla_-_Child_Safeguarding_-_A_Guide_for_Policy,_Procedure_and_Practice.pdf.

147 Tusla, *Guidance on Developing a Child Safeguarding Statement* (2017), available at https://www.tusla.ie/uploads/content/4214-TUSLA_Guidance_on_Developing_a_CSS_LR.PDF.

133. In relation to reporting obligations, the Safeguarding Statement must specify the procedure in place for reporting child safeguarding issues to Tusla, and those reporting procedures must be in accordance with the 2015 Act or the 2017 guidelines.¹⁴⁸ The Safeguarding Statement must also specify the procedures that are in place for maintaining a list of mandated persons (if any) in the school,¹⁴⁹ and for the appointment of a relevant person.¹⁵⁰ These are also the requirements for recognised schools.

(a) Mandated Reporters in Unrecognised Schools

134. The Teaching Council Act 2001, which provides for the registration of teachers, does not appear to require mandatory registration. However, unregistered teachers cannot be paid from State funds.¹⁵¹ As teachers in unrecognised schools are not paid out of State funds, there is no registration requirement to teach in unrecognised schools. Indeed, there is no legal requirement to employ teachers, registered or otherwise, in unrecognised schools, as the parents of the children attending the schools may choose how their children are taught, and by whom, the only requirement being that the child concerned receives the requisite minimum level of education as assessed by Tusla in accordance with Department of Education guidelines issued in 2003.

135. Only registered teachers are mandated reporters for the purposes of the 2015 Act. There are other categories of mandated reporters specified in the 2015 Act, including: medical personnel and members of the clergy or pastoral care workers or a safeguarding officer or a child protection officer. If such persons are not employed or engaged by an unrecognised school, there may not be a mandated reporter in the school. There is no obligation on a school, unrecognised or recognised, to appoint a child safeguarding officer.

148 Section 11(e) of the 2015 Act.

149 Section 11(f) of the 2015 Act.

150 Section 11(g) of the 2015 Act.

151 Teaching Council Act 2001, s. 30.

(b) *Non-Statutory Best Practice Reporting in Unrecognised Schools*

136. If there is no mandated person in the school, the school staff are nonetheless required by the DCEDIY 2017 and Tusla's Guidelines to inform Tusla if they have 'reasonable grounds for concern' that a child may have been, is being, or is at risk of being abused or neglected. Tusla should also be informed of concerns that an adult poses a risk to children, even if no specific child is named in relation to the concerns. The Guidelines advise that Tusla can be contacted informally to discuss any concerns¹⁵² and the type of information that should be provided to Tusla is set out.

(c) *Appointing a 'Relevant Person' or a DLP*

137. Section 11 of the 2015 Act requires both recognised and unrecognised schools to appoint a relevant person. A 'relevant person' is defined in the 2015 Act as a person who is appointed to be the first point of contact in respect of the school's child safeguarding statement, and their name and contact details must be stated in the safeguarding statement.¹⁵³
138. In a recognised school, the relevant person is always the DLP, and the 2023 guidelines specify that the DLP is to be designated by the board of management and to be a senior full-time member of the registered teaching staff.¹⁵⁴ The precise role of the relevant person is not set out in the 2015 Act or the relevant guidelines.
139. There is no obligation on non-recognised schools to appoint a DLP. However, Tusla confirmed to Dr Buckley that the majority of unrecognised schools appoint DLPs and Deputy DLPs although not required to do so. It may also be the case that the relevant person in an unrecognised school is a registered teacher, and thus subject to mandatory reporting obligations.
140. Dr Buckley notes that Tusla report that the relevant person conveys child welfare and protection reports to Tusla and that that all schools are compliant with this or are linked with Tusla's Child Safeguarding Statement Compliance Unit ('CSSCU') working towards compliance.¹⁵⁵ This suggests that in practice, the relevant person conveys child protection reports to Tusla, where no DLP has been designated.

152 Department of Children and Youth Affairs, *Children First: National Guidelines for the Protection and Welfare of Children* (2017), p. 16.

153 Tusla, *Child Safeguarding: A Guide for Policy, Procedure and Practice*, (2nd edn., 2019) available at https://www.tusla.ie/uploads/content/Tusla_-_Child_Safeguarding_-_A_Guide_for_Policy,_Procedure_and_Practice.pdf.

154 Department of Education, *Child Protection Procedures for Primary and Post Primary Schools (revised 2023)*, paragraph 3.5.1, p. 21.

155 Dr Helen Buckley, *Report on child protection for the Scoping Inquiry into Historical Sexual Abuse in Schools run by Religious Orders*, p. 47.

(d) Compliance with the 2015 Act

141. Tusla also confirmed to Dr Buckley that the CSSCU works with AEARS to ensure the compliance of unregistered schools with the requirement to develop and display a child safeguarding statement, to have staff and volunteers Garda vetted, and to ensure that they have minimum child protection training.¹⁵⁶
142. Dr Buckley states that the CSSCU works with AEARS to ensure that the safeguarding statements produced by schools are compliant with the requirements of s. 11 of the Children First Act 2015. All child safeguarding statements have been provided to the CSSCU following a formal request from the unit as part of an overall audit of CSSCU. When a school is applying to be assessed, child safeguarding statements are provided to AEARS in the first instance and annually thereafter. AEARS refers to the CSSCU for guidance or a formal referral as required.¹⁵⁷

(e) Safeguarding Inspections

143. The Children Services Regulation unit within Tusla can ensure that the provisions of the 2015 Act concerning child safeguarding are put in place and maintained in unrecognised schools. Dr Buckley is of the view that unrecognised schools are well managed by Tusla, which ensures that they meet the requirements of the 2015 Act. Tusla, however, does not appear to have the power to inspect how the requirements of the 2015 Act are working in practice, as it does not have the equivalent of the Department of Education's child safeguarding inspection function in respect of recognised schools. Tusla may in practice, carry out a process that bears similarity to safeguarding inspections, through their 3 yearly assessments of unrecognised schools, but this is unclear.
144. HIQA carries out inspections of various facilities and service for children with regard to child safeguarding procedures. However, HIQA's mandate does not extend to unrecognised schools.

156 Ibid. The DCEDIY guidelines state that it is the responsibility of the relevant provider (the unrecognised school) to ensure that staff have the requisite level of training to carry out their obligations under the 2015 Act.

157 Ibid.

(f) *Vetting of staff in unrecognised schools*

145. Unrecognised schools have the same obligations under The National Vetting Bureau (Children and Vulnerable Persons) Act 2012 as recognised schools and must receive a vetting disclosure in respect of all staff which have access to or contact with children. Unrecognised schools are not obliged in addition to provide of a child protection related statutory declaration and associated form of undertaking by all persons being appointed to teaching and non-teaching positions in the school, as is required by the Department of Education, although in practice some schools may do so.¹⁵⁸

(g) *Conclusions in relation to unrecognised schools*

146. Unrecognised schools are governed by the same legislation as recognised schools. However, there remain some differences in safeguarding between recognised and unrecognised schools. The principal differences are as follows:
- (i) There will always be mandated reporters in a recognised school, which may not be the case in an unrecognised school. However, all staff whether mandatory reporters or not, are subject to the non-statutory best practice guidelines in respect of reporting concerns.
 - (ii) Recognised schools will always have a DLP, who will also be a mandated reporter and a 'relevant person'. Unrecognised school often appoint DLPs but are not required to do so. 'Relevant persons', unless they are mandated reporters, do not have specific statutory obligations beyond being the first point of contact in the school for the purpose of the safeguarding statement. It seems, however, that in practice, relevant persons carry out the function of reporting to Tusla.
 - (iii) It is compulsory in recognised schools to have the Stay Safe programme, SPHE and relationship and sex education programmes on the curriculum. This is not a requirement in unrecognised schools. However, many unrecognised schools may include those subjects on the curriculum. Given the constitutional entitlement of parents to educate their children as they see fit, subject only to providing a certain level of education, where those subjects are not already taught in the school it is unlikely that the teaching of such subjects could be made compulsory in unrecognised schools.

158 Department of Education, *Child Protection Procedures for Primary and Post Primary Schools (revised 2023)*, paragraph 8.6.4, p.59.

H. The Buick Report Recommendations

147. The Department of Education commissioned an independent High Level Review into its child protection procedures, which reviewed the current procedures, and made some 31 recommendations and sub-recommendations with a view to strengthening and improving those procedures.
148. The recommendations include that the Department of Education consider the following:
- (i) That in larger schools a member of the board of management would be designated as having a child protection and safeguarding role, without diminishing the role of the board of management or the Designated Liaison Person;
 - (ii) That the DLP can be a member of the senior leadership team in the school rather than the Principal;
 - (iii) That the deputy DLP's role be widened to support the DLP, including sharing of information and data;
 - (iv) That student safeguarding support teams be set up to promote wellbeing, safety, and protection in schools;
 - (v) A method of reporting to the board of management and enabling them to carry out their oversight role, without identifying the member of staff accused to each member of the board.;
 - (vi) That the accessibility of the child safeguarding statement to the children in the school is checked during inspections of schools, as children should know who to go to when they have a concern;
 - (vii) The importance of teachers feeling confident to deliver RSE and SPHE and students having a voice in contents of the SPHE lessons to ensure they are meeting their needs;
 - (viii) A stronger focus in child safeguarding inspections on the culture and climate of schools; that there be greater clarity in procedures as to when a bullying incident needs to be reported to Tusla; and,
 - (ix) That investigations into alleged abuse against school staff be expedited while maintaining the safety of the child and the integrity of the process and rights of the accused; that teachers, principals and special needs assistants cannot be re-deployed while still subject to investigation of an abuse allegation.

149. Dr Buckley notes that the Department of Education are implementing many of the recommendations made by the Buick Report, some of which are complete and some of which due for action in the near future. A substantially revised Procedures document will issue in 2024.¹⁵⁹ It is intended that many of the recommendations of the Buick Report will be implemented through the proposed 2024 Revised Procedures for schools.
150. The Department of Education informed Dr Buckley that it intends to develop stronger links between the inspectorate and Oide, the new training body for teachers and school leaders. There are plans to expand training for DLPs and deputy DLPs, discussions are taking place with Tusla for bespoke training for mandated persons and staff with a special role;¹⁶⁰ Training of all schools personnel is being addressed, and all schools are to be encouraged to set up a Student Safeguarding support team.¹⁶¹
151. Anomalies relating to the possibility of the re-employment of school staff who are currently on leave of absence due to allegations will be considered and efforts will be made to engage with Tusla and An Garda Síochána towards more expeditious assessments of risks and investigations where school personnel are involved.¹⁶²

I. Strengths of Child Protection Regime in Schools

152. There is much that is encouraging about the overall strengths identified in the current child protection system. Dr Buckley finds:
- Child protection and safeguarding structures are robust.
 - The NSBCCCI's review reports give reasonable confidence about child protection in the Catholic Church.
153. Tusla have stated that meetings of the Interagency Review Group ('IARG'), consisting of the Gardaí, Tusla and the Church to discuss the exchange of soft information are no longer required because of the child protection measures in place and the decline in allegations against the clergy.

159 Dr Helen Buckley, *Report on child protection for the Scoping Inquiry into Historical Sexual Abuse in Schools run by Religious Orders*, p. 40.

160 Dr Helen Buckley, *Report on child protection for the Scoping Inquiry into Historical Sexual Abuse in Schools run by Religious Orders*, p. 45.

161 Ibid.

162 Ibid p. 46.

154. In so far as there are statistics in respect of child sexual abuse currently available, they do not address the extent of allegations of child sexual abuse in schools. Tusla provides annual figures as to the overall number of reports that it receives concerning sexual abuse allegations and complaints. Since 2018, its reports also give the figures for how many of those reports are made by all mandated reporters, including teachers. As Dr Buckley's report points out, teachers are the third highest category of mandated reporters to Tusla.¹⁶³ However, the Tusla figures are not analysed on the basis of how many sexual abuse reports emanate from teachers alone. It would be necessary in addition, to understand whether the reports emanating from teachers concern suspected sexual abuse in the context of an alleged abuser within the school rather than in other contexts, such as suspected familial sexual abuse.
155. Importantly, as can be seen from the statistics compiled by the Scoping Inquiry in respect of historical sexual abuse, members of the laity and student peers are also alleged to have perpetrated acts of sexual abuse. Vigilance is thus always necessary to ensure that the present and future generations of children are not subject to sexual abuse, whatever its source, and its often devastating consequences.

J. Potential Weaknesses of Child Protection Regime in Schools

156. Dr Buckley identifies the following issues as potentially leading to a difficulty in reporting:
- That taking the step of reporting a school employee or colleague presents a significant challenge. Dr Buckley comments that this factor is not specifically mentioned in the research but seems likely to be the case.
 - Key informants identified the difficulty for DLPs and teachers in distinguishing between bullying and abuse when trying to determine what reaches the threshold for reporting.
 - Dr Buckley observes that reliance on the commitment and motivation of individuals within the school system is a matter which was identified in the Murphy Inquiry Report as a vulnerability.

163 Dr Helen Buckley, *Report on child protection for the Scoping Inquiry into Historical Sexual Abuse in Schools run by Religious Orders*, p. 11.

157. In addition, Dr Buckley refers to the research identifying factors which discourage reporting, likely to have endured, despite legal and policy changes. They are:

- Lack of confidence of DLPs.
- DLPs regular engagement with the family they are required to report.
- Reported poor communication between some schools and Tusla.
- Finally, Dr Buckley points to the nature of child sexual abuse itself, the manipulation and control exerted by perpetrators and the established reluctance of children to disclose abuse as factors which are made more challenging by the uncontrolled nature of online communication and social media.¹⁶⁴

158. Dr Buckley also identifies a number of other issues may cause future problems as follows.¹⁶⁵

- That data protection concerns may be impacting on areas not considered by her Report.¹⁶⁶
- The paucity of child protection training, including in person training for teachers at pre and post qualifying levels. This may have a limiting effect on a schools' capacity to act protectively.¹⁶⁷
- Relationships between schools and their local Tusla offices were highlighted in the research as supportive to good safeguarding practice when they worked and problematic when they did not.¹⁶⁸

159. Dr Buckley concludes that there can be reasonable confidence about safeguarding in the Catholic Church. In relation to Tusla, Dr Buckley observes that HIQA and National Review Panel reports indicate that its child protection services struggle at times to comply with all standards, protocols and policies that regulate its practice.¹⁶⁹ In relation to the education sector, the formal structures of child protection now in place in schools are robust, but that the operationalisation of safeguarding is subject to many variables. Effective implementation of child protection provisions is dependent on the ability of schools to resource compliance with those provisions and on the Department of Education to monitor that compliance. While level 3 safeguarding inspections in the education sector fulfil a useful role, Dr Buckley's view is that they are not sufficiently frequent to really

164 Dr Helen Buckley's *Report on Child Protection for the Scoping Inquiry in Historical sexual Abuse in Schools run by Religious Orders* p. 53.

165 Ibid, p. 52.

166 Ibid.

167 Ibid.

168 Ibid.

169 Ibid 53.

illustrate how well the safeguarding system is working.¹⁷⁰ However, the Department of Education are currently examining how these inspections might be increased in frequency.

160. Dr Buckley concludes that rather than any weaknesses in the system itself, it is inconsistency in the application of child protection provisions that may render children vulnerable in certain situations.¹⁷¹

K. Conclusions

161. Dr Buckley's report is of great assistance and focuses on those areas of child protection that survivors wish to see strengthened to ensure the efficacy of the child protection system. She reports that the Department of Education is planning to implement many of the Buick report's recommendations concerning child protection. There are also plans to improve and increase training for DLPs and deputy DLPs and mandatory reporters, and clearer guidance on whether an incident of bullying reaches the threshold for reporting. Better training may address the problems DLPs identified in the studies cited by Dr Buckley, namely, that they require a more qualitative aspect to their training, and training that is more grounded in their practical experience. It is in everyone's interest, and particularly the interests of children, that schools and teachers are given as much support and training as possible in carrying out what can be a difficult role in ensuring child protection and safeguarding.
162. Other issues identified by Dr Buckley include the relationship between schools and their local Tusla offices. The surveys outlined in Dr Buckley's report suggest that when this relationship works well it is a great support to schools, but is problematic when it does not. Consideration should be given to liaison between the Department of Education and Tusla to assess the current situation, to see what steps can be taken to strengthen the relationship between schools and their local Tusla offices, so as to ensure as much as possible that schools receive the support they require in implementing child protection measures.
163. Another area highlighted by Dr Buckley is the generally limited nature of pre-qualification teacher training in child protection, with no requirement for a specific module or a substantial level of training in teacher education colleges, so that child protection inputs in the colleges are left to the discretion of individual course directors and vary between institutions. Training also tends to focus on basic information. A more holistic and comprehensive teacher education programme in child protection might be considered.

170 Ibid.

171 Ibid.

164. Sex education for children is also an area highlighted by survivors as essential to assist children in understanding and dealing with risks of sexual abuse. Dr Buckley in her report states that one of the major safeguarding strengths is the inclusion of SPHE as a compulsory subject and the efforts that are made to keep the different strands relevant and appropriate to the various age groups. This, she states, is not only to provide information but to give children and young people confidence to identify and report situations that they are not comfortable with. Key informants endorsed the benefits of SPHE but also emphasised the importance of prioritising this module, and ensuring that the persons delivering it are confident in their role¹⁷²
165. The NCCA review is aimed at improving sex education in Irish schools, across the entire sector. This is being done by updating the curriculum to deal with issues identified by young people as relevant to them, improving the status of RSE/SPHE as a subject and providing professional training for teachers. Undoubtedly it will take some years before all of the proposed improvements can be fully realised. The new sexual education programmes are at a developmental stage, and it will take time to understand if they are proving effective.
166. Survivors have also cited increased Garda Vetting and awareness raising as areas they would like to see developed. There is currently a review of the vetting legislation underway, including public consultation on the current legislation and its efficacy. It seems highly unlikely that there is failure of compliance by schools with vetting processes, and there is no evidence to suggest that there is. It may be that there are gaps in the current legislation, which may now be addressed through a combination of progressing the Child Care (Amendment Bill) 2023, and the Review Group's recommendations in respect of the 2012 Act. The Bill (which is currently under consideration by the Attorney General's office) should be progressed expeditiously. It would also be very helpful if the Review Group issued its recommendations in early course, so that same might be considered and adopted as soon as practicable.

172 Dr Helen Buckley, *Report on child protection for the Scoping Inquiry into Historical Sexual Abuse in Schools run by Religious Orders*, p. 49.

167. Awareness of sexual abuse, and general awareness raising is also something survivors wish to see. There have been awareness raising campaigns in the past, but these had lapsed for a considerable period. However, in November 2021, the first Children First Awareness Week was launched by the Minister for Children Equality Disability Integration and Youth, on behalf of the statutory Children First Inter-Departmental Implementation Group ('CFIDIG'). The week ran from 1 to 7 November 2021. The aim of the week is to raise awareness of Children First and remind wider society, including organisations working with children and young people, of the collective responsibility to keep children safe in the community. In 2023, the Children First Awareness Week ran from 25 September to 1 October and focused on the responsibilities of organisations under Children First. It seems therefore that the concerns of survivors about awareness raising were well grounded, and steps have been taken to remedy the situation.
168. Taking Dr Buckley's findings and the wishes of survivors into account, we recommend that the following initiatives should be considered to promote best practice in the area of child protection:
- (i) The Department of Education should establish a group to be called 'The Child Protection in Schools Group' ('**the Group**') to progress the matters outlined below concerning the Department's plans for child protection in schools and other matters with a view to implementing same as expeditiously as practicable.
 - (ii) The Group is to be established as soon as practicable and to have any necessary authority required to carry out its functions. The Group shall endeavour to complete its work as soon as possible. It shall provide a report detailing the progress made in implementing the relevant measures so that the Commission may consider same for the purpose of any recommendations it may wish to make.
 - (iii) The Group should be required do the following:
 - (a) Progress the Department of Education's plans to implement the recommendations of the Buick report generally and, in particular, in respect of a stronger focus in child safeguarding inspections on the culture and climate of schools.
 - (b) Progress the Department of Education's plans to improve and increase training for DLPs, deputy DLPs, teachers, and school staff, including any bespoke training in child protection and safeguarding, and provide for regular consultation with stakeholders to ensure that the training provided is meeting their needs and update same as required.

- (c) Consult with DLPs, deputy DLPs and other relevant persons, to identify aspects of the current child safeguarding provisions that may be strengthened to support and assist DLPs and Deputy DLPs in the carrying out of their functions.
- (d) Discuss with Tusla how communication between schools and Tusla concerning child protection matters might be strengthened and improved.
- (e) Consult with the standards body for teacher qualifications, and any other relevant body, to examine the adequacy of pre-qualification teacher education in child protection, and the implementation of any necessary reforms to the teacher training curriculum.
- (f) Consult with the relevant bodies to strengthen SPHE in pre-qualification and post- qualification teacher education.

169. In addition, we recommend that there be a review of child safeguarding measures in unrecognised schools to consider the current measures and make any recommendations for the improvement or strengthening of same.

Chapter 21:

The Role of Restorative Justice in Responding to Historical Child Sexual Abuse

- A. Introduction
- B. Background
 - (i) Defining Restorative Justice
- C. Restorative Justice and Child Sexual Abuse
 - (i) Concerns in Relation to Use of Restorative Justice in Context of Child Sexual Abuse
 - (ii) Benefits of Restorative Justice in Relation to Child Sexual Abuse
 - (iii) Views of Survivors on Suitability of Restorative Justice in Responding to Child Sexual Abuse
 - (a) Views of Survivors who Engaged with this Inquiry on Restorative Justice
 - (iv) Australian Royal Commission Research Report on Restorative Justice Responses to Child Sexual Abuse
- D. Restorative Inquiries
 - (i) Nova Scotia Home for Colored Children Restorative Inquiry
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- E. Centre for Effective Services Audit of Religious Orders Responses to Abuse Allegations
- F. Conclusions
 - (i) Conclusions on Restorative Justice Initiatives Operated by the Religious Orders
 - (ii) Conclusions on Role of Restorative Justice in a Future Inquiry

A. Introduction

1. Restorative Justice has gained significant currency in recent years as an alternative to the adversarial model of retributive justice that characterises the traditional justice system. In particular, the traditional justice system can be especially forbidding for survivors of sexual violence, including survivors of child sexual abuse.¹ In that context, consideration is increasingly being given to restorative justice as an alternative or a complement to the traditional justice system.
2. In recent years, a number of religious orders have responded to allegations of child sexual abuse by their members or in institutions that they ran with schemes providing for engagement between the survivor and the order. In light of this, the Terms of Reference of this Scoping Inquiry required that this Report:²

... outline findings of best practice that emerge from workstreams as relevant and appropriate to future practice in the area of child protection and potential restorative justice initiatives by religious orders.
3. Furthermore, the Scoping Inquiry was required to commission an expert report providing:³

A critical analysis and audit of the response of religious orders to historical sexual abuse allegations by way of Restorative Justice Schemes and other initiatives / supports, to include recommendations for appropriate standards for such responses.
4. The Scoping Inquiry commissioned the Centre for Effective Services ('CES') to undertake this analysis and audit,⁴ the central results of which are outlined in this chapter.⁵ In addition to outlining the findings of the commissioned expert report in relation to the ongoing restorative justice, this chapter discusses the role of restorative justice in the context of child sexual abuse more broadly, and what role it might play within a Government response to historical child sexual abuse in schools run by religious orders.

1 For a detailed study on the experience of survivors of sexual violence in the Irish criminal justice system, and the potential for restorative justice schemes to address its shortcomings, see Marie Keenan, *Sexual Trauma and Abuse: Restorative and Transformative Possibilities?* (UCD School of Applied Social Science, 2014). See also K. McGrath, 'An examination of the adversarial legal system and its implications for Irish Child Protection Services' M.Soc.Sc dissertation, University College Dublin; D. O'Shea and A. Bousfield, 'The voice of the child: children's experiences of criminal proceedings' (1999) 2(1) *Irish Journal of Social Work Research* 33; K. McGrath, 'Protecting Irish Children Better – The Case for an Inquisitorial Approach in Child Care Proceedings' (2005) 5(1) *Irish Judicial Studies Journal* 136.

2 Department of Education, *Terms of Reference for the Scoping Inquiry into Historical Child Sexual Abuse in Schools run by religious orders* (7 March 2023).

3 *ibid.*

4 Centre for Effective Services, *Research Report on Restorative Justice and Other Initiatives Implemented by Religious Orders in Response to Reports of Historical Sexual Abuse* (February 2024).

5 The full report is available at Appendix 5 to this report.

B. Background

5. As traditionally understood, restorative justice aims to provide a process through which the victim and the offender can engage, directly or indirectly, and participate together in responding to the harm caused. This is known as a ‘process conception’ of restorative justice. In addition, there is what is sometimes referred to as a ‘values conception’ of restorative justice, whereby the values that underpin the traditional process conception of restorative justice can be used in other processes.⁶ Such values include voluntariness, accountability, equity, respect, inclusion and a focus on repair and healing.
6. Restorative justice is utilised primarily as an adjunct to the traditional criminal process, and to seek restoration of the harm done to the individual victim, rather than the restoration of the public good that is the focus of the criminal process. In particular, the restorative process seeks to repair the damage done to human relationships by criminal acts, and offers the ‘reunion of the two individuals and of the individual with the community’.⁷

(i) Defining restorative justice

7. There is no single authoritative definition of restorative justice, and the term can have a flexible quality, finding itself adapted to use in a variety of different contexts. However, the available definitions all emphasise voluntary engagement between persons affected by a crime, particularly the offender and the victim, with a view to responding to the effects of the crime.
8. Restorative justice benefits from a statutory definition in Ireland, as provided for in s. 2(1) of the Criminal Justice (Victims of Crime) Act 2017, which defines a ‘restorative justice scheme’ as:

... any scheme administered for the time being under which, with the consent of each of them, a victim and an offender or alleged offender engage with each other to resolve, with the assistance of an impartial third party, matters arising from the offence or alleged offence.

6 Braithwaite, ‘Setting standards for restorative justice’ (2002) 42 *British Journal of Criminology*, 563–577.

7 Theo Gavrielides, ‘Clergy Child Sexual Abuse and the Restorative Justice Dialogue’ (2012) 55 *Journal of Church and State* 617.

9. The Council of Europe defines ‘restorative justice’ as:⁸

Restorative justice refers to any process which enables those harmed by crime, and those responsible for that harm, if they freely consent, to participate actively in the resolution of matters arising from the offence, through the help of a trained and impartial third party.

10. Similarly, the UN Basic Principles on the Use of Restorative Justice in Criminal Matters defines ‘restorative process’ as follows:⁹

“restorative process” means any process in which the victim and the offender, and, where appropriate, any other individuals or community members affected by a crime participate together actively in the resolution of matters arising from the crime, generally with the help of a facilitator. Restorative processes may include mediation, conciliation, conference and sentencing circles.

11. The aims of restorative justice are multiple, but broadly speaking the motivating concern is to give survivors agency and an active role in responding to the harm done to them. As the Centre for Effective Services outlined in its report to this Inquiry:¹⁰

The focus on the process of restorative justice is to enable those who have been directly or indirectly affected by the harm caused to participate actively in the response to the harm. As such, restorative justice is a collaborative process where communication between those impacted is fundamental to resolving the conflict and achieving a resolution. It also addresses the damage caused by the harm and then seeks to reach a point of reparation for the harmed person.

8 Council of Europe, Recommendation CM/Rec(2018)8 of the Committee of Ministers to member States concerning restorative justice in criminal matters (2018).

9 UN Basic Principles on the Use of Restorative Justice in Criminal Matters, ESC Res 2002/12, UN ESCOR, 37 th plen mtg, UN Doc E/Res/2002/12 (24 July 2002).

10 Centre for Effective Services, *Research Report on Restorative Justice and Other Initiatives Implemented by Religious Orders in Response to Reports of Historical Sexual Abuse* (February 2024), p. 7.

12. The CES report further outlined a number of core principles of restorative justice, including the process is a voluntary one, involving respectful dialogue and equal concern for the needs of those involved:¹¹

The core principles of restorative justice are positioned around enabling active participation in the resolution and addressing of any harm caused. The key principles include stakeholder participation, repairing harm, voluntarism, respectful dialogue, equal concern for the needs of those involved, procedural fairness, collective agreement, focus on reparation and reintegration, achieving mutual understanding, and avoiding domination. These principles aim to create a safe and respectful space for all participants, regardless of their background, and to empower individuals to make informed choices and find solutions that best meet their needs.

13. It has also been emphasised, particularly in the context of sexual violence, that accountability is key feature of restorative justice, and an offender must be genuinely willing to accept responsibility for the harm caused.¹²

C. Restorative justice and child sexual abuse

14. There is considerable debate as to the suitability of restorative justice processes as a response to child sexual abuse, and this debate is a sub-set of a broader debate as to the suitability of restorative justice in the context of sexual violence.¹³ As Annie Cossins writes:¹⁴

In assessing the appropriateness of restorative justice for child sexual assault cases, it is necessary to recognize that sexual assault is one of the 'hard cases' ..., because it is unclear whether it is possible to achieve the philosophical ideals of restoration when bringing together an offender and a victim in an informal meeting to deal with one person's exploitation of another.

11 *ibid*, p. 8.

12 Marie Keenan, *Sexual Trauma and Abuse: Restorative and Transformative Possibilities?* (UCD School of Applied Social Science, 2014), p. 162 – 163.

13 See generally Zinsstag and Keenan, *Restorative Responses to Sexual Violence: Legal, Social and Therapeutic Dimensions* (Routledge, 2017); Marie Keenan, *Sexual Trauma and Abuse: Restorative and Transformative Possibilities?* (UCD School of Applied Social Science, 2014).

14 Annie Cossins, 'Restorative justice and Child Sex Offences: The Theory and Practice' (2008) 48 *British Journal of Criminology* 359, 360.

(i) Concerns in relation to use of restorative justice in context of child sexual abuse

15. There are a number of concerns in relation to the use of restorative justice in the context of sexual violence, and in the case of child sexual abuse in particular. One concern is that a restorative response may act to minimise what is extremely serious criminal offending, and may reduce the deterrent effect of criminal sanctions for such offending.¹⁵ Similarly, the concern has been expressed that a restorative justice process places an implicit expectation on the survivor to empathise with the person who has harmed them,¹⁶ which may be particularly inappropriate in the context of child sexual abuse. In particular, it has been argued that the implicit emphasis on forgiveness as an important factor in effective restorative justice schemes is problematic in the case of child sexual abuse.¹⁷ A further central concern is that the power relationship between the victim and offender makes it very difficult for a successful restorative process to take place.¹⁸ Significantly, there is an overarching concern that the process risks retraumatising survivors.¹⁹ It has also been observed that there may be particular obstacles to the use of restorative justice in the context of clerical child sexual abuse, including the potential for legal concerns on the part of diocesan and religious order bodies.²⁰

15 Cossins summarises this concern as follows: There is also a tendency towards constructions of offenders 'which fail to acknowledge men's complex motives, men's intentionality or their tactics of minimisation and blame' (Lewis et al. 2001: 119). For example, McAlinden (2005: 384) considers that if sex offenders know that restorative justice offers a way of avoiding a custodial sentence, 'then more ... may be willing to come out in the open, admit to their crimes and seek treatment'. This view that offenders might want to be 'rescued' from their criminal activities does not accord with the literature on sex offender motivations or behaviours (Salter 1995; 2003; Cossins 2000). (Annie Cossins, 'Restorative justice and Child Sex Offences: The Theory and Practice' (2008) 48 *British Journal of Criminology* 359, 362).

16 Annalise Acorn, *Compulsory Compassion: A Critique of Restorative Justice* (University of British Columbia Press, 2004), cited in Daly and Stubbs, 'Feminist engagement with restorative justice' (2006) Vol. 10(1) *Theoretical Criminology* 9-28.

17 Natalie Hadar and Tali Gal, 'Survivors' Paths Toward Forgiveness in Restorative Justice Following Sexual Violence.' (2023) 50 *Criminal Justice & Behavior* 911. It should be noted that other scholars refute the suggestion that forgiveness is a prerequisite of a restorative justice process, see e.g. John Braithwaite, 'Setting standards for restorative justice' (2002) 42 *British Journal of Criminology*, 563–577, 570 where he says it is 'cruel and wrong' to expect forgiveness; Hadeel Al Alosi, 'Righting Unrightable Wrongs: Exploring the Potential of Restorative Justice in Dealing with Historical Institutional Child Sexual Abuse' (2021) 40(1) *University of Tasmania Law Review* 1, 19.

18 Hadeel Al Alosi, 'Righting Unrightable Wrongs: Exploring the Potential of Restorative Justice in Dealing with Historical Institutional Child Sexual Abuse' (2021) 40(1) *University of Tasmania Law Review* 1, 26.

19 *ibid.*

20 Douglas E. Noll & Linda Harvey, 'Restorative Mediation: The Application of Restorative Justice Practice and Philosophy to Clergy Sexual Abuse Cases' (2008) 17 *Journal of Child Sexual Abuse* 377, 394.

(ii) Benefits of restorative justice in relation to child sexual abuse

16. On the other hand, a number of scholars have sought to emphasise that restorative justice can have important benefits in responding to crimes of sexual violence, including child sexual abuse, notwithstanding these concerns. It is argued that the sense of agency offered by restorative justice can be particularly beneficial for survivors of child sexual abuse, given the abuse of power inherent in such abuse:²¹

Giving victims a voice and an active role in the justice process helps to challenge the abuse of power which lies at the heart of abusive relationships. Affording a wider range of victims of institutional child abuse the opportunity to 'tell their story', has important cathartic benefits and is perhaps the single most important value of a victim-focused public inquiry process that aims to incorporate a restorative response to such offences.

17. The benefits of restorative justice in the context of sexual violence are often illustrated by contrast to the traditional criminal process.²² In particular, it is argued that restorative justice allows for the victim's voice and story to be central to the process, and for their account of what happened to them to be validated,²³ which is in contrast to the marginalisation of the victim in the criminal process.²⁴ In the context of criminal prosecutions for sexual violence, survivors can report feeling as though they are on trial as much as the accused, and that the process marginalises and revictimizes them.²⁵ By contrast, a restorative justice process centres the survivor and gives them greater ownership over the process. Restorative justice in this context requires genuine remorse and a meaningful apology.²⁶

21 McAlinden, A-M., & Naylor, B, 'Reframing Public Inquiries as 'Procedural Justice' for Victims of Institutional Child Abuse- Towards a Hybrid Model of Justice' (2016) 38(3) *Sydney Law Review*, 277, 284.

22 See e.g. Courtney Julia Burns and Laura Sinko, 'Restorative Justice for Survivors of Sexual Violence Experienced in Adulthood: A Scoping Review' (2023) 24 *Trauma, Violence, & Abuse* 340.

23 Kathleen Daly, 'Restorative justice and sexual assault: an archival study of court and conference cases' (2006) 46(2) *British Journal of Criminology* 434-56.

24 See Shane Kilcommins, Susan Leahy, Kathleen Moore-Walsh & Eimear Spain, *The Victim in the Irish Criminal Process* (Manchester University Press, 2018).

25 Raitt describes the experience of a complainant of sexual assault in a criminal trial thus: The features of the adversarial process that complainants experience as especially problematic include their lack of 'standing', the emphasis on orality, the rejection of narrative testimony, the focus on cross-examination as the apex of 'truth-seeking', the sense of detachment from the prosecutor and the non-interventionist role of the judge ... Complainants describe the marginalization they experience – they are bit players in the drama of the trial while their private life and trauma are on public display. (F. Raitt, 'Independent Legal Representation for Complainants in Rape Trials' in C. McGlynn and V.E. Munro (eds), *Rethinking Rape Law: International and Comparative Perspectives* (London: Routledge, 2010), pp.267-268, cited in Amy Walsh, 'Reform of Victim Testimony in Sexual Offence Trials' (2022) 32(1) *Irish Criminal Law Journal* 74).

See also Courtney Julia Burns and Laura Sinko, 'Restorative Justice for Survivors of Sexual Violence Experienced in Adulthood: A Scoping Review' (2023) 24 *Trauma, Violence, & Abuse* 340.

(iii) Views of survivors on suitability of restorative justice in responding to child sexual abuse

18. It should be noted that there is some academic research to the effect that some survivors of child sexual abuse may be sceptical of restorative justice processes as a response to the harm caused to them. In a 2006 study of survivors of child sexual abuse in New Zealand, survivors reported significant reluctance to engage in restorative justice processes:²⁷

Participating survivors, particularly those who had not reported to the police, were reluctant to endorse restorative justice as a paradigm within which they could pursue justice.

19. In that study, survivors gave a number of reasons why they considered restorative justice inappropriate, often related to the power dynamics of their interactions with the offender:²⁸

As survivors talked about their reluctance to engage with restorative justice, issues related to power permeated their discussion. Rosalind said that abuse 'is a control thing, he has the power, he has to be number one'. She believed her father would act the same in a restorative justice conference. Sarah said that as she thought about any confrontation with her father, she could feel herself reverting to 'a child without voice or power'.

20. Survivors were also sceptical of the contention that restorative justice was a more victim-centred approach:²⁹

Participating survivors found it difficult to believe that restorative justice was victim centred. Belinda said, 'the offender can control the process by refusing to participate in restorative justice'. Many commented that restorative justice was merely replicating what they perceived as the offender centred model of the traditional criminal justice system.

26 One lawyer representing survivors of child sexual abuse has said of the role of apologies in this context: 'Apologies don't count from the pulpit. They don't count from a spokesperson. They don't count from a press release. They only count in person. I learned that in first grade ...' (Stephen Rubino, quoted in J.L. Herman, *Truth and Repair – How Trauma Survivors Envision Justice* (London: Basic Books, 2023))

See further Anne-Marie McAlinden, *Apologies and Institutional Child Abuse* (ESRI: Apologies, Abuse and Dealing with the Past Project, 2018) for discussion of the necessary elements of apologies in this context.

27 Shirley Julich, 'Views of Justice among Survivors of Historical Child Sexual Abuse: Implications for Restorative Justice in New Zealand' (2006) 10 *Theoretical Criminology* 125, 133.

28 *ibid*, 134.

29 *ibid*.

21. Similarly, a study of the justice needs of 22 victims of sexual violence, of whom 11 had been victims of child sexual abuse, found that justice, from their perspective, was neither restorative nor retributive in the conventional sense:³⁰

Justice, from the perspective of these informants, was neither restorative nor retributive in the conventional sense. Their vision of justice combined retributive and restorative elements in the service of healing a damaged relationship, not between the victim and the offender but between the victim and his or her community. The retributive element of the survivors' vision was most apparent in their virtually unanimous wish to see the offenders exposed and disgraced. Their aims, however, were not primarily punitive. The main purpose of exposure was not to get even by inflicting pain. Rather, they sought vindication from the community as a rebuke to the offenders' display of contempt for their rights and dignity.

22. McAlinden and Naylor state that survivors of child sexual abuse have a relatively diverse range of justice needs, which may require a range of justice responses:³¹

Victims of such crimes seek, among other things, full disclosure; face-to-face encounters with church authorities to hear them take responsibility for wrongdoing; offender remorse and accountability; offender appreciation of the impact of the abuse on their lives; victim empowerment and a role in the justice process; rebalancing of power; an independent investigation of the facts; validation of their suffering, and support by the State and the Church; and stopping the abuse by the individual and by the institution for current and future victims. Given the diversity in what victims want in terms of justice, there is arguably a need for greater flexibility within justice responses.

23. Notwithstanding the reluctance expressed by some survivors, more recent research has suggested that restorative justice can in particular circumstances have a role to play in responding to child sexual abuse. A recent study conducted by Marie Keenan and Olive Lyons suggests that there may be a useful role for restorative justice in addressing non-recent child sexual abuse.³² In a study based on 29 survivors of non-recent child sexual abuse, the authors conclude that, while criminal justice processes can meet some of the justice needs of survivors, there are other justice needs of survivors that can be better achieved by restorative justice processes and/or values.

30 Judith Lewis Herman, 'Justice from the Victim's Perspective' (2005) 11(5) *Violence Against Women* 571, 597.

31 McAlinden, A-M., & Naylor, B, 'Reframing Public Inquiries as 'Procedural Justice' for Victims of Institutional Child Abuse- Towards a Hybrid Model of Justice' (2016) 38(3) *Sydney Law Review*, 277, 284.

32 Marie Keenan and Olive M. Lyons, 'Adult disclosure of non-recent child sexual abuse: is there a role for restorative justice?' (2023) Vol. 1(3) *European Social Work Research* 295.

24. They therefore conclude that restorative justice responses should be available, where both the offender and the survivor are willing to participate, and where facilitated by suitably trained professionals:³³

While there is almost no argument for denying victims of sexual crime an opportunity for restorative justice post-conviction, if they desire it and the offender is willing, offering restorative justice at other points in the criminal process are more contested, mainly by a lack of understanding of what restorative justice has to offer survivors of sexual abuse or for fear that they would be revictimised by the power imbalance. However, these concerns are addressed by the practice of restorative justice with adequately trained facilitators (see Keenan and Zinsstag, 2022). There is no reason why restorative justice could not be initiated for victims who do not wish to be involved in protracted court proceedings but require a justice response.

(a) Views of survivors who engaged with this Inquiry on Restorative Justice

25. A small number of survivors who engaged with this Inquiry expressed support for restorative justice as a future intervention.³⁴ A number of participants had direct experience of restorative justice, and for some it was reported it as a positive experience.³⁵ Those who spoke positively of their experience emphasised the agency the process gave them, and the sense of being heard:³⁶

The participant would like to see engagement in more restorative justice for victims. His experience is that in telling his story: 'I got my power back'.
(Participant)

'Sitting with the perpetrators' representatives and acknowledging the failures of the perpetrator and providing a personal apology has been helpful. [But] all of us need further therapeutic counselling.' (Participant)

33 *ibid*, 307.

34 See Chapter 7 of this Report.

35 *ibid*.

36 *ibid*.

26. Another survivor spoke of their desire to engage in restorative mediation with their abuser, but were unable to do so due to the alleged abuser refusing to engage:³⁷

The participant reported a strong desire for mediation or restorative justice processes. He explained that real healing could happen in restorative conversations with the parties involved, where they would acknowledge their responsibility for the abuse that took place. The participant noted that he would like mediation both with the abuser and with the institutions. He explained that he sought mediation or a restorative meeting with the abuser throughout the legal process, but that the abuser refused to engage in a meeting of this sort. The participant expressed his disappointment, as this would have had a greater impact on him in seeking justice. (Participant)

27. For those with a negative experience of restorative justice processes they had engaged with in the past, some reported that this was due to the impression that the process lacked real care or concern from the religious orders.³⁸

28. A number of those who had not engaged in restorative justice processes in the past stated that restorative justice was unappealing to them, with some expressing a moral repugnance to engaging with the orders in this way:³⁹

The participant believes that the option of restorative justice would be a waste of time for him. He does not wish to have anything to do with the [order] no meetings, apologies or other processes dealing directly with them would be helpful to him as a survivor. (Participant)

The participant is not in favour of restorative justice: *'That's all rubbish. It'd be like sitting down with Putin.'* (Participant)

(iv) Australian Royal Commission Research Report on Restorative Justice Responses to Child Sexual Abuse

29. In the course of its work, the Australian Royal Commission into Institutional Responses to Child Sexual Abuse commissioned an expert report on the role of restorative justice in responding to institutional child sexual abuse. This report found 'no examples of programs attached to criminal justice systems, domestically or internationally that have reported using restorative justice to address institutional child sexual abuse.'⁴⁰

37 See Chapter 7 of this Report.

38 *ibid.*

39 *ibid.*

40 Jane Bolitho and Karen Freeman, *Report for the Royal Commission into Institutional Responses to Child Sexual Abuse: The Use and Effectiveness of Restorative Justice in Criminal Justice Systems Following Child Sexual Abuse or Comparable Harms* (March 2016), p. 31.

30. However, the report nonetheless undertook an extremely thorough review of the available literature in respect of the restorative justice responses to child sexual abuse more broadly. The study identified that, while restorative justice can play a beneficial role in the context of child sexual abuse, there are a number of essential pre-conditions to the success of such a programme, including the involvement of trained specialist facilitators, the screening of suitable participants, and the availability of specialist sex offender treatment:⁴¹

This review finds that, though a range of beneficial outcomes was reported, they were consistently seen to be contingent on particular conditions. That is, for the practices that reported positive impacts, the research authors identified some notable features that made these outcomes possible. There were seven studies (all concerning programs that had completed sexual abuse cases) that explicitly linked program outcomes to conditions for success.

31. The report found that the availability of specialist facilitators experienced in dealing with sexual abuse was ‘the most distinctive feature’ of successful programmes in this area:⁴²

The most distinctive feature of the well-established and evaluated practices identified in the research is a specialised approach to working with crimes that have complex power dynamics. Facilitators are both more experienced and knowledgeable than standard restorative justice facilitators and are specifically aware of the complex dynamics of sexual abuse.

32. The report also found that screening out non-suitable participants (both survivors and offenders) was crucial to the success of restorative justice initiatives in this area. In particular, it noted that it is to be expected that a majority of potential participants will be screened out due to unsuitability:⁴³

Program staff members must also have an integral role in assessing suitable participants. The screening phase of restorative programs was identified as a condition for success. Indeed, the majority of potential participants are screened out of participation (whether through lack of interest or suitability). In regard to the Community Justice Initiatives Association VOMP model practised in Canada, Roberts (1995) reported that 65 per cent of cases were screened out. ... Making good decisions about who is suitable for participation may be a crucial component of ensuring safety for participants, and this is tantamount [sic] to success.

41 Ibid, p. 43

42 Ibid, p. 44.

43 Ibid.

33. The report also noted that the availability of specialist sex offender treatment programmes as central to the success of such programmes:⁴⁴

The final common condition for success authors identified was the completion of specialist sex offender treatment programs. In all of the specialised and many of the most well-established programs, sex offender treatment is completed either as a precursor to participation in restorative justice (to meet eligibility requirements) or as part of the restorative approach.

34. Finally, the authors noted that it was a given that participation in such processes must be voluntary:⁴⁵

One notable feature that authors did not explicitly identify, perhaps because it is taken for granted in restorative approaches, is voluntary participation. The only program identified that has mandatory participation (for offenders) is Circles of Peace in the US, where the program is the core 'sentence' for offenders. Perhaps related, this program reported a high attrition rate for offenders with only 51 per cent completing the 'treatment' plan.

35. The Australian Royal Commission ultimately decided against recommending that restorative justice form part of the criminal justice response to institutional child sexual abuse, on the basis of some of the concerns in relation to its use outlined in this chapter.⁴⁶ The Royal Commission stated that:⁴⁷

... based on current evidence, we are not satisfied that formal restorative justice approaches should be included as part of the criminal justice response to institutional child sexual abuse, at least in relation to adult offenders. It appears that restorative justice may not be available for or of assistance to many survivors of institutional child sexual abuse, including:

- because of the power dynamics and seriousness of institutional child sexual abuse offending, restorative justice approaches may only be suitable in a small number of these cases
- many survivors do not wish to seek a restorative justice outcome with the perpetrator of the abuse
- given the frequent delay before reporting, many offenders will be unavailable or unwilling to participate in restorative justice approaches.

44 Ibid, p. 44-45.

45 Jane Bolitho and Karen Freeman, *Report for the Royal Commission into Institutional Responses to Child Sexual Abuse: The Use and Effectiveness of Restorative Justice in Criminal Justice Systems Following Child Sexual Abuse or Comparable Harms* (March 2016), p. 45.

46 For criticism of the Royal Commission's decision in this regard see Hadeel Al Alosi, 'Righting Unrightable Wrongs: Exploring the Potential of Restorative Justice in Dealing with Historical Institutional Child Sexual Abuse' (2021) 40(1) *University of Tasmania Law Review* 1

47 Royal Commission into Institutional Responses to Child Sexual Abuse, *Criminal Justice Report: Executive Summary and Part I – II* (August 2017) p. 13.

D. Restorative Inquiries

36. In recent years, there have been a small number of examples of inquiries established to respond to allegations of child sexual abuse that have sought to incorporate a restorative justice process in one form or another. This section sets out the salient features of two such inquiries, the Nova Scotia Home for Colored Children Restorative Inquiry and the St. Joseph's Orphanage Restorative Inquiry, Vermont, USA.⁴⁸

(i) Nova Scotia Home for Colored Children Restorative Inquiry

37. The Nova Scotia Home for Colored Children Restorative Inquiry was established by the Nova Scotian Government in response to allegations of abuse and neglect at the Nova Scotia Home for Colored Children (NSHCC) in Halifax, Nova Scotia. The Inquiry was established following a public apology from the Government of Nova Scotia, and was focussed on understanding the experience of former residents of the Home, rather than on the apportioning of blame. The CES report outlined the aims and process of the Inquiry thus:⁴⁹

The inquiry process was not focused on apportioning blame in the sense of a retributive process, but as a journey of healing and learning where facts were established, and lessons taken from them. Therefore, the former residents had a key part in designing and deciding the approach that all aspects of the inquiry would take. A design team was established that comprised a broad range of stakeholders, and an acknowledged expert in the field of restorative justice was appointed to guide and facilitate the design process ... The design process lasted ten months and focused not only on the inquiry process and structure but also on trust, relationship building, honesty and openness. Following the design phase, the team produced a mandate and Terms of Reference for the Inquiry that detailed the scope and focus of the inquiry.

48 Greater detail of the operation of these inquiries can be found in the Centre for Effective Services Report, at chapter 3.

49 Centre for Effective Services, *Research Report on Restorative Justice and Other Initiatives Implemented by Religious Orders in Response to Reports of Historical Sexual Abuse* (February 2024), p. 27.

38. The process of the Nova Scotia Inquiry appears to have centred engagement between the survivors themselves, and allowing them to reflect together on their experience in the Home. It does not appear that any conferences between victims and principal offenders took place, and while it appears that some conferences between former residents and former members of the Board of the Home took place, this does not appear to have been the central focus of the Inquiry's work.⁵⁰ Rather, it appears to have adopted a process that was focussed on centring the experience of the victims and seeking to understand the context in which abuse took place, and to document the suffering within that institution, rather than to examine the culpability of individual persons, or indeed the culpability of a system or institution. This approach may have been influenced by the fact that the Inquiry took place after the resolution of a lengthy class-action lawsuit that secured considerable financial restitution for the Home's survivors.⁵¹

(ii) St. Joseph's Orphanage Restorative Inquiry (SJORI)

39. The St. Joseph's Orphanage Restorative Inquiry (SJORI) was launched in 2019 to examine allegations of abuse against Catholic clergy connected to the Orphanage.

40. Located in Burlington, Vermont, St. Joseph's Orphanage operated between 1884 and 1974. In September 2018 a task force was convened in light of allegations of abuse. As part of its work, the task force established a Restorative Inquiry. The goal of the Inquiry is 'to facilitate opportunities for accountability and healing through a restorative process'. As part of the restorative aspect of the task force, the Restorative Inquiry team worked with a core group of former Orphanage residents, formally recognised as Voices of St. Joseph's Orphanage (VSJO).

41. The Inquiry engaged in survivor outreach and held regular meetings in which survivors could share their experiences from the Orphanage. The Inquiry used a Circle process as their primary restorative structure for their internal group meetings; and 'listening sessions' with external stakeholders to the Inquiry process.

50 The report of the Inquiry outlines at p. 58 the various types of conferences and 'circles' that were convened in the course of its relationship building process. This included (a) former resident sharing circles (in which former residents gathered), (b) community engagement sessions (which contained broader representation from the African Nova Scotian community), (c) Government engagement sessions (in which information sessions about the work of the restorative inquiry were held with various government departments and (d) Partner circles (which included circles with individual Government departments; police agencies; former Board members from the Home, the AUBA; and members of the African Nova Scotian community closely connected to the Home). NSHCC Restorative Inquiry, *Journey to Light: A Different Way Forward, Final Report of the Restorative Inquiry – Nova Scotia Home for Colored Children* (2019), p. 58.

51 This is referred to in the discussion of the Nova Scotia Inquiry in the report of the later St Joseph's Orphanage Inquiry in Vermont, discussed below. St Joseph's Orphanage Inquiry, *Final Report* (December 2023) p. 18.

42. However, significantly, there was ultimately a complete refusal on the part of the Catholic Diocese of Burlington and the relevant Catholic charities to engage with the Inquiry. Whilst this was initially on the basis that the Task Force was investigating the Orphanage, and the Diocese was anxious not to prejudice an ongoing criminal investigation, when this investigation concluded, the Diocese again refused to participate. The Final Report outlined the effect of this on the Inquiry and the survivors:

The Burlington Catholic Diocese and Vermont Catholic Charities refusal to engage in the Restorative Inquiry was a source of great disappointment to project organizers and participants alike. From the outset, project organizers had designed the Inquiry around the eventual facilitation of restorative dialogues between Diocese and Catholic Charities' representatives and Inquiry participants. Participants also identified several individual and group goals which could only be provided by the Catholic Institutions. The leadership of these religious organizations, however, rejected this opportunity for understanding, repair, and healing.

...

Although 'voluntary participation' is a core principle of restorative justice, Inquiry organizers view the Catholic Institution's intentional isolation from the process as both a missed opportunity and a damaging decision ...

Unfortunately, Vermont Catholic Charities and the Burlington Diocese refused to even engage in exploratory dialogue, including opportunities to surface their concerns and needs, which limited any potential for process learning and growth.

43. The Final Report also noted that the failure to secure any financial redress was a source of significant disappointment to survivors. One success of the Inquiry was a successful lobbying of the Vermont legislature to amend the statute of limitations.
44. Thus, while the Vermont Inquiry appears to have modelled restorative values in centring the experiences of survivors in the process, the Inquiry ultimately did not involve direct engagement with the relevant religious stakeholders, in circumstances where they simply refused to engage. This illustrates the extent to which restorative justice processes are predicated on the voluntary participation of all parties, and an acceptance on the part of the harmer of responsibility and accountability.

E. CES Audit of Religious Orders Responses to Abuse Allegations

45. The CES conducted a survey of schemes and processes operated by ten different religious orders operating in Ireland, namely:⁵²
- Capuchins;
 - Carmelite Fathers;
 - Dominicans;
 - Franciscan Friars;
 - Jesuits;
 - Marist Fathers (Society of Mary);
 - Missionaries of the Sacred Heart;
 - Presentation Brothers;
 - Salesians of Don Bosco;
 - Spiritans.
46. The Scoping Inquiry is grateful to the above orders for the assistance they provided to the Inquiry in engaging with CES.⁵³
47. The survey found that all ten orders operated some form of direct engagement with survivors, primarily by way of face-to-face meetings with survivors. CES note that, overall, these engagements were described as survivor centred and focused on the promotion of survivor healing and reparation.⁵⁴ While noting a significant degree of commonality in approaches among the orders, including all having a stated aim of providing a means of reconciliation that was survivor-centred, CES observed that there was a divergence of approach among some orders, in that some conducted their engagement through a facilitator, while others directly engaged with survivors in a ‘pastoral’ approach.⁵⁵

52 Centre for Effective Services, *Research Report on Restorative Justice and Other Initiatives Implemented by Religious Orders in Response to Reports of Historical Sexual Abuse* (February 2024), p. 40.

53 It should be noted that this process did not involve engagement with survivors as to their experience engaging with these orders, and simply reflects the orders’ accounts of how these initiatives operate.

54 *ibid*, p. 41.

55 *ibid*.

Each religious order detailed some form of direct engagement with survivors. The main method of engaging survivors took the form of a face-to face meeting. Overall, these engagements were described as survivor centred and focused on the promotion of survivor healing and reparation. Two approaches were identified: some religious orders followed a highly structured mediation process facilitated by an independent facilitator. Other orders held a pastoral meeting with survivors, in which the safeguarding officer from the order is tasked with the oversight of running of the meeting. Importantly, both approaches have similar outcomes and goals although the mechanism through which these are achieved differs.

48. The pastoral approach is outlined in some detail by CES as involving a meeting between the order and the survivor, with the order's safeguarding officer having significant responsibility for the administration of the process, including in the meeting itself.⁵⁶

The pastoral meeting process is initiated when the survivor contacts the safeguarding officer ... An invitation to meet is generally offered in response to this initial contact. Preparatory meetings are held between the safeguarding officer and the survivor to explore the needs and wants of the survivor ... The pastoral meeting occurs in an agreed location. The survivors can bring a support person if they wish. In pastoral meetings, the religious orders' safeguarding officers, who are professional safeguarding practitioners and not necessarily members of the congregation, play a larger role compared to the facilitated mediation, where there is an external facilitator. Their role, as described in the interviews, is to believe and support the survivor throughout the process. They are also tasked with facilitating the meeting ... The Provincial takes accountability on behalf of the order and demonstrates a willingness to accept responsibility for past abuses. It is standard that the Provincial offers an apology to promote healing. Further to this the survivor may have questions they want answered to which the Provincial responds.

56 Centre for Effective Services, *Research Report on Restorative Justice and Other Initiatives Implemented by Religious Orders in Response to Reports of Historical Sexual Abuse* (February 2024), pp. 44-45.

49. By contrast, the facilitated approach involves an external facilitator conducting the meeting. The CES report outlines, as an example, the facilitated approach operated by the Spiritans in some detail:⁵⁷

The facilitated process is structured ... Time is allowed throughout for the survivor to open up and share their story at a rate and level of detail comfortable for them. The survivors are empowered to share their story verbally, or they may have notes, or a written piece prepared. Breaks may be taken if the process becomes upsetting for the survivor.

Having shared their story, the facilitator then asks the Provincial to respond. The Provincial is accompanied by the order's safeguarding officer to the meeting ... Oftentimes, the survivor may ask questions of the Provincial and, the interviewees report that this constitutes an important aspect of healing to many survivors. For instance, the survivor may want to know details surrounding the widespread extent of the abuse or details of institutional facilitation of the abuse. The Provincial's main role is to be accountable for the actions of the harmer within the religious order. In this context, honest, open communication and transparency are foundational to healing and repairing the harm.

50. The CES goes on to state its view that the facilitated approach is to be preferred as more closely mapping onto traditional and best practices models of restorative justice processes:⁵⁸

Two primary engagement strategies are identified: facilitated mediations and pastoral meetings. Facilitated mediations involve external facilitators and emphasise respect, transparency, and empowerment; while pastoral meetings, led by the orders themselves, offer a compassionate space for survivors. Both methods aim to promote healing and reparation. In examining these approaches, the chapter highlights their effectiveness in building trust and validating survivors' experiences. However, despite the good intention of the pastoral approach it could not be considered restorative or a wholly neutral approach to restoration for the reasons outlined in previous Chapters of this report.

57 *ibid*, p. 43.

58 Centre for Effective Services, *Research Report on Restorative Justice and Other Initiatives Implemented by Religious Orders in Response to Reports of Historical Sexual Abuse* (February 2024), p. 48.

51. The Report states that all of the orders surveyed have a survivor centred approach, but that there remain areas for improvement. These include, among others:⁵⁹

- Compensation

The report notes that the compensation of survivors was a challenge for orders, some of whom stated they did not have the financial resources to meet these expectations, and indicates that a model for compensation of survivors should be developed.

- Preparedness

The report notes that the capacity of one order to engage with survivors came under pressure following a surge in engagement.

- Understanding survivors' perspective

The report notes that the order may sometimes view an engagement as having been positive, but later learn that the survivor did not share that perspective. It states that the survivor's experience is most important in the process.

- Collective responsibility where an alleged abuser is deceased

The report notes that difficulties can be encountered when the alleged abuser is dead. The report suggests that in such cases the Provincial should stand in to represent the order as a whole.

52. The CES report indicates that there is a commitment among the orders interviewed to reflect on their processes and to address the issues identified:⁶⁰

All the religious orders interviewed have engaged in reflecting on their approach to survivors, which has led to an acknowledgement that there are areas for improvement and development. This transparency reflects a commitment to address these issues.

59 *ibid*, pp. 50 – 52.

60 Centre for Effective Services, *Research Report on Restorative Justice and Other Initiatives Implemented by Religious Orders in Response to Reports of Historical Sexual Abuse* (February 2024), p. 49.

F. Conclusions

(i) Conclusions on restorative justice initiatives operated by the religious orders

53. The CES report found that while all ten orders surveyed operated a process that was survivor centred, there was a divergence of approach amongst them, with some using a 'facilitated approach' and other using a 'pastoral approach'. The report concluded that the facilitated approach is to be preferred as more closely mapping onto traditional and best practice models of restorative justice processes.
54. By way of response to this conclusion, one religious order that operates a 'pastoral' approach fairly noted that this is, in their experience, an approach sought by survivors themselves, and that they have specialist lay staff trained to facilitate their processes in relation to survivors and that these staff are sufficiently independent to carry out this purpose. It thus appears that while a facilitated approach is in line with international best practice in restorative justice, a pastoral approach may nonetheless be appropriate in particular cases.
55. In addition, the independent report outlined areas for improvement in restorative justice initiatives run by the religious orders as including: compensation; preparedness; understanding survivor's perspectives; and collective responsibility (where an alleged abuser is deceased).

(ii) Conclusions on role of restorative justice in a future inquiry

56. As outlined at the outset of this chapter, it must be acknowledged that child sexual abuse is a 'hard case' for the use of restorative justice.⁶¹ Further, notwithstanding the significant amount of academic scholarship canvassed in this chapter, it remains the case that there is an insufficient amount of research and data on the use of restorative justice in the context of institutional child sexual abuse.⁶²

61 See Annie Cossins, 'Restorative justice and Child Sex Offences: The Theory and Practice' (2008) 48 *British Journal of Criminology* 359, 360.

62 Hadeel Al Alosi notes that 'there is limited research on the applicability of restorative justice in historical institutional child sexual abuse cases' in 'Righting Unrightable Wrongs: Exploring the Potential of Restorative Justice in Dealing with Historical Institutional Child Sexual Abuse' (2021) 40(1) *University of Tasmania Law Review* 1, 3. Similarly, Gleeson and Zanghellini observe that 'Restorative justice in the context of historical, institutional child sexual abuse is particularly under-studied.' K. Gleeson and A. Zanghellini, 'Graceful remedies: understanding grace in the Catholic Church's treatment of clerical child sexual abuse' (2015) 41(2) *Australian Feminist Law Journal* 219.

57. However, notwithstanding the concerns in relation to its use, it appears on the basis of the current research that restorative justice may be effective as a response in the context of child sexual abuse in some particular cases, provided that it is administered by specialist, trained facilitators and subject to a number of particular safeguards. In particular, it is an essential pre-condition for the use of a restorative justice process that the offender, or their representative organisation,⁶³ be prepared to voluntarily accept responsibility for the harm caused and to validate the survivor's experience. Further, it must be a response that the individual survivor is willing to engage in. This reflects the fact that voluntariness is an essential principle of restorative justice. The experience of the St Joseph's Orphanage Inquiry in Vermont, USA illustrates the difficulties that can be encountered where an inquiry is framed as a purely restorative response, but ultimately receives no engagement from the institutions alleged to be responsible for the harm caused.
58. The design of the process itself is also essential to a successful restorative process in the context of child sexual abuse. As the Australian Royal Commission's report makes clear, there are several essential features to a successful restorative process in child sexual abuse, including the availability of trained facilitators, rigorous screening of suitable cases, and the availability of specialist sex offender treatment either as a precursor to the process, or as a part of the restorative process.⁶⁴ In its report to the Scoping Inquiry, the Centre for Effective Services also recommended that a detailed feasibility study would need to be conducted to assess the practicality of a publicly co-ordinated restorative justice process, including by reference to available resources and expertise, and following on from engagement with survivors:⁶⁵

63 The Australian Royal Commission's research report noted that survivors are just as likely to be interested in a restorative conference with institutional representatives as with the principal offender: Research on what victims want from justice (Herman 2005), specifically in the aftermath of institutional child sexual abuse (van Wormer & Berns 2004, Gavrielides 2013 and Gavrielides & Coker 2005), suggest that victim-survivors are just as likely to be interested in having a restorative conference with non-criminally liable parties such as institutional representatives. Particularly where a church has been involved and a victim-survivor has had their faith challenged, the potential of restorative justice is in the capacity to create a safe space for these conversations, rather than the meting out of formal justice for child sexual abuse, which is a serious, indictable offence. Jane Bolitho and Karen Freeman, *Report for the Royal Commission into Institutional Responses to Child Sexual Abuse: The Use and Effectiveness of Restorative Justice in Criminal Justice Systems Following Child Sexual Abuse or Comparable Harms* (March 2016), p. 61.

64 Jane Bolitho and Karen Freeman, *Report for the Royal Commission into Institutional Responses to Child Sexual Abuse: The Use and Effectiveness of Restorative Justice in Criminal Justice Systems Following Child Sexual Abuse or Comparable Harms* (March 2016), pp. 43, 44.

65 Centre for Effective Services, *Research Report on Restorative Justice and Other Initiatives Implemented by Religious Orders in Response to Reports of Historical Sexual Abuse* (February 2024), p. 40.

Given the complex and sensitive nature of the issue, a feasibility study would allow for a comprehensive assessment of the practicality, viability, and potential impact of different approaches, ensuring that resources are allocated effectively, and interventions are tailored to the specific needs of survivors and the community. Engaging with survivors would be paramount in this process and their insights, experiences, and perspectives would be instrumental in shaping the approach and ensuring that it is survivor-centered and trauma-informed.

59. The Scoping Inquiry agrees that a further feasibility study would be required before a Government sponsored and coordinated restorative justice scheme for child sexual abuse could be recommended, in light of the concerns outlined and the need for various resources to be in place.
60. However, that does not mean that restorative values and principles should not inform the response to historical child sexual abuse in schools run by religious orders. In particular, the emphasis on centring the survivors and giving them agency in the process is an important lesson of restorative justice schemes. It is also important that a response give a non-adversarial space for survivors to share their stories and to create a master-narrative of the suffering endured.
61. This might be achieved by way of a process by which survivors could give accounts of their experience on the understanding that these accounts would be anonymised, and not used to reach findings in respect of particular individuals or institutions, but used to inform the broader narrative of historical child sexual abuse in schools run by religious orders. Similarly, consideration should be given to regular engagement with survivors throughout the lifetime of a future inquiry in order to provide a voice for survivors within the process of the inquiry.

Chapter 22:

Practical Issues to Consider

- A. Introduction
- B. Avoiding Interference with Garda Investigations
 - (i) Inquiries Sitting in Public
 - (ii) Inquiries Sitting in Private
- C. The Use of Non-Disclosure Agreements
- D. Interaction with other Redress Schemes
- E. Costs and Timeframe of Proposed Responses
 - (i) The Costs and Timescale of Inquiries
 - (ii) The Costs of Redress Schemes

A. Introduction

1. This chapter summarises some of the practical issues that a future inquiry may face. Each of the following issues are considered in turn:
 - (i) The need to avoid interference with Garda investigations;
 - (ii) The impact of non-disclosure agreements;
 - (iii) The interaction of an inquiry with previous redress schemes; and,
 - (iv) The potential costs and timescale of an inquiry.
2. The following discussion is indicative only and it is not proposed to provide a fulsome discussion of these complex issues. Ultimately, it will be for the decisionmaker of any future process to determine how best to balance these practical challenges with the fulfilment of their purposes.

B. Avoiding Interference with Garda Investigations

3. The Scoping Inquiry's Terms of Reference require it to have regard, in assessing options for an future independent inquiry, to the 'legal issues and/or considerations that may arise, including ... risks to any Garda investigations running concurrently'.

(i) Inquiries Sitting in Public

4. Where an inquiry is conducted in public, the risk to Garda investigations running concurrently with such an inquiry is that evidence may emerge before it which risks undermining the Garda investigation. Or, as has arisen in the past, the publicity attendant on the inquiry proceedings may prejudice the right to a fair trial of the accused, if a criminal prosecution is commenced after the Garda investigation is completed. Further, a person charged with rape cannot be identified in public pursuant to the Rape Act 1981.
5. Prejudicial pre-trial publicity can create a serious risk of an unfair trial. This can be so even where the accused has been anonymised by the inquiry, due to 'saturation publicity' of the story itself.¹ However, the general position is that the potential for prejudice caused by such publicity can be allayed by appropriate directions and rulings by the trial judge.²

1 *Z v DPP* [1994] 2 IR 476.

2 *Ibid*, [11.35].

6. As such, the fact that there may be publicity from a public inquiry that might impact a subsequent trial does not require such an inquiry to decline to hear relevant evidence.³ In *Goodman International v Hamilton* Finlay CJ held that the Constitution did not require evidence to be excluded from a tribunal of inquiry on the basis that it may be used at a later trial.⁴
7. Where a criminal trial is imminent, it is open to a tribunal to deal with evidence before it in such a way that the potential for adverse pre-trial publicity is eliminated or at least greatly reduced. For example, the Morris Tribunal heard evidence in private from a witness who was subject to criminal prosecution and prevented publication of that evidence until the conclusion of the criminal case to prevent prejudice to an accused. The report in respect of that module of the tribunal's work was prepared in the normal way and submitted to the Minister. If criminal proceedings were still pending at that stage, the tribunal found that it would be a matter for the Minister under section 3 of the Tribunals of Inquiry (Evidence) Acts, 1921, as amended, ('**the 1921 Act**') to proceed as he thought fit.⁵
8. In other instances tribunals have been adjourned until a criminal trial had concluded.⁶ Further, tribunals such as the Lindsay Tribunal, often referred to as the Blood Tribunal, have taken measures to preserve the anonymity of witnesses, such as pseudonymisation, albeit for reasons unrelated to potentially prejudicing a criminal prosecution.
9. An inquiry sitting in public thus has several options open to it to seek to prevent adverse pre-trial publicity prejudicing the criminal trial of a person whose evidence is relevant to the inquiry's work.

(ii) Inquiries Sitting in Private

10. Where a commission of investigation is sitting in private, issues involving pre-trial publicity would not tend to arise in the same way.

3 *Goodman International v Hamilton* [1992] 2 IR 542.

4 *Ibid*, at 591.

5 http://www.morristribunal.ie/SITECONTENT_395.pdf.

6 See 'Report of the Investigation into the Railway Accident near Cherryvale Junction, County Kildare on the 21st August 1983'.

11. The evidence before a commission sitting in private will usually only become available to the public when the commission publishes its report. However, where it is thought that the publication of such a commission's report is likely to prejudice a criminal trial, an application may be made to the High Court to redact the report so as to remove the prejudicial material. This occurred in relation to the Dublin Archdiocese Report, where the High Court directed that sections of the report relating to two named person be redacted on the grounds that their publication may prejudice criminal proceedings.⁷ Whilst no written judgment is available, newspaper reports at the time suggest that the court found that the Commissions of Investigations Act 2004 ('the 2004 Act') does not envisage that such parts of a report should never be published pending a criminal trial, or that the court could permanently censor elements of the report.⁸ The redacted parts of the report were published after the criminal trials concluded, in December 2010 and July 2013 respectively.
12. Similarly, a chapter of the Cloyne Report was redacted prior to publication. The Minister for Justice sought and was granted the redaction due to concerns that the chapter could prejudice an ongoing criminal proceeding.⁹ The redacted chapter was subsequently published in December 2011.
13. It may be said therefore that where commissions of investigation sit in private this considerably reduces the risks of adverse pre-trial publicity likely to prejudice a criminal trial. However, there are also sufficient mechanisms available to tribunals or commissions of investigation sitting in public to deal with the issues likely to arise in respect of concurrent Garda investigations or prosecutions.

C. The Use of Non-Disclosure Agreements

14. A number of survivors have indicated to the Scoping Inquiry that they are concerned that the terms of Non-Disclosure Agreements ('NDAs') which they have signed as part of settlements or compromise agreements may prohibit or restrain them from fully engaging with a future inquiry. Participation in a confidential committee would be unlikely to pose a difficulty since their participation in the latter would be anonymised.

7 Irish Times 'Edited Report on Dublin Abuse Cleared for Release' (November 20 2009) <https://www.irishtimes.com/news/edited-report-on-dublin-abuse-cleared-for-release-1.774965>.

8 Mary Carolan 'Most of report can be published after judge's ruling' (16 October 2009) *The Irish Times* <https://www.irishtimes.com/news/most-of-report-can-be-published-after-judge-s-ruling-1.757766>.

9 Patsy McGarry, 'Full Cloyne Report to be published, court rules' (17 December 2011) *The Irish Times* <https://www.irishtimes.com/news/full-cloyne-report-to-be-published-court-rules-1.12465>.

15. NDAs are commonly referred to as secrecy or confidentiality agreements. They are contracts that create a legally enforceable agreement that certain information will remain confidential.
16. The survivors have criticised the use of NDAs on the basis that they represent an unfair mechanism used to silence individuals and protect organisations who have committed criminal acts. Survivors have suggested that NDAs should be ‘outlawed’ in cases involving allegations of sexual abuse.
17. NDAs are commonly used in Ireland, particularly in employment and commercial settings. The constitutional permissibility of NDAs has been confirmed, albeit in a commercial setting.¹⁰
18. As NDAs are by their nature contractual, the particular restrictions or limits on disclosure will depend on the terms of the contract.
19. However, notwithstanding the terms of any particular NDA, it appears clear that a statutory inquiry would be able to use its power to compel attendance of a witness to give evidence.¹¹ Were this not the case, then persons could effectively contract out of compliance with a statutory inquiry, which would be clearly contrary to the public interest.
20. As a matter of practicality, and in order to assuage the concerns of a potential witness who has signed an NDA, one would envisage that an inquiry could ask such persons to contact the inquiry and, if such evidence is considered relevant, the inquiry could then use its statutory powers to require them to attend to give evidence.

D. Interaction with other Redress Schemes

21. Persons may wish to come forward to a future inquiry who have availed of the terms of the Department of Education’s revised *ex gratia* scheme arising from the decision in *O’Keeffe v Ireland*.¹² Certain of the persons who fall within the terms of that scheme may also fall within the Scoping Inquiry’s Terms of Reference.

10 *Oblique Financial Services v The Promise Production Co* [1994] 1 ILRM 74.

11 The statutory powers of tribunals and commissions are set out in Chapter 14.

12 *O’Keeffe v Ireland* [2014] ECHR96.

22. In *O’Keeffe v Hickey* a national school run by a religious order successfully denied liability on grounds that it was neither negligent nor vicariously liable for the sexual abuse committed by one of its teachers.¹³ While the plaintiff was unsuccessful in her appeal to the Supreme Court, the European Court of Human Rights (‘ECtHR’) upheld the plaintiff’s complaint, holding that Ireland was in breach of certain provisions of the European Convention on Human Rights (‘ECHR’), and awarded damages. A majority of the ECtHR found that Ireland had failed to protect the Ms O’Keeffe against the sexual abuse to which she was subjected by the principal of the national school she attended and in not providing her with an effective remedy for the consequences of that abuse.
23. Thereafter, the Irish State implemented an *ex gratia* compensation scheme for non-statute-barred claimants in the position of Ms O’Keeffe. The scheme was first opened in July 2015. The scheme was paused in 2019 following a report from retired High Court Judge Iarfhlaith O’Neill who, as Independent Assessor reviewed a number of unsuccessful applications to the Scheme. Of the 50 applications received under the scheme, 45 had been rejected at the time of the review.¹⁴ The Independent Assessor concluded that the requirement for applicants to provide evidence of a prior complaint against their abuser to qualify for the scheme was too restrictive.¹⁵ Moreover, the scheme was only available to those who had instituted proceedings in sexual abuse in school and who had discontinued those proceedings in the wake of judgments of the High Court and Supreme Court in *O’Keeffe*, but before the subsequent ECtHR judgment.
24. The scheme was reopened in July 2021 and permitted any person who had issued proceedings against the State up to that date to apply for an *ex gratia* payment of €84,000 where they could demonstrate that:
- (i) they were sexually abused while a pupil at a recognised day school and that this occurred before November 1991 in a primary school or June 1992 in a post-primary school when the ‘Guidelines for Procedures for Dealing with Allegations or suspicions of Child Abuse’ were introduced in schools and that;

13 [2008] IESC 72, [2009] 2 IR 302.

14 Department of Education, ‘Determination of the Independent Assessor to the Ex Gratia Scheme instituted on foot of the Judgment of the European Court of Human Rights (ECtHR) in respect of *O’Keeffe v Ireland*’. However, some 140 claims had been settled outside of the scheme in relation to proceedings commenced after the O’Keefe judgments: Iarfhlaith O’Neill, ‘Independent Assessment of claims for ex gratia payment arising from the judgment of ECtHR in the Louise O’Keeffe v Ireland case (5 July 2019), p 25: available at <https://www.gov.ie/pdf/?file=https://assets.gov.ie/27832/e7f47f4b9871431d88e5c68a69584e7a.pdf#page=1>.

15 Iarfhlaith O’Neill, ‘Independent Assessment of claims for ex gratia payment arising from the judgment of ECtHR in the Louise O’Keeffe v Ireland case (5 July 2019), p 29.

(ii) had the ‘Guidelines for Procedures for Dealing with Allegations or Suspicions of Child Abuse’ been in place at the time the sexual abuse occurred, there would have been a real prospect of altering the outcome or mitigating the harm suffered by them as a result.¹⁶

25. Some 128 survivors of sexual abuse have received redress under the revised *ex gratia* scheme, with the total sum of awards made to date amounting to €10.752 million.
26. Persons may wish to come forward to a future inquiry, or indeed a redress process, who have availed of the terms of the revised *ex gratia* scheme. To receive payment under the *ex gratia* scheme applicants would have been required to waive any claim that they may have against the State.¹⁷ However, it does not appear to be the case that anything in the terms of the *ex gratia* scheme would prevent persons who had received an award from giving evidence to a future inquiry.

E. Costs and Timeframe of Proposed Responses

27. The Scoping Inquiry has been asked to consider the likely timeframe and cost of the proposed responses from Government discussed in this Report. It should be stated at the outset that it is difficult to provide a certain estimate, particularly given the uncertainty that remains regarding the numbers of persons who will come forward to participate in an eventual inquiry or redress scheme.

(i) The Costs and Timescale of Inquiries

28. Looking at the past costs associated with similar inquiries gives some indication of what is in issue. Generally, tribunals of inquiry are lengthier and costlier than commissions of investigation. If one looks at all tribunals of inquiry established since 1990, the average time from establishment to final report is 6 years, with an average cost of €53 million.¹⁸ No tribunal of inquiry has dealt with the investigation of sexual abuse to date.

16 Department of Education, ‘Minister Foley announces reopening of Ex Gratia Scheme for the implementation of the ECHR Judgement in O’Keeffe vs Ireland’ (26 July 2021) <https://www.gov.ie/en/press-release/659f2-minister-foley-announces-reopening-of-ex-gratia-scheme-for-the-implementation-of-the-echr-judgement-in-okeeffe-vs-ireland/>.

17 Ibid, para 34: ‘Payment made under the Scheme is conditional upon the Applicant waiving any claim that they may have against the State arising out of the sexual abuse evidenced in their application and discontinuing any relevant extant legal proceedings ...’

18 This is based on Department of Public Expenditure and Reform (‘DPER’) figures provided to the Public Accounts Committee in December 2022 which put the total cost of the 7 tribunals of investigation established since 1997 as €368,618,698. Dividing this figure by 7 amounts to a rough average cost of €53 million per tribunal: https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/committee_of_public_accounts/submissions/2022/2022-12-30_correspondence-david-moloney-secretary-general-department-of-public-expenditure-and-reform-r1617-pac33_en.pdf.

29. The comparative time and cost of various inquiries that have previously investigated clerical sexual abuse in different contexts has varied significantly, and appears to broadly depend on the number of complaints considered:
- (i) **The Dublin Archdiocese and Cloyne Commission of Investigation:** These inquiries took 3.5 years (Dublin) and 1.5 years (Cloyne) respectively and are collectively estimated as costing €8,788,639.¹⁹ The Dublin Archdiocese Inquiry ran from March 2006 to November 2009. The Cloyne Inquiry ran from March 2009 to December 2010. The timeframe in Cloyne was considerably shorter. However, in practice it operated as an expansion of the Dublin Archdiocese Inquiry whereby the same inquiry team was asked to investigate the diocese of Cloyne. The size of the sample of allegations was also much smaller in Cloyne, namely 46 priests (Dublin) compared to 19 priests (Cloyne).
 - (ii) **The Commission to Inquire into Child Abuse:** The total timeframe from establishment to report in the Commission to Inquire into Child Abuse ('CICA') was 9 years. However, CICA's investigation of sexual abuse in institutions did not, for various reasons, get fully underway until 2005, and was completed in 2009. CICA ultimately heard a sample of survivors' testimony in investigating selected institutions, having received circa 1,700 complaints. CICA found that the process required to investigate each complaint to a sufficient degree to name alleged abusers would have taken up to 18 years to complete. The total cost of CICA was reported in December 2022 as being some €85m.²⁰
 - (iii) **Ferns Non-Statutory Inquiry:** This inquiry took approximately 2 and a half years to complete its investigation into the handling of allegations of sexual abuse against 21 priests. The total cost of the Ferns Inquiry is estimated as €2.068m.²¹
30. The survivors who participated in the Survivor Engagement process were informed of the comparative timeframe of each of the above processes in a booklet provided to them in advance of being asked to indicate their preferred response.²² As discussed elsewhere in this Report,²³ the survivors indicated that they wished to see an early and timely process, given the age profile of survivors.

19 This figure is based on the contents of a DPER December 2022 letter to the Public Accounts Committee, cited above.

20 This figure is based on the contents of DPER's December 2022 letter to the Public Accounts Committee on the subject of the costs of various commissions of investigation, referred to above. See also, Harry McGee, 'Tribunals and commissions of investigation have cost taxpayers over €500m' *The Irish Times*, (12 January 2023) available at <https://www.irishtimes.com/politics/2023/01/11/tribunals-and-commissions-of-investigation-have-cost-the-taxpayer-over-500-million/>.

21 This figure is a reference to the cost of the Ferns Inquiry cited in the DPER December 2022 letter to the Public Accounts Committee, cited above.

22 Appendix 1.

23 See Chapter 7.

31. One consideration relating to timeframe that arises where entirely new or modified forms of inquiry are considered is that it can take a long time to draft and pass legislation through the Oireachtas, which could considerably delay the start of an inquiry.
32. As mentioned elsewhere in this Report, in some inquiries, the sheer scale of affected persons has meant that not every survivor of abuse has been able to give evidence. In CICA it was estimated that for each of the 1,712 persons who initially opted to give evidence to the Investigation Committee to do so would take more than four years.²⁴ If such evidence was tested by cross-examination, the process of hearing evidence would be significantly longer. For this reason, CICA decided not to hear from every witness who wished to give evidence and to only hear evidence necessary for their report. This ‘sampling’ approach has been criticised by survivors,²⁵ but it is difficult to see how else an inquiry can propose to deal with large amounts of complaints.
33. CICA had a wide mandate, and ultimately took 9 years to complete its work. However, it is fair to say that the duration of CICA was increased by a number of factors, including disputes about legal fees and a redress scheme for survivors, which substantially delayed the work of the Investigative Committee for two years, legal challenges to CICA’s terms of reference and decisions, and reviews conducted by the Attorney General and Mr Justice Ryan. At one stage, CICA was obliged to cease operating entirely for a period of months in 2004.
34. The costs of a single day’s hearing in relation to one complainant and one abuser in a single national school was highlighted by Judge Sean Ryan, in his 2004 review of CICA, as being some €50,000 (not including the State and the Commission’s legal costs).²⁶ He commented that:²⁷

What can safely be said, however, is that the legal costs involved in 1,712 individual cases usually involving at least three separately represented parties will be a very large sum. When additions are made for multiple hearings, the overall expenditure would be truly alarming. The possibility (one hopes remote) even exists that the costs paid out to legal representatives could amount to a significant proportion of what is awarded to victims by the Redress Board.

24 Judge Sean Ryan, ‘Review into the working of the Commission to Inquire into Child Abuse’ (15 January 2004), para 4.3.

25 Eoin Burke Kennedy, ‘Group says abuse sampling approach a “stab in the back”’ The Irish Times, 18 September 2003, <https://www.irishtimes.com/news/group-says-abuse-sampling-approach-a-stab-in-the-back-1.499663>.

26 Judge Sean Ryan’s Review into the working of the Commission to Inquire into Child Abuse (25 January 2004), para 4.14.

27 Ibid, para 4.16.

(ii) The Costs of Redress Schemes

35. The primary redress scheme which has included claims for sexual abuse against religious order run institutions is the Residential Institutions Redress Board ('RIRB').
36. The RIRB was established under the Residential Institutions Redress Act 2002 to make awards to persons who, as children, were abused while resident in industrial schools, reformatories and other institutions subject to state regulation or inspection.
37. The State's initial estimates of the liability which would arise from the redress scheme had been subject to a number of revisions; in February 2001, the estimated upper limit of the liability was €254m, while by June 2001, it was established as up to €508m.²⁸ In the report of the Comptroller and Auditor General on the Accounts of the Public Services 2002 (undated), the likely minimum liability of the redress scheme was said to be in the range of almost €560m to €720m.²⁹
38. However, ultimately, the overall cost of the RIRB redress scheme was reported in December 2021 to be in the order of €1.245 billion. As of December 2020, 15,594 awards were made by the Redress Board, with an average award of €62,247. The total cost of applicants' legal costs was reported as €194 million.³⁰
39. A number of survivors have indicated their wish for religious orders to contribute to any redress scheme that forms part of the Government's response. The experience of seeking contributions from congregations as part of the RIRB is instructive of the difficulty in estimating the costs of such schemes in advance and the problem of enforcing offers of contribution which are not legally binding.
40. Any legally binding contribution would likely only be made on the basis of an indemnity for further claims, as was the case with the religious orders' contribution to the RIRB. Any such indemnity would then give rise to further costs to the State. In the reports of the Residential Institutions Redress Special Account to the Houses of the Oireachtas for the year ending 2022, it was provided that up to the end of 2022, a total of €10.29m was expended pursuant to the indemnity.³¹
41. An agreement reached in June 2002 with the Conference of Religious of Ireland ('CORI') in respect of contributions to be made by the congregations in return for an indemnity by the State, provided for an agreed contribution of €128m.³²

28 Comptroller and Auditor General, Report on the Accounts of the Public Services 2002, p. 83.

29 Comptroller and Auditor General, Report on the Accounts of the Public Services 2002, p. 92.

30 Response of Minister Norma Foley, Dáil Éireann Debate Thursday 9 September 2021 Questions (548, 549): <https://www.oireachtas.ie/en/debates/question/2021-09-09/548/>.

31 Residential Institutions Redress Special Account, Account of Receipts and Payments https://opac.oireachtas.ie/Data/Library3/Documents%20Laid/2023/pdf/DOEdocLaid290623_105122.pdf

32 Comptroller and Auditor General, Report on the Accounts of the Public Services 2002, p. 88.

42. Subsequently, in response to a call for further contributions following the publication of CICA's report in 2009, the congregations offered additional contributions, including the transfer of cash and property, to a total value of €352.6m. However, a number of the elements of these offers were not accepted by the Government, while the values of the properties transferred to the State have in general been far lower than those assigned to the properties by the congregations in 2009. In addition, the Christian Brothers' offer of school playing fields and associated lands valued at €127m, which was at one point withdrawn by the congregation, has not yet been completed and, on the basis that the proceeds of any sale of those lands would be split on a 50/50 basis between the State and the Edmund Rice Schools Trust, is unlikely to achieve the value assigned to it by the congregation.³³
43. Ultimately, a total of €480.6m was offered to the State by the relevant congregations: €128m in 2002 (which included past property transfers) and €352.6m in 2009.
44. To date some €125m of the €128m under the 2002 Agreement has been contributed, with the transfer of two properties remaining to be fully completed.³⁴
45. In respect of the offers made in 2009, approximately €120.3m of the €352.6m contribution had been received by the State to date. This includes cash contributions of €111.53m from congregations, which included some refunded legal costs from CICA.³⁵ Under the 2009 arrangement, 18 properties were accepted by the State for transfer and to date 17 of the transfers are completed, to the value of €8.570m.³⁶ This figure does not include the future sale of the portfolio of playing fields which has been transferred from the Christian Brothers to the Edmund Rice Schools Trust.
46. The total amount received by the State from the congregations to date is approximately €245.2m, which is €235.4m less than the amount originally offered by the congregations.

33 This information was provided by the Department of Education.

34 *ibid.*

35 *ibid.*

36 *ibid.*

Chapter 23:

Indicators of the Likely Scale of Historical Sexual Abuse in Schools

- A. Introduction
- B. The Prevalence of Sexual Abuse in Society
 - (i) The Sexual Violence Survey
 - (a) Definition of sexual violence experienced in childhood
 - (b) Attempts to reduce the risk of underreporting
 - (c) General Data on Sexual Violence
 - (ii) Data Provided by the CSO to the Scoping Inquiry
 - (iii) Location of abuse: Sexual Violence Experienced at School
- C. Level of Underreporting of Childhood Sexual Violence
- D. Rates of Offending Amongst Sexual Abusers
- E. Conclusion

A. Introduction

1. This chapter seeks to assess whether it is possible to give an indication of the scale of historical sexual abuse allegations in schools run by the religious orders likely to emerge in the future from looking at broader sources relating to prevalence of sexual violence and the likely scale of offending by child sexual abusers.

B. The Prevalence of Sexual Abuse in Society

(i) The Sexual Violence Survey

2. In 2022, the Central Statistics Office ('CSO') conducted the Sexual Violence Survey ('the Survey'), a national survey examining the prevalence of sexual violence in Ireland. As part of the survey, statistics on childhood experiences of unwanted¹ sexual violence were canvassed, and the results were published in June 2023.²
3. The Survey looks at the prevalence and circumstances of sexual violence experienced in childhood by adults currently in Ireland. More than 4,500 respondents took part.
4. The Scoping Inquiry sought the assistance of the CSO in respect of the Survey results to understand whether they might provide a basis for estimating the potential number of persons coming forward to a future inquiry with allegations of sexual abuse in day or boarding schools run by religious orders. The CSO kindly assisted the Scoping Inquiry in this regard.
5. Data on experiences of sexual violence in childhood from the Survey are provided in the CSO Sexual Violence publications, specifically in the Sexual Violence Survey 2022 – Main Results and the Sexual Violence Survey 2022 – Childhood Experiences reports. To explore sexual violence experienced in childhood, the Survey includes unwanted sexual experiences; both non-contact (experiences not involving physical contact or attempted physical contact) and contact experiences (experiences involving physical contact or attempted physical contact).

1 These experiences are not described as 'non-consensual' as these individuals were under the age of consent at the time, hence the use of the term 'unwanted'. See the Background Notes section of the 'Sexual Violence Survey 2022 – Childhood Experiences' for further details.

2 Central Statistics Office (CSO) 'The Sexual Violence Survey 2022 – Childhood Experiences', available at <https://www.cso.ie/en/releasesandpublications/ep/p-svsce/sexualviolencesurvey2022childhoodexperiences/overallchildhoodexperiences>.

(a) *Definition of sexual violence experienced in childhood*

6. Sexual violence was defined for the purposes of the Survey as including unwanted sexual experiences; both non-contact (experiences not involving physical contact or attempted physical contact) and contact experiences (experiences involving physical contact or attempted physical contact).
7. Experiences as a child referred to experiences that happened before the survey participant was 17 years old. It excluded any sexual experiences that the participant was comfortable with, for example, with a boyfriend or girlfriend who was a similar age at the time.
8. Unwanted non-contact sexual violence experiences included being shown pornographic material, being asked to pose in a sexually suggestive manner for photographs, having someone expose themselves or someone masturbating in front of a child.
9. Unwanted contact sexual violence experiences included a child being touched in a sexual way or being made to touch another person in a sexual way, if they experienced sexual intercourse³ or attempted sexual intercourse, and any other unwanted non-specified sexual contact.
10. Details relating to the sexual violence experience did not capture whether the experience happened in Ireland or another country, either for those who lived in a different country before moving to Ireland and for those who may have experienced sexual violence on a short-term period abroad.
11. The definition of sexual violence in the CSO survey is reasonably similar to the Scoping Inquiry's definition of sexual abuse in its Meaning of Terms document.

(b) *Attempts to reduce the risk of underreporting*

12. As can be seen from the above, the Survey was, by its nature, sensitive and required explicit questions to be asked of participants. The CSO explained that the true prevalence of sexual violence is difficult to identify but a survey, which depends on the cooperation of participants to disclose it, may be a close proxy to the true prevalence level if collected in a way that reduces the risk of underreporting, among other things.
13. The CSO stated that it had put in place many mechanisms to work toward reducing the risk of underreporting, in particular, the use of self-completion when collecting the survey data. This ensured a confidential setting for the provision of the responses.⁴

3 Sexual intercourse includes vaginal sex, anal sex, oral sex and/or penetration with an object or finger.

4 Further detail on how the CSO reduced the risk of underreporting is available in the Background Notes section of the publications.

(c) General Data on Sexual Violence

14. The CSO data on sexual violence shows a clear age and sex difference, with females and younger people noting overall higher levels of sexual violence. Looking at those aged 35 and older, women show a consistently higher prevalence of sexual violence experienced as a child.⁵

(ii) Data provided by the CSO to the Scoping Inquiry

15. The Scoping Inquiry particularly asked the CSO for their assistance in identifying what the rates of childhood experience of sexual violence might be in older population cohorts, looking particularly at the cohort of persons aged 35 and older.
16. It is difficult to extrapolate the results of the Survey to estimate the number of people who experienced sexual violence as children in schools. The Survey asked people about the experience of sexual violence that affected them most, the age they were when this experience began, the location of the abuse, and whether the experience occurred with a person in authority. While these questions are relevant to the context of historical sexual abuse allegations in schools run by religious orders, they do not specifically ask for a detailed list of all experiences of sexual violence experienced as a child. In the publication on childhood experiences, 45% of adults who experienced non-contact sexual violence experience stated that it happened more than once. There were similar rates for those who had experienced contact sexual violence with 46% of adults noted that contact happened more than once.⁶
17. Nonetheless, using the available survey data and notwithstanding the caveats around the application of the data to this question, it is possible to calculate an estimate of the number of males and females nationally who have experienced sexual abuse as a child where the location of the experience that affected them the most was a school. This is set out below.

5 This is extracted from Table 5.2 from the CSO Sexual Violence – Main Results report (<https://www.cso.ie/en/media/csoie/releasespublications/documents/ep/sexualviolencesurveymainresults/2022/P-SVSMR2022TBL5.2.xlsx>).

6 Central Statistics Office (CSO) 'The Sexual Violence Survey 2022 – Childhood Experiences', available at <https://www.cso.ie/en/releasesandpublications/ep/p-svsce/sexualviolencesurvey2022childhoodexperiences/overallchildhoodexperiences>.

(iii) Location of abuse: Sexual Violence Experienced at School

18. The Survey specifically asked for the location of each participant's unwanted sexual violence experience. Overall, 6% of persons aged 18 and over indicated that the location where the contact violence they experienced occurred was in school.⁷ The Survey did not address whether the schools concerned were religious order-run schools or otherwise.
19. In relation to contact sexual violence, 9% of men reported school as the location of abuse, in comparison with 4% of women.⁸ Notably, the Survey results indicate that this figure of 6% varied across different age cohorts. Looking at those 35 and over, there is a variation between age cohorts in respect of those who experienced contact violence in a school:⁹
 - 35-44 age cohort (1%)
 - 45-54 age cohort (3%)
 - 55-64 age cohort (7%)
 - 65 years and over age cohort (9%)
20. In relation to non-contact sexual violence, 14% of men reported school as the location of abuse, in comparison with 4% of women. Looking at those 35 and over again, there is a variation between age cohorts, albeit less marked, in respect of non-contact violence experienced in a school:¹⁰
 - 35-44 age cohort (7%)
 - 45-54 age cohort (4%)
 - 55-64 age cohort (6%)
 - 65 years and over age cohort (5%)
21. The data was solely based on the experience that affected the participant most, and the sexual violence concerned may have been perpetrated in a number of locations.

7 CSO, Sexual Violence Survey 2022 – Childhood Experiences, Contact Experiences – Details chapter, available at <https://www.cso.ie/en/releasesandpublications/ep/p-svsce/sexualviolencesurvey2022childhoodexperiences/contactexperiences-details/>.

8 CSO, Sexual Violence Survey 2022 – Childhood Experiences, Figure 7.5 Childhood experience of contact sexual violence by location of experience 2022, available at <https://www.cso.ie/en/media/csoie/releasespublications/documents/ep/sexualviolencesurveychildhoodexperiences/2022/P-SVSCE2022TBL7.5.xlsx>.

9 Ibid.

10 CSO, Sexual Violence Survey 2022 – Childhood Experiences, Figure 5.5, available at <https://www.cso.ie/en/media/csoie/releasespublications/documents/ep/sexualviolencesurveychildhoodexperiences/2022/P-SVSCE2022TBL5.5.xlsx>.

22. At the Scoping Inquiry's request, the CSO conducted an exercise to estimate the number of persons who have experienced sexual abuse as a child where the location of the sexual violence experience was a school.
23. For this exercise, the CSO highlighted the following assumptions:
 - (i) For those who experience non-contact sexual violence only, it is assumed that the pattern for location for all non-contact sexual violence broken down by age can be applied.
 - (ii) For those who experience contact sexual violence only, it is assumed that the pattern for location for contact sexual violence broken down by age can be applied.
 - (iii) For those who experience both non-contact and contact sexual violence, it is assumed that the pattern for location for contact sexual violence broken down by age can be applied.
24. Hence, using the data from the Survey, it is seen that 15,300 men aged 35 and over are estimated to have experienced sexual violence as a child where the location was a school, by reference to the experience that affected persons the most. It is also seen that the equivalent figure for women is 26,000 (See Table 1):

Table 1 Estimated number of persons who have experienced sexual violence as a child¹¹ by type of experience by sex and age group where the location is a school¹², 2023

Sex/Age group ¹³	Number of persons in thousands			
	Experienced non-contact sexual violence only as a child where the location is a school ¹⁴	Experienced contact sexual violence only as a child where the location is a school ¹⁵	Experienced non-contact and contact sexual violence as a child where the location is a school ¹⁶	Total persons who experienced sexual violence as a child where the location is a school
Male age group				
35-44	2,700	200	200	3,200
45-54	1,300	500	700	2,500
55-64	1,100	2,100	1,500	4,600
65 years and over	600	2,700	1,700	5,000
Total 35 and over	5,700	5,600	4,100	15,300
Female age group				
35-44	3,000	500	500	4,000
45-54	1,300	1,600	1,900	4,800
55-64	1,600	2,400	3,600	7,600
65 years and over	1,500	3,500	4,600	9,600
Total 35 and over	7,400	7,900	10,700	26,000

25. The overall percentage of women in the Survey who reported sexual violence was greater than that for men, and therefore the population-based estimate for women is larger despite a higher percentage of men than women specifying that they experienced sexual violence in school.

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- 11 Sexual violence experienced as a child is defined as a range of unwanted experiences from non-contact experiences to unwanted sexual intercourse. Experience of sexual violence as a child refers to those experienced under the age of consent (17 years).
- 12 The location of the sexual violence experience is derived from the sexual violence experience as a child that affected the person the most.
- 13 The age group category classifies the age the respondent was when they answered the survey.
- 14 The percentage applied for the location being a school is derived from the overall non-contact experience table in the Sexual Violence Survey 2022 – Childhood Experiences Table 5.5 – the overall age breakdown is used as an estimate.
- 15 The percentage applied for the location being a school is derived from the overall contact experience table in the Sexual Violence Survey 2022 – Childhood experiences Table 7.5 – the overall age breakdown is used as an estimate.
- 16 The percentage applied for the location being a school is derived from the overall contact experience table in the Sexual Violence Survey 2022 – Childhood experiences Table 7.5 – the overall age breakdown is used as an estimate.

26. Clearly, the information does not tell us whether the school concerned was a school run by a religious order. Further, it is possible that the school concerned was outside the country, as the Survey was in respect of all people currently living in Ireland, who may have been in school abroad at the time of the experience reported. In addition, the sexual violence experience could have been perpetrated by another student/friend/acquaintance of the participant in a school setting as opposed to a person in authority.
27. It is also evident that some survivors who reported sexual abuse were not always abused in the school itself, but at other venues and locations associated with the school or school activities. Thus, the above data does not capture all the possible scenarios that amount to sexual abuse allegations in schools within the Scoping Inquiry's Terms of Reference.
28. To summarise, in the age group of 35 years and over, 15,300 men and 26,000 women are estimated to have experienced sexual violence as a child where the location was a school, taking the experience that affected them the most.
29. Subject to all of the caveats set out above, this data gives some indication of the number of persons in the population who reported experiencing sexual violence as a child in the above categories.
30. In light of the figures that emerged from the religious orders' records, it seems that by far the largest cohort of survivors will be men. The religious orders' records show that 93% of allegations recorded are in respect of male religious order run schools, compared to 7% in respect of female religious order run schools,¹⁷ and it is likely that the great majority of male religious order run schools are boys' schools.
31. As such, the relevant figure to take from the CSO's exercise is the estimate of 15,300 men who have experienced sexual violence in a school as a child.

C. Level of Underreporting of Childhood Sexual Violence

32. The CSO survey asked whether the participant had disclosed an experience of child sexual abuse to anyone. Disclosure meant having told one person or many persons or an organisation or group about the experience. Of those in the age groups between 45 to 65 and over, 40% to 42% reported that they had disclosed their experiences to someone.¹⁸

17 See Chapter 9.

18 CSO, Sexual Violence Survey 2022 – Disclosure of Experiences, Overall Childhood Experiences Disclosure chapter, available at <https://www.cso.ie/en/releasesandpublications/ep/p-svsde/sexualviolencesurvey2022disclosureofexperiences/overallchildhoodexperiencesdisclosure/>.

33. Notably, 81% of adults who disclosed their childhood sexual violence did not disclose to the police.¹⁹ Interestingly, 41% of this group said they did not disclose because they felt the experience was not serious enough. A further 28% said they did not disclose to the police because they felt ashamed or embarrassed, and a further 15% because they felt they would not be believed.
34. Nationally, 4% of adults who experienced sexual violence as a child disclosed to a counsellor/psychologist first, twice the rate for disclosing to the police (2%).²⁰ Even assuming that disclosure made through counsellors would be reported to Tusla, the level of disclosure would still be very low, based on only 4% of participants disclosing their abuse to counsellors.
35. The Survey figures suggest that for men, the level of disclosure of childhood sexual abuse is generally only 25%.²¹ As men appear to be the largest cohort of survivors in light of the number of historical sexual abuse allegations emanating from schools run by religious orders, this suggests a significant level of non-reporting.
36. However, the figures given for disclosure of childhood sexual violence for all adults (male and female) in the age groups from 45 to 65 and over, is generally around 40%.²² That age group is reasonably likely to be among the largest cohort of the survivors of historical sexual abuse in religious order-run day and boarding schools.

D. Rates of Offending Amongst Sexual Abusers

37. Another indication of the possible volume of further allegations of historical sexual abuse in schools arising from the records obtained by the Scoping Inquiry is the number of alleged abusers that have been recorded. Taking the religious order figures as the highest total record of alleged abusers, namely 884 alleged abusers including 20 community schools, there is good reason to think that this number of alleged abusers indicates a far greater number of further allegations will be made than the 2,395 allegations recorded to date by religious orders that ran schools.²³

19 CSO, Sexual Violence Survey 2022 – Disclosure of Experiences, Childhood Experiences Disclosure - Police chapter, available at <https://www.cso.ie/en/releasesandpublications/ep/p-svsde/sexualviolencesurvey2022disclosureofexperiences/childhoodexperiencesdisclosure-police/>.

20 CSO, Sexual Violence Survey 2022 – Disclosure of Experiences, Overall Childhood Experiences Disclosure chapter, Table 7.5, available at <https://www.cso.ie/en/releasesandpublications/ep/p-svsde/sexualviolencesurvey2022disclosureofexperiences/overallchildhoodexperiencesdisclosure/>.

21 CSO, Sexual Violence Survey 2022 – Disclosure of Experiences, Overall Childhood Experiences Disclosure chapter, Figure 7.1, available at <https://www.cso.ie/en/releasesandpublications/ep/p-svsde/sexualviolencesurvey2022disclosureofexperiences/overallchildhoodexperiencesdisclosure/>.

22 CSO, Sexual Violence Survey 2022 – Disclosure of Experiences, Overall Childhood Experiences Disclosure chapter, Table 7.1, available at <https://www.cso.ie/en/releasesandpublications/ep/p-svsde/sexualviolencesurvey2022disclosureofexperiences/overallchildhoodexperiencesdisclosure/>.

23 This figure includes community schools with religious order co-patrons.

38. There does not appear to be any clear statistical data available on the number of victims an abuser is likely to abuse over their lifetime, with much of the research instead focused on the victim and whether a particular instance of abuse is a recurrence of abuse.²⁴ This seems to indicate that those who are sexually abused often experience multiple incidents of abuse.²⁵ As such, a proportion of the survivors who have reported allegations will likely have experienced more than one episode of child sexual abuse, albeit repeated instances of abuse by the same perpetrator may only have been recorded as one allegation.
39. None of this casts any light on the extent to which child sexual abusers offend. Were there some metric for calculating how many victims each alleged abuser was likely to have assaulted over the course of their life, then it might be possible, based on the number of alleged abusers recorded by religious orders, to try to predict the likely scale of allegations one could expect to come forward. Unfortunately, information on this topic appears to be largely anecdotal.
40. Other inquiries have cited examples of individual child sex abusers who have admitted or been found to have assaulted multiple victims over many years. For example, the Dublin Archdiocese report stated that certain abusers admitted abuse far in excess of the recorded allegations against them:²⁶

It is important in the Commission's view not to equate the number of complaints with the actual instances of child sexual abuse. While a significant number of the priests against whom allegations were made admitted child sexual abuse, some denied it. Of those investigated by the Commission, **one priest admitted to sexually abusing over 100 children, while another accepted that he had abused on a fortnightly basis during the currency of his ministry which lasted for over 25 years.** The total number of documented complaints recorded against those two priests is just over 70. In another case, there is only one complaint but the priest has admitted to abusing at least six other children. (emphasis added)

24 Palusci & Ilardi, 'Risk Factors and Services to Reduce Child Sexual Abuse Recurrence' (2020) Vol 25 (1) *Child Maltreatment*, 106; Wildfeuer et al, 'Child Sexual Abuse Recurrence' (2021) 2(2) *CommonHealth* 67, 68;

25 For example, Cossins states 'Repeated sexual abuse by relatives and people known to the child, escalating in seriousness over months or years, is, according to victim reports studies and offender self report studies, the most common type of abuse compared with once off abuse by strangers': Annie Cossins, 'Restorative Justice and Child Sex offences: The Theory and Practice' (2008) 48 *Brit J Criminology* 359, 365.

26 Dublin Archdiocese report, Part 1, [1.9].

41. The Ferns Report also noted that a substantial number of the allegations investigated by the inquiry related to 2 of the 21 priests considered:²⁷
- Within its Terms of Reference, the Inquiry identified over 100 complaints or allegations relating to child sexual abuse by 21 priests under the aegis of the Diocese of Ferns. **Over forty of those complaints related to two priests only.** Ten of the priests complained against are now deceased, three have been laicised and the remaining eight priests are no longer in active ministry. (emphasis added)
42. In a similar vein, in the Third Interim Report of the Commission to Inquiry into Child Abuse, Laffoy J made the following observations:²⁸
- The volume of allegations against named individuals has added complexity and difficulty to the inquiry ... **thirty- six (36) individuals are facing more than twenty (20) allegations.** Table P contains details of the volume of allegations against each of those individuals, without identifying the individual. All of the individuals are, or formerly were, members of Congregations.
- The complexity of the investigation is compounded by the fact that, not only have named individuals multiple allegations made against them, but **in the case of ninety named individuals, there are allegations against them in respect of more than one institution.** Of the ninety named individuals, thirty-one are known to be dead and fifty-nine are alive. (emphasis added)
43. The Report went on to set out, at Table O,²⁹ that just under a third of the 1,195 alleged abusers had been named in between 2-10 allegations. A further 4% (49 alleged abusers) had been named in between 11-20 allegations. Finally, a further 3% (36 alleged abusers) had been named in more than 20 allegations. It was noted that two individuals had more than 70 complaints against them.³⁰
44. The above figures give some idea of the extent to which previous inquiries investigating similar issues found that certain alleged abusers had multiple allegations made against them.

27 Ferns Inquiry Report, p.6.

28 'Third Interim Report of the Commission to Inquire into Child Abuse' (Dublin Stationery Office, 2003), p. 180: available at <https://childabusecommission.ie/wp-content/uploads/2022/04/abuse.pdf>.

29 'Third Interim Report of the Commission to Inquire into Child Abuse', p.193.

30 CICA, Third Interim Report, p. 194, Table P.

45. It is notable that some of the schools listed in the school-by-school breakdown of numbers of allegations and numbers of alleged abusers, show very high numbers of alleged abusers associated with some schools. This is particularly the case in relation to special schools. It seems reasonable to suggest that where the ratio of allegations compared to the numbers of alleged abusers is relatively low, there is a greater likelihood that more allegations will emerge in time.

E. Conclusion

46. The NSBCCCI has recently noted their experience that an increase in reported allegations tend to occur after publicity surrounding alleged abuse in an institution run by a church body. In their 2022/23 Annual Report, they comment that a spike in notifications of abuse to the NSBCCCI in December 2022 and February 2023 were 'as a direct consequence of media interest in reports of abuse in boarding schools'.³¹ It seems that survivors are encouraged to report and recount experiences of abuse when they hear another survivor coming forward to tell their story. This appears to have occurred after the Ryan brothers spoke of their experiences in the RTÉ Documentary on One: Blackrock Boys. Many of the survivors in the Scoping Inquiry's Survivor Engagement process told us that they had found courage to come forward as a result of hearing of their experiences.
47. It is very difficult to estimate what the likely increase in numbers of allegations will be in the event of a future inquiry or, if a redress scheme is established. Given the large number of schools (308) in respect of which there are allegations of historical sexual abuse,³² and the large number of 884 alleged abusers recorded by the religious orders,³³ it seems reasonable to suggest that a future inquiry will be dealing with in excess of 2,395 allegations of sexual abuse. The figure of 2,395 allegations must be seen in a context where underreporting of allegations is well-known, and according to the CSO only roughly a quarter of such allegations are reported.
48. Moreover, it appears that the likelihood is that the overall number of persons coming forward to allege historical sexual abuse in day or boarding schools is likely to increase following the publication of this Report and the further open discussion of this topic which one hopes this Report will provoke.

31 National Board for Safeguarding of Children in the Catholic Church in Ireland, Annual Report 2022/3, p. 15. Some 76 Notifications were received in December 2022, 75 of which related to allegations of sexual abuse. 60 notifications were received in February 2023, 55 of which related to allegations of sexual abuse. This compared to figures ranging from 3 to 16 notifications for the other months of the year (April 2022 to March 2023).

32 This figure includes community schools. See Appendix 7.

33 This figure includes 20 alleged abusers associated with community schools, set out at the bottom of Appendix 7.

49. Additionally, it is evident from the estimates provided by the CSO based on its Sexual Violence Survey that there is a significant volume of school-associated sexual abuse, with the CSO estimating that, among persons aged 35 and over, 15,300 men and 26,000 women have experienced child sexual abuse in a school.
50. Finally, many survivors who participated in the Survivor Engagement programme have stated that they were amongst a number of victims of the perpetrator of their abuse. Some described entire classrooms of children being routinely sexually assaulted. Many others spoke of being aware that other children were being abused by the same abuser. Those accounts suggest that there may have been large scale abuse in some schools.

Chapter 24:

Co-operation of Religious Orders with a Future Inquiry

- A. Introduction
- B. Process of Engagement with Religious Orders
 - (i) Questionnaire Responses
 - (ii) Letter of 14 December 2023
 - (a) Summary of responses to 14 December letter
- C. Conclusions and Summary

A. Introduction

1. The Scoping Inquiry was directed by the Terms of Reference to engage with the religious orders with a view to establishing the level and extent of their cooperation with a future inquiry. The Inquiry was thus tasked with:¹

... engagement both at an early stage and throughout the scoping process, with the religious orders to establish the level and extent of co-operation with any proposed inquiry.
2. The Scoping Inquiry engaged with the religious orders with a view to ascertaining the level and extent of their cooperation with a future inquiry on two primary occasions. In the first instance, the Inquiry sought the views of the orders in relation to a future inquiry in relatively general terms. This information was requested as part of the Questionnaire sent to all of the religious orders seeking information in relation to allegations of child sexual abuse reflected in their records.
3. The Scoping Inquiry subsequently wrote to the orders in December 2023 seeking more detailed views of the orders in relation to various potential mandates of a future inquiry, and on a variety of different issues that had arisen in previous inquiries. In view of a number of questions arising from this letter, the Scoping Inquiry attended an information meeting with the religious orders in order to answer questions arising from the December letter. This meeting was held on 9 January 2024 in All Hallows College, Dublin.
4. This chapter will outline in general terms the responses of the religious orders to the questions raised by this Inquiry in relation to their likely cooperation with a future inquiry.

1 Department of Education, *Terms of Reference for the Scoping Inquiry into Historical Child Sexual Abuse in Schools run by religious orders* (7 March 2023).

B. Process of Engagement with Religious Orders

(i) Questionnaire responses

5. In the Questionnaires sent to the orders on 3 May 2023, the Scoping Inquiry first asked the orders in relatively general terms about the likely extent of their engagement with a future inquiry. The Questionnaire asked:

If relevant to your Religious Order, and if the Scoping Inquiry concludes that an appropriate Government response to the historic allegations of sexual abuse in schools is to recommend the establishment of an Inquiry or Investigation into same, can you indicate in principle, as required by the Terms of Reference of the Scoping Inquiry, whether:

- a. your Religious Order will be willing to engage with such an Inquiry?
and/or
- b. would be willing to give evidence to such an Inquiry or Investigation?
and/or
- c. to collate and provide all necessary and relevant documents to such an Inquiry or Investigation,
whether or not there is a power in such Inquiry or Investigation to compel attendance or disclosure of documents?

6. For the majority of responses received, the orders replied positively to the above questions,² and in particular the large majority of orders responded positively to the first question, namely that they would be willing, at least in principle, to engage with such an Inquiry. However, a number of orders indicated that, while willing to cooperate in principle, they viewed it as essential that the future inquiry have certain features in order to facilitate such cooperation.

2 A significant number of orders responded either simply 'Yes' or 'Yes in principle', or some variation of same, to all three questions, including, e.g. Augustinians, Benedictines of Kylemore Abbey, Benedictines of Glenstal Abbey, Brothers of Charity, Cistercians of Mount Melleray Abbey, Discalced Carmelites, Dominican Sisters of Cabra, Faithful Companions of Jesus, Franciscan Brothers, Loreto Sisters, Marist Brothers, Missionary Sisters of Our Lady of the Apostles, Religious Sisters of Charity, Salesian Sisters, Salesians of Don Bosco, Sisters of Our Lady of the Missions, Sisters of St Clare, Sisters of the Holy Faith, Sisters of the Holy Family of Bordeaux, Ursuline Sisters, Vincentians. The Marist Fathers responded to all three questions stating 'Yes. Within the parameters of a mutually agreed legal framework.' (Questionnaire, 11 May 2023). The Carmelites responded to all three questions stating 'Yes, once it is legally viable' (Questionnaire dated 25 January 2024.). The Redemptorists answered 'Yes' to the first two questions, and 'Yes, subject to GDPR and legal advice' in response to Question C (Questionnaire dated 26 June 2023).

7. In response to the first question, the De La Salle Brothers responded that their level of cooperation would depend on a number of factors, including privacy, data protection and confidentiality for former and deceased members of the Order.³
8. In respect of the latter two questions, a number of the orders indicated that certain procedural protections would need to be place, such as the privileges and immunities ordinarily applicable to witnesses giving evidence in the High Court,⁴ and that it might be necessary for the Inquiry to have powers of compellability in relation to documents,⁵ in order to obviate concerns in relation to data protection and confidentiality. For example, the Spiritans stated in response to Question B:⁶

The Congregation would wish to give any assistance to an Inquiry or Investigation as may be requested of it. However, it is noted that as any such inquiry necessarily will involve testimony which would impact the reputational rights of third parties, it would be essential that the usual privileges and immunities that attend upon statutory inquiries are available to witnesses.
9. Similarly, the Spiritans stated in response to Question C:

The Congregation would wish to provide all relevant records to any Inquiry or Investigation but would require to be satisfied that the provision of documents is compliant with data protection law, the right to privacy of individuals and any duties of confidentiality it owes. In practice, this may mean that it is not possible to participate in anything other than an inquiry with the power to direct the production of records.
10. The Dominicans similarly indicated that, while they emphasised that they were willing to cooperate with a future inquiry, such an inquiry must have a ‘supportive legal framework’ to facilitate such cooperation:⁷

We wish to emphasise that we are willing to co-operate with statutory services/inquire, subject to certain clarifications. However, it would have to be in the context of a supportive legal framework that complies with GDPR and which facilitates the co-operation.

3 The De La Salle Brothers stated in response to Question A:

‘Our cooperation in the future would depend on privacy, confidentiality concerning deceased and former Brothers and complainants and GDPR in relation to the current and former Brothers and complainants.’ (Questionnaire dated 1 June 2023)

4 See e.g. the Spiritans Questionnaire, dated 2 November 2023.

5 For example, the Jesuits stated in response to Question C:

‘On providing documentation, again the answer in principle is yes, but we understand that the power to compel is required to allow the Society to disclose documents in relation to many named third parties.’ (Jesuits Final Questionnaire dated 2 May 2024).

6 Spiritans Questionnaire, dated 2 November 2023.

7 Dominicans Questionnaire, dated 28 July 2023.

11. Similarly, the Patrician Brothers stated in response to all three questions that:⁸

We are willing in principle to co-operate with any future Inquiry, but we have concerns about being asked to commit to this without knowledge of the terms of reference of any such inquiry or the statutory framework upon which it would be based. Any such cooperation or engagement would require appropriate legal framework that complies with GDPR to facilitate such co-operation.

12. The Missionaries of the Sacred Heart also stated that it was ‘essential’ that a future inquiry have powers of compellability in order to overcome GDPR concerns in relation to the disclosure of documents and records:⁹

It would not be possible to agree, in principle, to engage in any Inquiry without sight of the Terms of Reference and with specific regard to GDPR requirements. Any engagement with such a statutory inquiry necessitates the inclusion of “powers of compellability”, and Q. 2.8). c. of the Questionnaire asks whether the organisation will disclose sensitive data “whether or not there is a power” to compel disclosure of documents. Our legal advice is that it would be essential for any future inquiry to provide a statutory basis for the production/disclosure of such sensitive personal data and Article 10 data.

...

We wish to emphasise that we are willing to co-operate, and that a supportive legal framework that complies with GDPR will facilitate the co-operation.

13. The Christian Brothers, while responding positively to Questions A and C, responded ‘not sure’ to the question of whether they would be willing to give evidence to a future inquiry.¹⁰

8 Patrician Brothers, Questionnaire, dated 26 June 2023. Similarly, the Society of African Missions replied by stating:

‘While we wish to emphasise that while we are willing in principle to co-operate with any future Inquiry, this would be on the assumption that there is an appropriate legal framework that complies with GDPR to facilitate such co-operation.’ (Questionnaire dated 26 June 2023).

9 Missionaries of the Sacred Heart (Questionnaire dated 28 June 2023).

10 Christian Brothers, (Questionnaire dated 16 June 2023). The Christian Brothers responded “Yes” to the other two questions.

14. Some orders did not respond directly to the questions posed, and indicated that they would consider requests from a future inquiry as and when they arose, or when the Terms of Reference of such an inquiry is published.¹¹ For example, the Hospitaller Order of St. John of Gods responded:¹²

The Hospitaller Order of Saint John of God have always co-operated and participated in any State Inquiry or investigation into child sexual abuse. The Order will consider and respond to any future request to (a.) engage with an Inquiry or Investigation, (b.) give evidence to such an Inquiry or Investigation and (c) collate and provide documents to such an Inquiry or Investigation should the establishment of an Inquiry or Investigation be recommended by the Government and once the details of any proposed Inquiry or Investigation become available and its scope and terms of reference established. In its considerations the Order will have due regard to its obligations including GDPR, confidentiality, good practice, its ethos and values and legal advice.

15. Similarly, the Rosminians did not respond directly to the questions posed, and indicated that while they have ‘wholeheartedly’ cooperated with all previous inquiries, the likely extent of their cooperation with any future inquiry would depend on its terms of reference. In this context, the Provincial of the Rosminians criticised what he saw as the narrow terms of reference of the Scoping Inquiry:¹³

The Rosminians have cooperated wholeheartedly with all Inquiries, whether statutory or non-statutory, including the audits of the Catholic Church and of the HSE. Cooperation and engagement with any future Inquiry will depend on the terms of reference. It has to be said that it is difficult to understand the very narrow terms of reference of the Scoping Inquiry focusing as it does exclusively on ‘schools run by Religious Orders’. Such a narrow focus does not give confidence that these matters are being dealt with in an even-handed manner.

11 For example, in response to all three questions, the Mill Hill Missionaries responded: ‘Willing to cooperate with any future enquiry once aware and furnished with the TOR’. (Questionnaire, dated 15 May 2023). Similarly, the Presentation Brothers stated:

‘The Congregation reserves its position on these questions until such time as a decision is made to establish an inquiry or investigation and/or until its terms of reference, form and/or powers have been set out. A range of practical and legal issues may arise depending upon the nature of and such investigation / inquiry and considered response must await sight of the terms of reference etc.’ (Questionnaire, dated 16 May 2023).

12 Hospitaller Order of St. John of Gods, Updated Questionnaire, dated 22 December 2023.

13 Letter from Fr Joseph O’Reilly, Provincial of the Rosminians, 30 May 2023.

16. A small number of orders were more equivocal. The Sisters of St Joseph of Cluny responded 'Perhaps' to the first two questions, and indicated that they 'have no documents' in response to the third question.¹⁴ The Sisters of St Louis, in answer to Question A answered 'Yes, provided the Inquiry would apply to all schools, not just those run by religious orders' and answered 'Unsure at this point' to Question B.¹⁵
17. A number of orders did not respond to these questions in the Questionnaire.¹⁶ Some orders did not respond on the apparent or explicit basis that they did not have any allegations of child sexual abuse in their records, and therefore did not deem the questions relevant to them.¹⁷
18. The common theme running through the responses to these questions was that the majority of orders stated a willingness, at least in principle, to engage with a future inquiry. However, a number of orders, and in particular a number of the larger orders, regarded it as necessary for the Inquiry to have an appropriate legal framework, including powers of compellability and privileges and immunities for witnesses. Other orders indicated that while they would likely be willing to engage, they would need to know the Terms of Reference before stating a definitive view.¹⁸

14 Sisters of St Joseph of Cluny (Questionnaire, dated 17 May 2023).

15 Sisters of St Louis (Questionnaire, dated 15 May 2023).

16 E.g. the Marianists (Questionnaire, dated 12 May 2023). the Missionary Oblates of Mary Immaculate (Questionnaire, dated 9 May 2023), the Sisters of Mercy (the Sisters of Mercy did not return the Questionnaire directly, but provided information in relation to allegations in respect of its schools by letters on various dates in October and November 2023). The Marist Sisters' Questionnaire stated that while the current Provincial did not envisage any difficulty in cooperation, she could not speak for her successor, and as such did not wish to make a commitment on another's behalf. (Questionnaire, dated 31 May 2023). The Legionnaires of Christ, the Presentation Sisters and the Daughters of Wisdom all answered 'Yes' to the first question, but made no response the other two questions.

17 E.g. the Sisters of the Christian Retreat (Questionnaire, dated 23 May 2023), the Sisters of the Sacred Hearts of Jesus and Mary (Questionnaire dated 12 May 2023), the Ursulines of Jesus (Questionnaire, dated 15 May 2023), the Society of the Holy Child Jesus (Questionnaire, dated 15 May 2023), Sisters of the Infant Jesus (Questionnaire dated, 15 May 2023), the Missionary Sisters of the Holy Rosary (Questionnaire, dated 14 May 2023), the Religious of Jesus and Mary (Questionnaire, dated 19 May 2023). The Sisters of the Cross and Passion stated that the Questions were not applicable, but that if an allegation did come to light, they would cooperate (Questionnaire, dated 15 May 2023).

18 E.g. the Mill Hill Missionaries (Questionnaire, dated 15 May 2023).

(ii) Letter of 14 December 2023

19. Further to the initial questions outlined above, the Scoping Inquiry wrote to the religious orders on 14 December 2023 with a more detailed set of questions to ascertain the likely engagement of the orders with a future inquiry. The letter noted that the Inquiry has already raised preliminary questions in relation to likely engagement with a future inquiry in the Questionnaire, and now sought to canvas the views of the orders in greater depth. In particular, the letter asked, in light of the conciliatory approach taken by a number of the orders in recent years in relation to allegations of child sexual abuse, whether the orders might similarly not seek to contest certain matters before a future inquiry, or not seek to rely on the full extent of their legal and procedural rights:

The Scoping Inquiry notes that a number of Religious Orders have taken a conciliatory approach when confronted with allegations of historical sexual abuse against their members or former members, living or deceased ... In this spirit, and in light of the work of Religious Orders in supporting safeguarding in their schools in recent years, the Scoping Inquiry wishes to identify whether there are perhaps matters which may be investigated by a future inquiry, which may not be contested, or fully contested, or where the religious orders may not seek to rely on the full extent of their legal rights.

20. In order to more fully canvas these views, the letter included an appendix outlining three potential mandates that might be given to a future inquiry, and further outlining 5 questions, and requesting that the order give its views in relation to those questions by reference to the three potential mandates. The three potential mandates for a future inquiry in respect of which views were sought were:
- A. To identify whether an individual school or schools run by a religious order or orders, were institutions where historical sexual abuse had taken place.
 - B. To identify how sexual abuse allegations or suspicions of sexual abuse had been handled by the Order or Orders and/or the school or schools concerned, whether at the time the abuse was reported or suspected, or in later years, and/or to identify who was responsible for the handling of those allegations/suspicions.
 - C. To identify who was responsible for historical sexual abuse in the school or schools in question, including deceased members or former members and/or incapacitated/otherwise unavailable members of the Order or Orders in question.

21. The appendix requested the orders views in respect of these mandates, and further asked, in light of these potential mandates, for the orders views on five questions, namely:
1. Are there any general observations you wish to make concerning the level and extent of your Order's co-operation with any proposed inquiry?
 2. If a future inquiry was charged with investigating all or any of the matters listed above, would your Order be likely to bring a legal challenge to the entitlement of the inquiry to make findings related to any of these matters? If you believe this to be likely, can you specify which aspect(s) your Order would be likely to challenge?
 3. If your Order did not bring a legal challenge with regard to the matters listed above, would the Order rely on all rights available to it to contest any allegation concerning individual schools, alleged perpetrators and/or persons in positions of responsibility for handling allegations of abuse?
 4. Are there any circumstances, in principle, in which your Order would take the view that it will not seek to contest the finding of a particular fact or facts by a future inquiry in respect of the above mandates? For example, would the volume of allegations of historical sexual abuse against your Order or in respect of a particular school or schools run, or previously run by your Order, or a particular deceased/incapacitated/otherwise unavailable member or former member, inform the Order's views on whether it is likely to contest a finding that sexual abuse took place in schools run by your order, or in a particular school run by your order, or at the hands of a particular deceased/incapacitated/otherwise unavailable member or former member?
 5. What is your Order's view concerning allegations against deceased members or former members? Or those members or former members who may be incapacitated/otherwise unavailable? If such members were accused of historical sexual abuse, or criticised as to the handling of allegations of historical sexual abuse or suspicions of same, would your Order seek to defend such members, and/or seek separate legal representation for such members before any future inquiry?
22. The letter emphasised that these responses would be treated as responses in principle, and would not in any sense bind the orders or prejudice their rights before a future inquiry.

23. The Scoping Inquiry received 55 letters of response to the above letter. Of those who did not respond, the majority were orders who either never ran a school, or had previously informed the Inquiry that they had no allegation of child sexual abuse in their records. However, there were 5 orders who previously informed the Inquiry of allegations of abuse, but did not respond to the Inquiry's letter of 14 December 2023.¹⁹ As noted previously, in response to a number of requests for clarification in relation to the 14 December letter, the Scoping Inquiry attended an information meeting with representatives from the orders at All Hallows College, Dublin on 9 January 2024 and answered questions of clarification from the orders about the matters raised in the 14 December letter.

(a) Summary of responses to 14 December letter

24. For a significant number of the orders who responded to the 14 December letter, the response indicated that the order could not answer the questions posed, or had significant difficulty in doing so, in the absence of a published terms of reference.²⁰ It should be noted, however, that the majority of such responses indicated a willingness in principle to cooperate with a future inquiry. An example of responses of this kind is the response of the De La Salle Brothers, who stated:²¹

We are, in principle, happy to cooperate with any future inquiry but the details of such an inquiry are too vague at present for us to comment further. It appears that we are being asked to provide a commitment to participating in an inquiry, the format and terms of reference of which are unknown to us at this stage. We therefore cannot confirm the manner of our participation in such an inquiry until further information is available.

25. Another significant number of orders indicated that, as they were not aware of any allegations concerning their schools, or did not run schools, the questions were therefore not applicable to them and/or they would likely have limited engagement with a future inquiry, and made no responses to the individual questions. Again, it should be emphasised that the majority of these responses nevertheless indicated a willingness to cooperate with any future inquiry.²²

19 The Rosminians, the Cistercians of Mt. St. Joseph, the Discalced Carmelites, the Missionary Oblates of Mary Immaculate, and the Legionnaires of Christ.

20 Examples include the Capuchins, the Christian Brothers, Congregation of Dominican Sisters, De La Salle Brothers, Dominicans, the Franciscan Brothers, the Franciscan Friars, the Jesuits, the Marist Brothers, the Missionaries of the Sacred Heart, the Missionary Sisters of Our Lady of the Apostles, Patrician Brothers, the Presentation Brothers, the Presentation Sisters, the Sisters of the Holy Faith, the Sisters of Mercy, the Sisters of St Clare, the Sisters of St John of God, the Society of African Missions, Society of the Sacred Heart, the Spiritans, the Hospitaller Order of St. John of God; Vincentians.

21 Letter from Br Ben Hanlon, Provincial, De La Salle Brothers, dated 7 February 2024.

22 Examples include the Congregation of the Daughters of the Cross of Liege, the Congregation of the Faithful Companions of Jesus, the Redemptorists, the Sisters of the Christian Retreat, the Sisters of Christian Education, the Society of the Holy Child Jesus.

26. Some orders, while not answering all of the questions individually, stated that they would be unlikely to challenge an Inquiry established.²³ Other orders indicated a general willingness to engage with a future inquiry, but did not provide responses to the individual questions.²⁴
27. A number of orders responded to aspects of the questions posed, but not all. For example, two orders indicated that they would be prepared to cooperate with a ‘fact-finding’ inquiry, but appeared to suggest they might have more difficulty with an inquiry tasked with making particular findings as to who was responsible for abuse.²⁵ For example, the Salesians of Don Bosco stated:²⁶

If a future inquiry was mandated by its terms of reference, when determined, to carry out any of the tasks specified at paragraphs A, B, and/or C ..., we can confirm that, in principle, it would seem that the matters specified in paragraphs A and B are to a greater or lesser extent part of a fact finding process which may arguably be the function of such an inquiry (subject to its terms of reference). However, it would appear that the identification of responsibility for historical sexual abuse as detailed in paragraph C may go beyond the fact-finding processes of such an inquiry ...

It would appear to us that such inquiry should not proceed on the basis of asserting propositions of fact, provisional or otherwise, and then leaving itself potentially open to challenge potentially or being required to forensically prove those propositions. It is submitted therefore that it is not the function of such inquiry to, as would be the case of a prosecutor in a criminal trial or a plaintiff in civil litigation to attempt to or actually engage in attempting to prove or disprove anything. The scope and function would be investigative with a report ultimately on the findings.

23 E.g. the Carmelites.

24 Examples include the Benedictines of Glenstal Abbey, the Mill Hill Missionaries, the Order of St Camillus, the Religious Sisters of Charity. The Benedictines of Kylemore Abbey indicated an intention to cooperate, and answered the individual questions by stating:

Based on this limited experience, our reply to Question 1 is as expressed above: to continue to respond cooperatively to questions raised by a possible public inquiry. Our response to Questions 2, 3, 4 and 5 will depend of course on the content of the questions. Please be assured however that it will be directed by our intention to cooperate fully with you and your team.

25 Salesians of Don Bosco, Salesian Sisters.

26 Letter from Fr Eunan McDonnell, Provincial, Salesians of Don Bosco, dated 27 January 2024.

28. A small minority of the orders responded to most or all of the questions individually. A small number of those orders indicated that they would be likely to bring a legal challenge to the entitlement of an inquiry to make findings in relation to any of the potential mandates set out in the 14 December letter,²⁷ while a small number of other orders indicated that they would only bring a challenge to an inquiry that was overbroad or did not abide by fair procedures. A number of orders indicated an intention to rely on the full range of procedural protections available to them,²⁸ while others indicated that the extent to which they would rely on their procedural rights would depend on the facts of particular cases.²⁹
29. By contrast, a small number of orders indicated that not only would they not seek to challenge the Inquiry, they would also not rely on the full extent of their procedural rights before such an Inquiry.³⁰ For example, the Augustinians stated that it was

27 The Sisters of Charity of St Paul the Apostle stated:

‘The issues above have been the subject of challenge and controversy in previous Inquiries. Therefore, it is possible, subject to the legal advice sought, that we may bring a legal challenge to the entitlement of the inquiry to make findings related to the matters above.

Likely challenges may include (but are not limited to) the following:

- *Lack of clarity regarding the terms of reference which set out the matters under review/investigation.*
- *The scope of the review/investigation.*
- *The approach and methodology applied.*
- *If the parties who are the subject of an investigation or affected by the outcome of an investigation are not provided with an opportunity to review the draft report, to provide feedback on issues of factual inaccuracy and provide general comment on the report.*
- *A report that fails to protect the identity of parties, witnesses and other people mentioned.*
- *Failure to make any required changes to the draft report, subject to the feedback provided, prior to being finalised.’*

The Sisters of Our Lady of the Missions, in response to the question of whether they would bring a legal challenge to a future inquiry, queried whether a focus on religious schools only amounted to discrimination. However, they went on to state that ‘If any historical allegation came to light, in principle, we would not block any investigation and be open to researching details or any evidence that would support an investigation.’

28 E.g. the Marist Sisters; Sisters of Charity of St Paul the Apostle.

29 E.g. the Marianist Community. The Salesians of Don Bosco indicated that any waivers or discharges of procedural rights ‘would be strictly subject to the Government being prepared to indemnify the Order against claims by or on behalf of any relevant estate and/or any relevant personal representatives on satisfactory terms.’ (Letter of Fr Eunan McDonnell, Provincial, dated 27 January 2024).

30 Examples include the Brothers of Charity, Infant Jesus Sisters, Loreto Sisters, the Sisters of Charity of Jesus and Mary.

'highly unlikely' that they would seek to bring a legal challenge against a future inquiry. The Augustinians further stated in response to Question 3, concerning whether they would rely on the full extent of their procedural rights, by stating:³¹

The Augustinians would not contest any allegations concerning above (3). However, in the event a member is wrongly accused and this can be proved, the Order would obviously challenge and contest findings.

30. A number of orders stated they would likely not seek to bring a legal challenge provided a future inquiry acted in accordance with fair procedures, and that its Terms of Reference were clear and specific in order to provide certainty and fairness to all parties,³² and another order similarly stated that they likely would not seek to challenge an inquiry provided it acted in accordance with 'law and with justice'.³³ The Religious of the Sacred Heart of Mary indicated that their approach 'would be to seek clarity rather than to contest'.³⁴ The Carmelites stated that they would be unlikely to challenge or otherwise hamper an inquiry unless it or its findings were manifestly illegal or unjust:³⁵

It is unlikely that we would ever contest, challenge or hamper an Inquiry, such as the one described in your letter, unless it or its findings were manifestly illegal, discriminatory, unjust, or incorrect.

31 Response from Augustinians dated 17 January 2024. Similarly, the Brigidine Sisters stated in response to Question 3:

We would be assuming that any inquiry would follow fair procedures, and that there would be no need to bring any legal challenge in those circumstances. So, for example, if there was a complaint or criticism against any Sister, we would be anticipating that the inquiry would follow fair procedures and she would have an opportunity to see the complaint and surrounding materials, be entitled to raise queries, be entitled to a right of reply and to supply responding submissions etc. etc. We trust that best practice in terms of fair procedures and natural justice would be observed. It is important to note that as a leadership team we have no canonical or civil authority to waive the Constitutional rights of any of our individual members. (Letter from Sr Theresa Kilmurry csb, dated 2 February 2024.)

32 Sisters of St Louis, the Ursuline Sisters.

33 Sisters of the Cross and Passion.

34 Letter from Sr Mary Mullins, Area Leader, Religious of the Sacred Heart of Mary, dated 31 January 2024.

35 Letter from Fr Michael Troy, Provincial of the Carmelites, dated 15 February 2024.

31. In respect of the orders' attitude to allegations against deceased or incapacitated members, most orders did not address this question in detail.³⁶ However, one order indicated that in the case of allegations against a deceased member, the order would seek to assist the inquiry by way of the the production of any contemporaneous records and/or providing statements from other members who are still alive and might be able to shed light on the events.³⁷
32. One order simply declined to answer any of the questions at all.³⁸
33. It should be noted that a number of orders advised that they could not guarantee that a future Provincial would take the same approach, in circumstances where a prior Provincial cannot bind his or her successor.³⁹
34. It should also be noted that a large number of orders indicated their objection to a future inquiry focussing exclusively on religious and/or religious order run schools, and suggested that this focus was unfair and/or discriminatory.

C. Conclusions and Summary

35. It is important to emphasise that the great majority of the religious orders have engaged fully with this Inquiry, and have largely been very responsive and accommodating of the Inquiry's requests for information and other assistance. For many of the orders, there is little reason to believe that this would not continue with a future inquiry.

36 The Brigidine Sisters indicated that they hoped that an inquiry would not assume guilt on the part of a deceased person, merely because they were dead, and stated that they would consider individual cases on their facts:

We presume that any future inquiry would not assume any person's guilt simply because they are dead or incapacitated and have no ability to respond to allegation or criticisms. We would also presume that fair procedures will be followed insofar as that is possible when someone is dead or incapacitated. We appreciate that there could be different types of scenarios that might arise, and that different approaches might be warranted in each of those scenarios. We would intend to treat each case individually and respond in justice. (Letter from Sr Theresa Kilmurry csb, dated 2 February 2024.)

The Salesians of Don Bosco indicated that that 'a deceased person and his personal representatives have certain rights pertaining to the defence of a person's good name and regarding rights to legal representation, especially since they are not in a position to defend themselves', and indicated that they would consider such matters on a case by case basis. (Letter of Fr Eunan McDonnell, Provincial, dated 27 January 2024).

37 The Ursuline Sisters.

38 Sisters of St Joseph of Cluny.

39 E.g. the Franciscan Friars; The Sisters of Our Lady of the Missions.

36. However, a majority of the religious orders, and in particular the great majority of the religious orders who have informed this Inquiry of a significant number of allegations in their records, have indicated that they would need to know the actual or proposed Terms of Reference of a future inquiry before they were able to offer a detailed response in relation to their likely attitude to various aspects of a future inquiry. It will therefore prove necessary for there to be further engagement with the orders in relation to their likely engagement and cooperation with a future inquiry when the Terms of Reference of that inquiry are published.
37. It is possible, however, to outline certain general features of the orders likely attitude to a future inquiry from this Inquiry's engagement to date. In the first instance, the majority of the orders have indicated that they are, in principle, willing to engage and cooperate with a future inquiry. Some orders have suggested that the level of such cooperation might depend on whether fair procedures are duly observed by such an inquiry. In addition, a number of orders, and in particular the larger orders, have indicated that certain procedural protections for witnesses should be in place, and further that it would be necessary for a future inquiry to have powers of compellability, in order to obviate any concerns that the disclosure of documents and records would breach data protection law and/or obligations of confidentiality.
38. Of those orders who did respond to the individual questions in our 14 December letter, a small number indicated that they would not seek to rely on the full extent of their procedural rights and/or would not seek to contest an allegation against a deceased or otherwise unavailable member where there was a weight of evidence against such a member, or in respect of a particular institution.
39. However, while only a similarly small number explicitly stated that they would seek to rely on the full extent of their rights and/or would generally seek to defend their deceased or otherwise unavailable members etc, for the great majority of orders, and in particular the orders in respect of which there are a significant number of allegations, there was no response to these questions, for the reasons canvassed above. The attitude of the orders to these questions is particularly important to any future inquiry, as the extent to which the orders may accept the fact of abuse in particular institutions, or in respect of particular members, without the need for full witness evidence and cross-examination etc, may inform the likely length of a future inquiry, the resources required, and potentially the focus of the future inquiry.

40. It is therefore difficult to draw specific conclusions in relation to the design of a future inquiry from the engagement with the orders as to their likely cooperation, other than to say that there is a general willingness in principle on the part of the majority of the orders to cooperate with a future inquiry. However, it cannot be said at this juncture that there is a likelihood that a significant number of the religious orders would make concessions and/or not seek to rely on the full range of their procedural entitlements before a future inquiry. It is therefore strongly recommended that there be further engagement with the orders when a proposed Terms of Reference is agreed upon.

Chapter 25:

Conclusion: A Potential Framework for Government Response

- A. Introduction
- B. The Responses Sought in the Survivor Engagement Process
 - (i) A Statutory Inquiry
 - (ii) The choice between a Tribunal of Inquiry and a Commission of Investigation
 - (a) Rationales Given for Preference for Public Hearings
 - (b) Possibility of Public and Private Hearings Before an Inquiry
 - (c) Differing Procedural Rights before Tribunals and Commissions
 - (iii) Reconciling Survivors' Views on a Type of Inquiry
 - (a) Retraumatism Risks of an Inquiry Process
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- C. Scope of Proposed Commission of Investigation
 - (i) An Investigation of the Handling of Complaints/Suspensions of Sexual Abuse
 - (ii) What Schools Should Be Included?
- D. The Scale and Extent of Sexual Abuse Allegations in Schools Run by Religious Orders
- E. Issues Required to Be Considered Under Our Terms of Reference
 - (i) The Necessity for Powers of Compellability
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 - (iv) The Extent of Co-operation By Religious Orders with a Future Inquiry

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- (i) A Survivor-Centred Approach: Survivor Engagement Programme
- (ii) A Survivor-Centred Commission: Practical Approaches to be Adopted
 - (a) Consultation with Survivors & Other Stakeholders
 - (b) Transparency: Allowing Survivors to Make Informed Choices
 - (c) Regular Communication with Stakeholders
 - (d) Support for Survivors
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- (iii) The Breadth and Sequencing of a Government Response
 - (a) Consideration of Sampling and Divisions
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G. Further Recommendations for a Government Response

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- (ii) Commemoration and Memorials
- (iii) Counselling and Mental Health Supports for Survivors
- (iv) Divestment

H. Best Practice Findings Regarding Restorative Justice and Child Protection

- (i) Restorative Justice Initiatives by Religious Orders
- (ii) Child Protection

I. Summary of Recommendations

A. Introduction

1. The Scoping Inquiry was asked to set out a potential framework for a government response to historical sexual abuse in day and boarding schools run by religious orders.
2. In assessing options for an independent inquiry, the Scoping Inquiry must have regard to:
 - (i) Alignment with outcomes sought by survivors;
 - (ii) The potential impact of the process and its outcomes on survivors and their families, including the potential for re-traumatisation;
 - (iii) Legal issues and/or considerations that may arise, including the necessity for powers of compellability and risks to any Garda investigation running concurrently; and
 - (iv) Timeframe and cost.
3. The Scoping Inquiry was also tasked with analysing the potential scale of historical sexual abuse in schools run by religious orders. In addition, we were asked to outline findings of best practice in the area of child protection and undertake a critical analysis and audit of restorative justice initiatives offered by religious orders.
4. Each of these issues is considered in turn below.
5. The responses of survivors as to what the Government should do next are set out below. These responses are set against the backdrop of the accounts from survivors set out elsewhere in this Report. The level and extent of sexual assaults on schoolchildren described in the accounts makes for disturbing and harrowing reading. Survivors' accounts and the scale of recorded allegations concerning a large number of schools run by religious orders gives rise to serious concerns about what was happening in those schools. Survivors have called for an inquiry to investigate the concerns raised. It is important that the inquiry process itself, in so far as possible, minimises the risks of any further harm to survivors coming forward to such an inquiry. This objective has informed all of our recommendations and conclusions and is, we believe, in keeping with the views of the survivors who participated in our Survivor Engagement process.

B. The Responses Sought in the Survivor Engagement Process

6. Participants in the Survivor Engagement process had a range of views and opinions on how the Government should respond.¹ Two matters particularly emerged as key concerns that most participants wanted, namely a statutory inquiry and a redress scheme.

(i) A Statutory Inquiry

7. In considering the desired outcome for a statutory inquiry, and what form that inquiry should take, it is necessary to consider the outcomes sought by survivors:

- (i) **Accountability and Respect:** Survivors wanted those accused of sexual abuse or, where those individuals were deceased or incapacitated, members of their religious order or school management, to listen to their accounts of abuse, and answer questions on why actions were not taken;
- (ii) **Support for Survivors:** Survivors wanted a space to be heard to give their accounts of their experiences, to have those accounts believed, to have a process sensitive to survivors and as non-adversarial as possible.
- (iii) **Learning:** Survivors wanted any inquiry to include learning for the future to try and make sure that such sexual abuse would not be repeated. There was a call for a sociological understanding of the prevalence of sexual abuse of children and an understanding of why it occurred among religious orders. Participants also wanted the work of any inquiry to be available to help inform other countries.
- (iv) **Early/Immediate Action:** Concerns were raised about the length of time that an inquiry would take. Participants said that, as many survivors are aging, it is important that they see and receive justice within their lifetimes. The publication of the report of the Scoping Inquiry was seen by many survivors as a first step, with early action on its recommendations.

8. Most of the participants opted for a statutory inquiry, as a process that would offer some measure of accountability. Many did not have a preference for any particular type of inquiry and some said they did not want any inquiry.
9. There was much overlap and nuance in the rationales given for participants' preferences. Some participants were clear in stating their preference for a Tribunal of Inquiry or a Commission of Investigation, while others were less sure about the similarities and differences between these. However, there was a clear consensus in seeking accountability.

1 See Chapter 7.

10. It was important to participants that a statutory inquiry would be open to the public and the media, have powers of compellability, be transparent, and would ultimately issue a public report. What was of concern for participants was the implications of any adversarial legal process, including being cross-examined, not being believed or, for some, having to give their account in public, leading to the possibility of being retraumatised.
11. Many of those who wanted a statutory or public inquiry said they would be prepared to give evidence. However, many said they did not want to be cross-examined or challenged on their evidence. Some said they would only give evidence in private, and some said, based on previous experience with the legal system, that they would not participate in a public inquiry. Some participants expressed support for more than one type of statutory inquiry.

(ii) The choice between a Tribunal of Inquiry and a Commission of Investigation

12. Most participants wanted a statutory inquiry, with the choice being between a tribunal or a commission. Both tribunals and commissions are established on a statutory basis with extensive powers of compellability of witnesses and documents and issue reports available to the public. Each form of inquiry ultimately has the power to apply to the High Court if individuals or bodies fail to obey their orders and directions.
13. However, while the public and media may attend tribunals, which are generally held in public, commissions are typically held in private without the public or media in attendance. As discussed below, tribunals may sit in private and commissions may sit in public in certain circumstances.

(a) Rationales Given for Preference for Public Hearings

14. Many participants in the Survivor Engagement process were of the view that public engagement and scrutiny was an effective way to establish the facts in relation to sexual abuse in schools and any cover-up of such abuse. Public scrutiny was also seen as a means to challenge stigma and silence in relation to sexual abuse in schools. National awareness of the details of what happened and its influence on the perceptions of the religious orders was also cited by participants as a reason to hold the inquiry in public. Transparency was also cited, in the sense that participants felt that transparency was strengthened in a publicly accessible process.
15. While most survivors wanted an inquiry held in public, which would typically mean a tribunal, most survivors also wanted as non-adversarial a process as possible. A tribunal is court-like and adversarial in its processes as a consequence of its public nature. These two views are therefore not easy to reconcile.

(b) Possibility of Public and Private Hearings Before an Inquiry

16. While the default position is that a tribunal sits in public and a commission sits in private, both also have statutory powers to do the opposite in certain circumstances. A tribunal may sit in private if it believes it is ‘in the public interest expedient to sit in private for reasons connected with the subject matter of the inquiry, or the nature of the evidence, in particular if there is a risk of prejudice to criminal proceedings’.² In practice, this has only occurred on an exceptional basis.³ The circumstances where tribunals have held sittings in private are detailed elsewhere in this Report.⁴
17. The default position for a commission is that it sits in private unless ‘a witness requests that all or part of his or her evidence is given in public, and the commission grants that request’. Alternatively, the commission can hear evidence in public if it is satisfied ‘that it is desirable in the interests of the investigation and fair procedures to hear all or part of the evidence of witness in public’.⁵
18. While a commission may sit in public, in practice this has been the exception to their usual procedure. A recent example of a commission sitting in public is the South East Commission into the response to complaints or allegations of child sexual abuse made against Bill Kenneally and related matters, which heard the evidence of a number of witnesses, including a convicted child sexual abuser, in public with full media reporting.⁶
19. Both inquiry models, therefore, can accommodate hearings in public or private. The extent to which either type of inquiry may exercise their power to do so largely turns on their respective statutory provisions and is dependent on the particular circumstances under consideration.
20. When a tribunal sits in private, while the public will not be present, generally, the other parties and their legal representatives will be present to hear the evidence. When a commission sits in private, it has a statutory discretion to exclude other parties, and thus has flexibility to decide who may be present during evidence.

2 Tribunals of Inquiry (Evidence) Act, 1921, s 2(a).

3 In the Morris Tribunal certain evidence was heard in private. Similarly, in the Moriarty Tribunal, some evidence from Charles Haughey was taken in private on grounds of ill health. Other measures can also be adopted: the Blood Tribunal heard certain witnesses in public behind screens and with their names pseudonymised.

4 See discussion in Chapter 14.

5 Commissions of Investigation Act 2004, s 11(1).

6 The Commission of Investigation (Response to complaints or allegations of child sexual abuse made against Bill Kenneally and related matters).

(c) *Differing Procedural Rights before Tribunals and Commissions*

21. In general, the main difference between tribunals and commissions is that a commission is entitled to be less court-like in its processes and procedures than a tribunal. A commission has statutory powers that give it flexibility in deciding whether the full range of procedural rights must be afforded to a person accused of wrongdoing, including a right to cross-examine his or her accuser. The commission can decide whether cross-examination is necessary to fairly determine the issues the commission needs to decide, and cross-examination is only permitted if the commission so directs.
22. When evidence is given in public before a tribunal the accused person's reputation will suffer as a result of the immediate reporting and publicization of the accusatory statements made in public. Such a person must therefore be permitted to immediately defend themselves by cross-examining their accuser. A tribunal is therefore the most adversarial model of inquiry, being the most court-like in its processes, with full procedural rights, including cross-examination of witnesses, generally afforded to parties before tribunals who may be the subject of adverse comment or criticism.
23. Where a commission is sitting in private, there is no immediate publicity attendant on the statements made in evidence, and the commission can take the view that the person accused can fairly defend themselves without cross-examination by, for example, providing written submissions. When a witness is giving evidence, other persons and their legal representatives may only be present if the commission is satisfied that their presence would be in keeping with the purposes of the investigation and would be in the interests of fair procedures.
24. Commissions have a power to allow evidence to be heard by video link or recording, which also gives it flexibility in dealing with witnesses before it who may be vulnerable.

(iii) *Reconciling Survivors' Views on a Type of Inquiry*

25. Survivors want the most rigorous legal process to bring the religious orders and others they feel are responsible to account. At the same time, it is also evident that survivors want to recount their experiences and be believed in the most non-adversarial manner possible. This gives rise to a dilemma. A tribunal process is a highly adversarial process which will subject the religious orders and other relevant actors to difficult and arduous questioning. However, that highly adversarial process would be equally applicable to survivors, and brings with it the risks of retraumatisation of survivors.

26. Clearly, these preferences are not easily reconcilable. The Scoping Inquiry does not believe that the wishes of survivors may be met by suggesting some form of bespoke legislation to try to cater for both desired outcomes, as the legal position as regards fair procedures will remain the same. Further, the drafting and enactment of bespoke legislation would delay the setting up of an inquiry.

(a) Retraumatism Risks of an Inquiry Process

27. In assessing the options for a future inquiry, the Scoping Inquiry had particular regard to the likely impact on survivors and their families including risks of retraumatism.

28. An adversarial process carries a high risk of retraumatism for survivors. We have set out elsewhere in this Report the studies, albeit limited in size, that look at the impact on survivors of engaging with inquiries.⁷ Most survivors speak of the retraumatism nature of the experience and its negative consequences, even where attempts were made to limit cross-examination or to otherwise support survivors.

29. In addition, those participants in the Survivor Engagement process who had experienced cross-examination viewed it as traumatic and inappropriate for survivors of sexual abuse. It is also quite clear from many participants' responses that they are very aware of the risks of retraumatism and are concerned about those risks, and therefore favour the least adversarial process possible.

30. In truth, for those survivors who wish to give evidence to a statutory inquiry, it is likely that, even without cross-examination, some will experience retraumatism. The nature of the experiences being recounted to a statutory inquiry are such that for some, speaking about the experience may cause significant distress.

31. It is thus impossible to completely protect survivors against the risks of retraumatism in any inquiry process. It is fair to say, however, that the commission model of inquiry provides for the greatest prospect of reducing retraumatism because it is a less adversarial inquiry model. It is also possible for an inquiry to take certain measures, discussed below, to try to reduce the risks of retraumatism.

(b) Meeting the Principles Underpinning Survivors' Views

32. We have carefully considered the views of participants and found that the range of preferences expressed are best accommodated, for the widest number of participants possible, by opting for a Commission of Investigation as opposed to a Tribunal of Inquiry.

7 See Chapter 18.

(c) Transparency

33. Given the powers of both types of inquiry are similar, the preference for a public hearing would appear to favour a tribunal, which generally sits in public. We believe that the need for transparency of process can be met by a commission however, notwithstanding that commissions generally sit in private.
34. Firstly, a commission will produce a public report, which will likely attract significant media coverage and public attention.
35. Secondly, commissions can conduct hearings in public, with members of the media and the general public present. While commissions generally sit in private, it is clearly possible for a commission to sit in public to hear evidence; for example one could envisage the hearing of evidence in relation to convicted child abusers associated with schools being held in public. These are matters for the commission to determine when organising modules and hearing of evidence. Individual survivors who may wish to give evidence in public can equally apply to the commission to have their evidence, or part of it, heard in public. Subject to the interests of the investigation and fair procedures, these options would be open to a commission of investigation.

(d) Flexibility of Procedures

36. The capacity of commissions to deal with procedural rights in a flexible fashion, particularly in relation to whether witnesses are to be cross-examined, what parties may be present while a witness is giving evidence, and the ability to hear evidence by video link or recording, suggest that a commission model of inquiry offers the best prospect of mitigating the risks of retraumatisation and of providing the least adversarial model of inquiry possible.

(e) Inclusion

37. Since a tribunal is a more court-like model of inquiry, it is likely to be very challenging for those survivors who expressed concerns about an adversarial process, being cross-examined, or having to give evidence in public. The Scoping Inquiry team noted that many of the survivors who came forward spoke of their hope that others who had not yet come forward or spoken about their experiences would be inspired to come forward to an inquiry. Participants also said that any future inquiry should seek maximum participation of survivors. Overall, the sense was that participants would like as many survivors as possible to come forward to a future inquiry. In the circumstances, it seems that the public and more court-like process of a tribunal

could discourage survivors from coming forward, particularly those coming forward for the first time. On the other hand, a commission is less court-like, with more flexibility as to its procedures, and is more likely to encourage a broad range of survivors to participate.

(f) *Speed of Resolution*

38. Most participants in the Survivor Engagement process expressed the desire that any inquiry process should report as quickly as possible. While it is not possible to give a clear indication of the timeframe for a future inquiry, it is generally accepted that tribunals tend to be of longer duration than commissions.

(g) *Conclusion on Form of Inquiry*

39. It is not possible to meet every desired outcome of survivors under either inquiry model. However, for the reasons set out above, our conclusion is that the commission model offers accountability, transparency, flexibility, compellability and a speedier mechanism to investigate matters of public concern, and does so in the least adversarial model available.
40. We must, in accordance with our terms of reference, consider the risks of retraumatisation for survivors of any inquiry process. Adopting the least adversarial model is in keeping with those considerations and is in keeping with the desired outcomes of the majority of participants in the Survivor Engagement process. We hope that the commission model will encourage a broad range of survivors to come forward to an inquiry.

We recommend the establishment of a Commission of Investigation pursuant to the Commissions of Investigation Act 2004.

(iv) *A Redress Scheme*

41. There is a clear mandate that a redress scheme should form part of the Government response. Ultimately, this will be a matter for the political process.
42. Most participants stated that they wanted to see a redress scheme established for survivors. Participants saw redress as an important element of accountability, and whilst they are clear that it cannot compensate for the harm that was done, most survivors who engaged in this process viewed it as a means to achieve some degree of recognition from the religious orders of the damage caused.

43. Many participants pointed to the financial cost of dealing with the impact of abuse on their lives, which ranged from loss of education and professional opportunities, to the impact of addiction and mental illness because of abuse, to the need to pay for support services and therapeutic interventions for themselves. Whilst not all survivors want redress for themselves, there was a broad support for redress for those who want or need it.
44. Notably, many participants wanted the religious orders to pay for or contribute to a redress scheme, while others were of the view that the State should also contribute to such a scheme. Some of those who had attended fee-paying schools remarked that they wanted the money their parents paid in fees refunded by the religious orders.
45. Redress is a complex issue, as can be seen from the comments of the participants in the Survivor Engagement process.⁸ While there was widespread support for redress, there were differences between survivors as to how redress should be structured. Some favoured a flat payment that was not dependent on the seriousness of the incidents of sexual abuse alleged or the forms of injury/impact of sexual abuse. Others felt that these factors should be taken into account. There was, however, consensus that any redress process should be as non-adversarial as possible.
46. Many survivors envisaged compensation in the form of a single payment, whilst others suggested periodic payments would be more suitable. A smaller group were of the view that redress should take the form of enhanced health, housing, educational, and other benefits for survivors. There was also agreement amongst survivors that redress should be expedited in light of the age profile of many survivors.

We recommend that in early course consideration be given by the Government to establishing a redress scheme for survivors of historical sexual abuse in day and boarding schools run by religious orders. We further recommend that the Government approach the relevant religious orders about contributing to a redress scheme.

C. Scope of Proposed Commission of Investigation

47. The next question that arises is what the scope of the proposed commission should be. At the outset, it should be acknowledged that, irrespective of whether a tribunal or commission inquiry model is chosen, there would likely be considerable difficulty in establishing whether an individual instance of sexual abuse had occurred in any individual case at this remove.

48. It is generally accepted that public inquiries, whether a tribunal or a commission, are not the correct forum to make findings as to whether individual instances of sexual abuse occurred, and cannot take the place of a criminal trial. Rather, public inquiries are designed to address broader questions of systemic failings and institutional responsibility.

(i) An Investigation of the Handling of Complaints/Suspicious of Sexual Abuse

49. A majority of participants in the Survivor Engagement process stated that they wanted accountability. For most participants that meant that they wanted:

- (i) a public acknowledgment from the religious orders of the sexual abuse that had occurred in schools;
- (ii) the public to believe and understand what had happened; and
- (iii) ongoing improvements to ensure that it would never happen again.

50. In relation to the scope of a future inquiry, the majority of survivors said that they wanted an investigation into:

- (i) what had happened;
- (ii) who was responsible;
- (iii) whether there had been a cover-up; and
- (iv) what can be learned.

51. The following themes emerged as to what participants wanted investigated by a future inquiry:

- (i) what was known by the religious orders/school management at the time. Many participants said that the school authorities had to have known that sexual abuse was taking place;
- (ii) who had known about sexual abuse in the school, and what actions they had taken, and if no action taken, why was that so;
- (iii) whether there was a cover-up of sexual abuse in the school;
- (iv) whether there had been co-ordinated actions such as a paedophile ring operating in the school;
- (v) whether those accused of abuse were sent to other schools or institutions where they had access to children;
- (vi) that research be conducted to understand the reasons for and prevalence of child sexual abuse in Irish schools which would have a sociological rather than a legal focus; and

- (vii) that the role of other public bodies such as An Garda Síochána, health and social services, and government departments be investigated to ascertain what was known about sexual abuse in schools by those bodies during relevant periods, and if steps were taken to address any issues identified.
52. The above issues largely fall within the rubric of an investigation into the handling of complaints of historical sexual abuse in day and boarding schools run by religious orders.
53. As set out elsewhere in this Report, an investigation into the handling of complaints of historical sexual abuse can investigate whether there was a cover-up of historical sexual abuse, what happened when sexual abuse allegations or complaints were made, or suspicions and concerns arose and whether the accused person was relieved of duty pending investigation and/or transferred to another school or other institution where that person had access to children.
54. The question of whether the Commission names individuals alleged to have abused children is a matter for the Commission. Some individuals were named in reports of the Ferns,⁹ Dublin Archdiocese,¹⁰ and Cloyne¹¹ inquiries in circumstances where alleged abusers were deceased, had been convicted of offences, or were notorious such that their names were already in the public domain. A commission can decide how this issue should be dealt with, bearing in mind fair procedures and the particular circumstances before it.
55. Whether the Commission believes that it is necessary, in the interests of fair procedures, to afford a right to cross-examine to the persons who handled abuse claims or had concerns/suspicions about sexual abuse in a school will depend on the circumstances of each case. Clearly, where persons have been convicted of child sexual abuse of a survivor, distinct considerations would arise. Further, in some cases, there may be clear documentary evidence about what was known and the decisions made at the time of the complaint. In other cases, witness testimony may be the sole source of evidence available. If the individual or individuals concerned are deceased, a commission will have to decide how it intends to proceed and determine the extent of the congregations' entitlement to seek to defend the reputations of deceased members.
56. It will also be necessary to examine the response of state bodies such as An Garda Síochána, health and social services, and the Department of Education to complaints of sexual abuse.

9 Murphy et al, *Ferns Report* (2005).

10 Murphy et al, *Report by Commission of Investigation into Catholic Archdiocese of Dublin* (29 November 2009) Dublin: Stationery Office ('**Dublin Archdiocese Report**').

11 Commission of Investigation Report into the Catholic Dioceses of Cloyne (December 2010) Dublin: Stationery Office ('**Cloyne Report**').

57. For the reasons set out above, the Scoping Inquiry is of the view that an investigation into the handling of allegations of historical sexual abuse in day and boarding schools run by the religious orders is the most expeditious and effective manner in which to investigate what happened in schools, and is the manner most likely to minimise re-traumatisation of survivors in an inquiry process.

We recommend that the Commission investigate the handling of historical sexual abuse allegations, and concerns and suspicions of sexual abuse in day and boarding schools run by religious orders.

(ii) What Schools Should Be Included?

58. A number of participants in the Survivor Engagement process wanted the scope of a future inquiry to include all schools where historical sexual abuse had occurred. Many of the religious orders also expressed the view that confining a future inquiry to religious order run schools was inherently unfair and inequitable.
59. We have set out below suggested terms of reference for a future inquiry to examine the handling of complaints of historical sexual abuse in religious order-run schools. However, it is open to the Government under the provisions of the 2004 Act to expand the role of the Commission to cover all day and boarding schools, and to amend the terms of reference suggested below as necessary to achieve that end.
60. It is our view that the inquiry should be expanded to include other schools and denominations. We recommend that serious consideration be given to extending the scope of the proposed commission to include historical sexual abuse in all day and boarding schools for the reasons set out elsewhere in this Report.¹² In terms of sequencing, given the preliminary work undertaken by the Scoping Inquiry, it would appear advisable for a Commission to first consider schools run by religious orders before turning to other types of schools.

We Recommend that consideration be given to extending the Terms of Reference of Commission to include all schools.

12 See Chapter 12.

D. The Scale and Extent of Sexual Abuse Allegations in Schools Run by Religious Orders

61. It is difficult to provide a certain estimate of the likely scale and extent of sexual abuse in schools run by religious orders. We have set out our findings primarily by reference to the information provided by the religious orders from their records,¹³ but have also outlined other sources of information,¹⁴ including the recent Central Statistics Office ('CSO') Sexual Violence Survey,¹⁵ in seeking to provide as broad a survey as possible of this issue.
62. The data provided by religious orders gives the best indication available as to the scale and extent of allegations relating to schools. Currently, the total number of allegations recorded by the religious orders as associated with their schools is 2,395 allegations across 308 schools.
63. The Scoping Inquiry was not otherwise able to obtain any comprehensive data on the number of allegations of sexual abuse arising in religious order-run schools:¹⁶
- (i) Given the manner in which the records of the Gardaí are held and recorded, it was not possible to obtain figures of the number of allegations reported concerning historical sexual abuse in schools, without extensive manual searches;
 - (ii) Tusla identified 1,387 sexual abuse allegations relating to religious orders that ran schools. These figures were extracted from data recorded for Tusla's Audit, and only include relevant sexual abuse allegations up to 31 January 2018;
 - (iii) The National Board for Safeguarding Children in the Catholic Church in Ireland (NBSCCI) has conducted reviews in respect of 69 religious orders that run schools, which have recorded 2,500 allegations. The NBSCCI figures include allegations divorced from a school setting and also only relate to allegations against members of religious orders. Moreover, these audits are not limited to allegations of sexual abuse and include figures for Northern Ireland;
 - (iv) The Department of Education confirmed that they had records of a total of 311 allegations of abuse which they believed related to allegations in schools run by religious orders, but they could only provide information that was recorded from July 1994 onwards. As discussed elsewhere in our Report,¹⁷ it appears that most incidents likely occurred prior to this period; and,

13 See Chapter 9.

14 See Chapter 10

15 See Chapter 23.

16 Chapter 10 details the background to the these figures.

17 See, for example, the NBSCCI annual report data discussed in Chapter 10.

- (v) Some 182 questionnaire responses provided to the Survivor Engagement process separately provides a source of data in relation to the allegations of sexual abuse recorded therein.
64. The anonymised records of allegations of historical sexual abuse received from religious orders, the Department of Education, and Tusla cannot be cross checked. It may well be the case that there is some duplication between these sources of allegations. The potential for duplication means that one cannot simply add these allegations to the total number of allegations recorded by religious orders to arrive at a total number of allegations.
65. The Scoping Inquiry approached the Central Statistics Office ('CSO') for assistance in ascertaining the likely scale of sexual abuse allegations that may emerge. The figures from the CSO's Sexual Violence Survey ('SVS') indicate significant levels of underreporting of childhood sexual violence, particularly among men.¹⁸ The religious orders' figures should be read with that in mind.
66. The Sexual Violence Survey asked participants about the location where the sexual violence occurred, including at school.¹⁹ The figures below include all schools as the location and are not confined to schools run by religious orders. The resulting figures are estimates only, and subject to a number of caveats,²⁰ but in summary they suggest that of those aged 35 years and over, some 15,300 men and 26,000 women can be estimated to have experienced sexual violence as a child in a school.

18 The figure for reporting for men generally is 25%, and for all adults in the age groups of 45 years and over, it is between 40% to 42%. CSO Sexual Violence Survey CSO, Sexual Violence Survey 2022 – Disclosure of Experiences, Overall Childhood Experiences Disclosure chapter. <https://www.cso.ie/en/releasesandpublications/ep/p-svsde/sexualviolencesurvey2022disclosureofexperiences/overallchildhoodexperiencesdisclosure/>.

19 The SVS data was solely based on the experience that affected the participant the most, and the sexual violence may have been perpetrated in a number of locations. See Chapter 23.

20 The SVS data caveated based on a number of factors, including that it is solely based on the experience that affected the participant the most, and the sexual violence may have been perpetrated in a number of locations. See discussion in Chapter 23.

E. Issues Required to Be Considered Under Our Terms of Reference

(i) The Necessity for Powers of Compellability

67. There will clearly be a requirement for an inquiry to have a statutory basis with powers of compellability over documents and witnesses. Regardless of the extent of voluntary co-operation by religious orders, a statutory power to require disclosure of documents will be required since the religious orders and other bodies will otherwise be subject to data protection provisions. As such, a non-statutory inquiry would not be feasible. Commissions of Investigation are equipped with all the necessary statutory powers to compel documents and the attendance of witnesses before them.

(ii) Risks to Garda Investigations Running Concurrently

68. As set out elsewhere in this Report,²¹ where the publication of a commission's report risks prejudicing a criminal trial, there is a power to make an application to the High Court so that the relevant part of the report is not published until the criminal proceedings have concluded. Commissions therefore have a clear means to prevent prejudice to criminal trials or investigations. However, unless a commission must investigate the matter at issue to give effect to its terms of reference, it is probably preferable to seek to avoid such potential conflicts arising or, where possible, to delay the hearing of modules where such issues may arise.

(iii) Timeframe and cost

69. We set out elsewhere in this Report a more detailed analysis of the potential timeframe and cost of a future inquiry.²² Generally, commissions of investigation are considered a more speedy and cost-effective mechanism than tribunals of inquiry.

70. It is difficult to provide a certain estimate of the likely timeframe and cost of a future inquiry given the uncertainty as to the number of persons who may come forward.

21 See Chapter 22.

22 *ibid.*

71. If an inquiry is established, it is likely that it will encourage more people to come forward. It is not possible to estimate what the increase in numbers is likely to be. However, the total number of allegations provided by the religious orders are currently less than the total number of persons who applied to CICA (3,648), and somewhat greater than the number of people whose applications ultimately proceeded before CICA (2,097).²³
72. It seems reasonable to suggest that a relatively small proportion of the overall number of complainants will come forward to a future inquiry.²⁴ However, it must be borne in mind, in light of the figures mentioned in the CSO Sexual Violence survey discussed above coupled with the levels of under-reporting of child sexual abuse, the numbers coming forward to an inquiry may be far greater than 2,395 persons.
73. In addition, this Report has recommended that consideration be given to expanding the terms of reference of a future inquiry to include historical sexual abuse in all schools, rather than just schools run by religious orders.²⁵
74. Given the uncertainty about numbers, it is difficult to predict a timeframe with any certainty. The Dublin Archdiocese Report, for example, took 3.5 years to complete, and examined the manner in which the archdiocese dealt with complaints, or suspicions or reasonable concerns in respect of the behaviour of 46 priests in connection with 320 children. It is likely that a future inquiry will be dealing with a larger number of individuals accused of abuse, and a larger number of individuals involved in the handling of complaints, and a large number of religious orders. In the Dublin Archdiocese Inquiry, complaints were relatively centralised, whereas for a future commission this will not be the case, as there is a very large number of schools, spread out across the country in respect of which there are allegations of historical sexual abuse. Preliminary procedures such as inviting expressions of interest from those who wish to come forward to the commission, and necessary processes such as gathering documentation are likely to be much more time-consuming for a future commission. In the circumstances, it seems reasonable to suggest a timeframe of at least 5 years.
75. In general, the costs of a commission would be much less than a tribunal. In addition, a future commission might consider adopting methodologies such as sampling, and/or sitting in divisions to expedite its work. This is discussed further below.

23 Comptroller and Auditor General Special Report: Cost of Child Abuse Inquiry and Redress. Rept. no 96, December 2016, paragraph 2.9 which sets out the figures for both the Investigation Committee and the Confidential Committee.

24 In the case of CICA, while a total of 3,648 applications were made to CICA, the number of persons who had applied to the Residential Institutions Redress Board ('RIRB') by the end of 2015 was 15,579 claimants

25 See Chapter 12.

(iv) The Extent of Co-operation By Religious Orders with a Future Inquiry

76. As discussed in Chapter 24, the great majority of the religious orders have indicated that they are, in principle, willing to engage and cooperate with a future inquiry.
77. Some orders have suggested that the level of such cooperation might depend on whether fair procedures are duly observed by such an inquiry. In addition, a number of religious orders, and in particular the larger orders, have indicated that certain procedural protections for witnesses should be in place, and further that it would be necessary for a future inquiry to have powers of compellability, in order to obviate concerns regarding data protection law and/or obligations of confidentiality. These requirements will be met by a commission.
78. However, the great majority of religious orders did not respond to the more specific queries raised by the Scoping Inquiry as to what issues they might be willing to concede, on the basis that they could not respond until they see the terms of reference of a future inquiry. In particular, the religious orders in respect of which there are a significant number of allegations did not respond to these questions for that reason.
79. The attitude of the religious orders against which there are large numbers of allegations is particularly important to any future inquiry. The religious orders are entitled to rely on their legal and procedural rights before a commission. However, the extent to which they may do so, and the extent to which issues are contested, will be relevant to the likely duration of the commission's work, and to the experience of survivors before such an inquiry, having regard to the need for oral evidence and cross-examination. It is therefore clear that further engagement with the religious orders is advised after the terms of reference are fixed by the Government.

F. Proposed Framework for a Government Response

80. Having concluded on the type and scope of an inquiry to be adopted, we now proceed to set out a potential framework for delivering the Government responses sought by participants in the Survivor Engagement process.

(i) A Survivor-Centred Approach: Survivor Engagement Programme

81. The Scoping Inquiry is of the view that the Commission should be as survivor-centred as possible and that values such as accountability, truth, respect and inclusion should inform its approach. Adopting such values reflects the imperative of reducing the risk of re-traumatisation for survivors and accords with the recent emphasis on protecting the rights of victims in the legal process.²⁶

26 See, for example, the Criminal Justice (Victims of Crime) Act 2017.

82. In furtherance of this approach, we recommend that the Commission put in place a Survivor Engagement Programme to afford as wide a range of survivors as possible the opportunity to tell their story. A completely non-adversarial environment that allows survivors to do this was something that participants in the Scoping Inquiry's Survivor Engagement process felt would be beneficial. This programme would be somewhat similar to the Survivor Engagement process instigated by the Scoping Inquiry.
83. A Survivor Engagement Programme will include those who cannot, or do not wish to, give evidence in commission hearings, so that the greatest number of survivors have an opportunity to participate in a meaningful way.
84. The Survivor Engagement Programme should allow survivors to provide statements of their experiences of historical sexual abuse in schools, in writing or in person, in a non-adversarial and supportive manner.
85. The purpose of the Survivor Engagement Programme shall be to:
- (i) Record survivors' experiences, the impacts and consequences of sexual abuse;
 - (ii) Provide a non-adversarial setting for survivors, family members of deceased survivors, and other relevant persons to recount their experiences;
 - (iii) Engage in relevant sociological research and analysis based on survivors experiences with a view to informing future policy; and
 - (iv) Produce and submit a report to the Commission in relation to the survivor experiences recounted and formulate such proposals as it sees fit to inform future policy, particularly in relation to managing the lifelong impacts of childhood sexual abuse.
86. The Survivor Engagement Programme:
- (i) shall receive oral and written statements and/or documentation from former survivors, family members of deceased survivors, and other relevant persons;
 - (ii) shall agree an anonymised summary of the account of each person who comes forward to it;
 - (iii) shall not hold formal hearings, nor act as a public inquiry, nor conduct a formal legal process;
 - (iv) shall not have powers to compel any person's attendance or the provision of documents;
 - (v) may adopt any informal procedures or methods it may consider expedient; and
 - (vi) shall report to the Commission on a periodic basis.

87. The Survivor Engagement Programme shall conduct its work in the most efficient and expeditious manner possible while supporting survivors who come forward. The Survivor Engagement Programme should appoint appropriately qualified facilitators to assist in the carrying out of its functions.
88. We recommend that the Survivor Engagement Programme shall:
- (i) Operate under the direction of the Commission;
 - (ii) Explain to persons coming forward to it that it is not investigating their complaints, but compiling an anonymised record of their experience for publication, which will inform proposals on policy and shall be included in a report to be published by the Survivor Engagement Programme;
 - (iii) Provide in its procedures that the identity of individuals making statements to the Survivor Engagement Programme shall remain confidential and all statements will be anonymised, so that any person or institution named in the statement shall not be identified or identifiable. Any anonymised account should be approved by the survivor concerned.

We recommend that the Commission put in place a Survivor Engagement Programme to carry out the above functions in the manner set out above.

(ii) A Survivor-Centred Commission: Practical Approaches to be Adopted

89. In relation to both the inquiry and Survivor Engagement Programme strands of its work, we recommend that the Commission adopt the following approach:

(a) Consultation with Survivors & Other Stakeholders

90. An initial period of time should be set aside by the Commission for preliminary consultation with a wide range of survivors and other stakeholders, to consult on issues such as cooperation with the inquiry, language and nomenclature, mechanisms for engagement and communication with the Commission and similar issues.

(b) Transparency: Allowing Survivors to Make Informed Choices

91. Giving participants sufficient information about what the Commission is designed to do and how it intends to go about its work would be helpful to survivors. The risk of retraumatisation can be reduced if participants understand the Commission process and can make informed choices about how they will participate, namely by going forward as a witness to give evidence to the inquiry or, alternatively, to give their account to the Survivor Engagement Programme.

92. Prospective participants should be invited to state a preference for one or other process. However, it should be explained to prospective participants at the outset that it may not be possible for the Commission to hear everyone who wishes to give evidence before it, and that in the event that their evidence cannot be heard by the Commission for any reason, they will be given the option to participate in the Survivor Engagement Programme.
93. Insofar as practicable, information as to what survivors can expect in putting themselves forward to give evidence, the supports that will be available to them, and the likely length of time before they will be asked to attend the Commission to give evidence should be provided, as early as possible in the process.

(c) Regular Communication with Stakeholders

94. The Commission should give consideration to establishing a means of regular communication with all stakeholders, particularly survivors, in an accessible manner, about the Commission's ongoing work and any interim findings or rulings of the inquiry. The development of an inquiry website would be essential to achieve this. The Scottish Child Abuse Inquiry developed a quarterly short newsletter to provide updates on progress made and what modules were being undertaken or forthcoming; such an approach merits consideration.

(d) Support for Survivors

95. At key stages of the process, such as when survivors are preparing witness statements or giving evidence in person, and after they have given evidence, all efforts should be made to ensure that survivors have access to appropriate support.

(e) Training

96. Commission members, its staff and legal team should receive appropriate and adequate training to inform them about the needs of victims of sexual crimes, including understanding trauma associated with sexual crimes and re-traumatisation, how it occurs, and the effects of same, in order to assist the Commission in its interactions with survivors. This training should also be made available to the legal teams of those representing persons appearing before the Commission.
97. Training for the Commission should include consideration of what measures may reasonably be taken to avoid re-traumatisation of such persons in engaging with the Commission, insofar as such measures are consistent with fair procedures.

(f) Practical Steps to Lessen Retraumatiation

98. Practical steps should be taken to facilitate survivors to give their evidence in a manner that minimises retraumatiation. In this regard we recommend that consideration be given, as far as possible, to the following:
- (i) survivors being facilitated to provide witness statements of their experiences, including through the use of the summaries already gathered as part of the Scoping Inquiry's Survivor Engagement process, as an alternative to giving evidence-in-chief to the inquiry, if they so choose.
 - (ii) the Commission's own counsel being the primary channel by which lines of questioning sought to be explored by respondent parties are put to survivors.
 - (iii) survivor evidence being given remotely or, if in-person, with the use of screens as appropriate.
 - (iv) using separate rooms and communal spaces for survivors called as witnesses, so as to minimise the likelihood of survivors encountering respondents, staff, or others associated with their former schools while attending to give evidence;
 - (v) the appropriate venue for Commission hearings, which if at all possible should not be a courthouse; and
 - (vi) whether those giving evidence can be facilitated to attend in advance of giving evidence to be briefed by Commission staff as to what they can expect.²⁷
99. The above recommendations as to practical issues are ultimately a matter for the Commission to implement. We acknowledge that the provision of some of these measures may be subject to resource difficulties in terms of the possible scale and location required, but we nonetheless think every avenue should be explored to minimise the risks of retraumatiation for survivors.

We recommend that the Commission, in furtherance of a survivor-centred approach, put in place the matters listed above at (a) to (e), and give consideration to putting in place the practical steps set out at (f), in so far as practicable and consistent with fair procedures.

²⁷ This would be similar to the 'court familiarisation' process undertaken by the staff of the office of the Director of Public Prosecutions in liaison with An Garda Síochána in proceedings concerning sexual offences, in Chapter 16.

(iii) The Breadth and Sequencing of a Government Response

100. In terms of recommendations for the breadth and sequencing of a future commission, the following considerations arise.

(a) Consideration of Sampling and Divisions

101. It may well be the case, given the number of allegations that have emerged from the religious order responses, and the number of schools and alleged perpetrators associated with them, that the commission will not be able to investigate every allegation or every school in respect of which allegations arise. Most previous clerical sexual abuse inquiries adopted a sampling approach. In some instances this was provided for in their terms of reference,²⁸ while in other instances sampling was adopted after the inquiry found that hearing evidence from every survivor would have greatly prolonged the inquiry process.²⁹

102. In due course, should the Commission deem it necessary to do so in light of the scale and duration of its work, the Commission may wish to give consideration to sitting in divisions to enable it to complete its work in a timely fashion. This may require legislation, which of itself may take some time to achieve, but nonetheless may lead to an ultimate saving of time.

We recommend that the Commission be entitled to adopt a sampling approach, if required, to decide what issues it must investigate and the extent of the investigation of same, and may give consideration to sitting in divisions to enable it to complete its work in a timely fashion.

(b) Sequencing

103. We are of the view that the Commission will be best placed to determine the sequencing of the topics it deals with. It will be best placed to know what evidence is available and how that evidence should be dealt with. The Commission may wish to proceed on the basis of investigating certain schools, religious orders, or state agencies during certain periods, or to investigate certain alleged abusers, or convicted abusers, or a combination of these approaches. The approach adopted will likely be determined by the circumstances, including evidence and records available to the Commission.

28 See discussions on Dublin Archdiocese and Cloyne Inquiries in Chapter 15.

29 See discussion re Commission to Inquire into Child Abuse in Chapter 15.

104. In so far as possible, we are the view that the Commission should devise modules of hearing, so that at the end of each module it is possible to report the conclusion in respect of that module. Interim reports allow for the survivors who are involved to know the outcome of the investigation of a particular issue without the necessity to wait for the final report of the inquiry. The Commissions of Investigation Act 2004 contemplates that it is a matter for the Minister to seek an interim report from a commission, rather than the commission preparing same. We recommend that consideration be given to utilising the mechanism in the Act to enable reports of completed modules to be made publicly available.

We recommend that the mechanism in section 33 of the Commissions of Investigation Act 2004 be utilised to enable reports of completed modules of investigation to be published.

(iv) Membership of the Commission

105. In general, it would be of benefit if the membership of the Commission include persons who are appropriately qualified in a range of relevant disciplines.

(v) Non-Disclosure Agreements

106. As discussed elsewhere in the Report,³⁰ some survivors expressed concern about non- disclosure agreements generally, and particularly expressed concerns that the existence of such agreements may prevent their participation in a future inquiry. The Scoping Inquiry recommends that the Commission be entitled to request information pertaining to matters relating to a confidentiality agreement. If a survivor has previously signed a non-disclosure agreement, but wishes to participate in the Commission, they should nevertheless make themselves known to the Commission, and the Commission can determine what (if any) obligations may be imposed by such agreement in relation to giving evidence to the Commission.

F. Learning Focus for the Commission

107. The Commission may make such recommendations as it deems fit as a result of its investigation, and in particular in respect of any recommendations concerning child protection.

We recommend that the Survivor Engagement Programme furnish a report to the Commission, and that the Commission may have regard to any proposal of the report, including in respect of policy matters relevant to survivors and the lifelong impact of child sexual abuse in making its recommendations.

30 See Chapter 22.

G. Further Recommendations for a Government Response

(i) Improving The Experience of Survivors in the Legal System

108. Survivors have described their extremely negative experiences of the legal system as a result of their involvement in civil and criminal proceedings.
109. We set out elsewhere in this Report the steps that have been taken, some of which are still in train, to make the criminal justice system more victim-centred. The Scoping Inquiry recommends that the outstanding recommendations to be implemented from the Report of the Review of Protections for Vulnerable Witnesses in the Investigation and Prosecution of Sexual Offences (2020) (the O'Malley Report)³¹ and the Garda Inspectorate, *Responding to Child Sexual Abuse, A follow up Review from the Garda Inspectorate* (2017)³² report are prioritised and completed.

We recommend that the outstanding recommendations to be implemented from the above reports be prioritised and completed.

110. In relation to the experience of survivors who have brought civil proceedings seeking damages from religious orders, we note that the Law Reform Commission has brought forward a number of proposals for consultation aimed at addressing the procedural difficulties arising from the status of religious orders as unincorporated associations, and that this process is still ongoing.

(ii) Commemoration and Memorials

111. Survivors made a number of suggestions as to how the experiences of those who suffered child sexual abuse in day and boarding schools run by religious orders might be remembered, particularly those who died by suicide as a result of their experiences. We recommend that there should be a process of engagement with the Department of Education as to appropriate memorialisation for survivors.
112. We are aware of the whole-of-government initiative involving the establishment of a National Centre for Research and Remembrance ('NCRR'), which will stand as a site of conscience to honour all those who suffered institutional abuse and will include a research centre and repository of records related to institutional trauma in the 20th century.

31 The Report of the Review of Protections for Vulnerable Witnesses in the Investigation and Prosecution of Sexual Offences (2020) was followed by an implementation report 'A Victim's Journey: A plan to help victims and vulnerable witnesses in sexual violence cases'.

32 The Garda Inspectorate report was followed by implementation reports from the Interagency Implementation Group chaired by Caroline Biggs SC.

113. Consideration could be given to the inclusion of the experiences of those who suffered child sexual abuse in day and boarding schools in this national initiative and to including relevant records in its repository of records, which will form part of the National Archives. We recommend that detailed consultation is undertaken with survivors on this issue, in order to ensure that the development of the NCRR would adequately and appropriately reflect, at a national level, the trauma experienced by those who suffered child sexual abuse in day and boarding schools.
114. Some participants in the Survivor Engagement process suggested that they would wish to see memorials established in the schools themselves. This is something that the religious orders may wish to consider in consultation with survivors.

We recommend that there should be a process of engagement with the Department of Education as to appropriate memorialisation for survivors, and consideration be given to inclusion of survivors of historical sexual abuse in day and boarding schools in the NCRR, and that detailed consultation with survivors take place on this issue.

(iii) Counselling and Mental Health Supports for Survivors

115. Many participants spoke of experiencing mental health and substance abuse difficulties, and some said they had experienced homelessness. Participants in the Survivor Engagement process were concerned that the needs of the most vulnerable survivors would be met by enhanced mental health support for survivors.
116. Participants also wished to see counselling made freely available for survivors and their families. Numerous participants expressed a desire to avail of mental health counselling, but cited long waiting lists and costs as a barrier to accessibility. Currently, both the State and Catholic Church bodies fund free counselling for adult victims and survivors of historical sexual abuse. The Catholic Church funds 'Towards Healing' which is a free counselling service for survivors and their families.³³ It also provides telephone counselling. The State funds the National Counselling Service, with priority given to adult survivors of institutional abuse in Ireland. They also run 'Connect' which is an anonymous telephone counselling and support service for survivors of physical, emotional and sexual abuse. There are complaints, however, that there is a long waiting list for the NCS counselling service.

We recommend that consideration be given to dedicated support services being put in place for survivors, particularly at the time of the Commission's establishment, hearings, and final report.

33 <https://towardshealing.ie/>.

(iv) Divestment

117. Some survivors want to see large scale changes in the Irish educational system as part of the Government's response and, in particular, for schools to be taken out of the hands of religious orders.
118. The issue of religious orders' ownership of schools is a complex one. However, the essence of the issue is that property that is privately owned by religious orders, their members, or trusts cannot simply be taken away by the State since this would breach the constitutional right to protection of property and equal treatment.
119. It has been government policy to seek divestment of schools for some time, and there is currently a commitment to reach 400 multid denominational schools by 2030. The process of divestment has been a slow one because it is largely dependent on voluntary divestment by religious authorities or the opening of new or merged schools. Generally, in the latter instance, prospective pupils' parents are asked for their views on patronage. In the main, this process has resulted in a growing cohort of new multid denominational schools under the patronage of Educate Together or the Education and Training Boards (including Community National Schools), though some parents have opted to retain religious order patronage.

H. Best Practice Findings Regarding Restorative Justice and Child Protection

(i) Restorative Justice Initiatives by Religious Orders

120. We set out elsewhere in this Report our conclusions on restorative justice, and the independent report commissioned by the Scoping Inquiry in respect of same. In summary, the report found that there was a divergence of approach amongst the 10 orders surveyed, with some using a 'facilitated approach' and other using a 'pastoral approach'. The report concluded that the facilitated approach is to be preferred as more closely mapping onto traditional and best practice models of restorative justice processes.
121. By way of response to this conclusion, one religious order that operates a 'pastoral' approach fairly noted that this is, in their experience, an approach sought by survivors themselves, and that they have specialist lay staff trained to facilitate their processes in relation to survivors and that these staff are sufficiently independent to carry out this purpose. It thus appears that while a facilitated approach is in line with international best practice in restorative justice, a pastoral approach may nonetheless be appropriate in particular cases.

122. In addition, the independent report outlined areas for improvement in restorative justice initiatives run by the religious orders as including: compensation; preparedness; understanding survivor's perspectives; and collective responsibility (where an alleged abuser is deceased).
123. There was relatively little support among survivors for a restorative justice scheme as a response to the revelation of sexual abuse in schools. It is also clear that, in order for a restorative justice response to be safe and effective in the context of child sexual abuse, a number of particular resources and safeguards would have to be put in place. The independent report commissioned by the Scoping Inquiry found that a further feasibility study would be necessary in order to assess this. It is therefore not recommended, at this juncture, that a large-scale restorative justice project be included as part of the government response. However, that is not to say that restorative justice values do not have a role to play, and restorative values such as accountability, respect, survivor-centredness and a focus on repair and healing have informed the Scoping Inquiry's recommendations.

(ii) Child Protection

124. Child protection is an issue of great importance to survivors. This Report sets out an extensive examination of current child protection provisions in schools, supplemented by the independent expert report of Dr Helen Buckley on the development of child protection over the decades since the early 1990s and how the current child protection framework operates in schools.
125. As previously outlined in this Report,³⁴ we have found that there is currently a robust child protection structure in place in schools. There are a number of areas where we consider that this system could be further strengthened:

We recommend that the following initiatives should be considered to promote best practice in the area of child protection:

- (i) *The Department of Education should establish a group to be called 'The Child Protection in Schools Group' ('the Group') to progress the matters outlined below concerning the Department's plans for child protection in schools and other matters with a view to implementing same as expeditiously as practicable.*

34 See Chapter 20.

- (ii) *The Group is to be established as soon as practicable and to have any necessary authority required to carry out its functions. The Group shall endeavour to complete its work as soon as possible. It shall provide a report detailing the progress made in implementing the relevant measures so that the Commission may consider same for the purpose of any recommendations it may wish to make.*
- (iii) *The Group should be required do the following:*
 - (a) *Progress the Department of Education's plans to implement the recommendations of the Buick report generally and, in particular, in respect of a stronger focus in child safeguarding inspections on the culture and climate of schools.*
 - (b) *Progress the Department of Education's plans to improve and increase training for DLPs, deputy DLPs, teachers, and school staff, including any bespoke training in child protection and safeguarding, and provide for regular consultation with stakeholders to ensure that the training provided is meeting their needs and update same as required.*
 - (c) *Consult with DLPs, deputy DLPs and other relevant persons, to identify aspects of the current child safeguarding provisions that may be strengthened to support and assist DLPs and Deputy DLPs in the carrying out of their functions.*
 - (d) *Discuss with Tusla how communication between schools and Tusla concerning child protection matters might be strengthened and improved.*
 - (e) *Consult with the standards body for teacher qualifications, and any other relevant body, to examine the adequacy of pre-qualification teacher education in child protection, and the implementation of any necessary reforms to the teacher training curriculum.*
 - (f) *Consult with the relevant bodies to strengthen SPHE in pre-qualification and post-qualification teacher education.*

In addition, we recommend that there be a review of child safeguarding measures in unrecognised schools to consider the current measures and make any recommendations for the improvement or strengthening of same.

I. Summary of Recommendations

126. In summary, our primary recommendation for a Framework for a Government response into historical sexual abuse in day and boarding schools run by religious orders is that the Government establish a Commission of Investigation pursuant to the Commissions of Investigation Act 2004, while also establishing a Survivor Engagement Programme to collect and publish anonymised accounts of survivors who cannot or do not wish to give formal evidence before the Commission. We recommend that the Commission be as survivor-centred as possible and consistent with fair procedures.
127. We also recommend that consideration be given to establishing a redress scheme for survivors of historical abuse in day or boarding schools run by religious orders and to consulting with the religious orders about contributing to a redress scheme.
128. The proposed terms of reference for a Commission of Investigation into Historical Sexual Abuse in Day and Boarding Schools Run by Religious Orders and the proposed framework for such a Commission are set out in the next chapter.

Chapter 26:

Proposed Terms of Reference and Framework for a Commission of Investigation into Historical Sexual Abuse in Schools Run by Religious Orders

1. The Commission is directed to investigate the following matters:
 - (a) the handling of allegations or complaints of child sexual abuse in schools run by religious orders and the response to cases where there was knowledge of, suspicions of, or reasonable concerns regarding such abuse.
 - (b) the nature of the response of religious orders and/or schools to allegations or complaints, knowledge, suspicions, or reasonable concerns in relation to child sexual abuse in schools run by religious orders and whether such response was adequate or appropriate.
 - (c) the nature of the response of religious orders and/or schools to suspected abusers, including but not limited to the following:
 - (i) the use of disciplinary procedures;
 - (ii) the use of compromise or settlement agreements;
 - (iii) references provided to subsequent employers of suspected abusers;
 - (iv) subsequent employment or movement of suspected abusers to other schools or institutions in Ireland and abroad.
 - (d) the extent to which religious orders and/or schools sought to investigate, learn lessons, implement changes, and/or provide support and reparations to victims and survivors, in response to
 - (i) allegations of child sexual abuse by individuals associated with such schools;
 - (ii) criminal investigations and prosecutions and/or civil litigation in relation to alleged abuse by individuals associated with the school;
 - (iii) reports, reviews and inquiries into child sexual abuse and/or safeguarding, including internally commissioned reports and reports by external authorities, inspectorates or agencies.
 - (e) the nature of the response of public and statutory authorities, including An Garda Síochána, relevant health boards/the Health Service Executive, and the Department of Education, to any allegations or complaints in relation to, or knowledge of, the sexual abuse referred to above and whether such response and/or investigation was adequate or appropriate.

- (f) the adequacy of inter-agency reporting and information sharing between institutions in relation to child sexual abuse in schools;
2. The Commission shall be conducted in accordance with the provisions of the Commissions of Investigation Act 2004 and shall be as survivor-centred as possible, consistent with fair procedures.
 3. The Commission of Investigation shall cover the period from 1927 to 2013, but the Commission shall have the power to reduce the time period under investigation in respect of all or any component part of its investigation or in respect of any school, religious order, person or body within its terms of reference as it considers appropriate for the purposes of its investigation.
 4. The Commission shall tailor its processes and methodologies so as to achieve effective investigations in the most timely and cost effective manner possible, consistent with its terms of reference. To this end, the Commission may give consideration to sitting in divisions to enable it to complete its work in a timely fashion.
 5. The Commission may adopt such sampling methods as it deems fit in conducting its investigation, having regard to the interests of the parties before the Commission.
 6. The Commission shall have due regard to any criminal prosecution, currently in train or pending, that may be affected by evidence adduced at the Commission.
 7. The Commission shall notify the Minister for Education at the conclusion of any module or part of its investigation and, upon the request of the Minister, prepare an interim report in respect of same. In so far as practicable, the Commission shall endeavour to keep all stakeholders informed of the work of the Commission and updated as to its progress at reasonable intervals.
 8. The Commission shall receive a report from the Child Protection in Schools Group outlining the progress made in implementing the child protection matters within its remit.
 9. The Commission shall make such recommendations as it sees fit on any aspect of the current child protection regime in schools and may have regard to reports or research on this topic, and to the report of the Child Protection in Schools Group in this regard.
 10. The Commission may make such further recommendations as it sees fit arising out of its investigation, including recommendations as regards future policies and practices, having regard to the report of the Survivor Engagement Programme.

11. The Commission may inform the Minister for Education in relation to relevant matters identified in the course of its investigation that it considers warrant further investigation as part of the Commission's work in the public interest.
12. The Commission shall prepare a report to the Minister for Education at the conclusion of its investigation, and/or within 5 years from establishment, setting out its findings in accordance with these terms of reference.

The Survivor Engagement Programme

13. The Commission shall establish a Survivor Engagement Programme to operate under the auspices of the Commission. The purpose of the Survivor Engagement Programme shall be to:
 - (i) Record survivors' experiences, including the impacts and consequences of sexual abuse;
 - (ii) Provide a non-adversarial setting for survivors, family members of deceased survivors, and other relevant persons to recount their experiences;
 - (iii) Engage in relevant sociological research and analysis based on survivors experiences with a view to informing future policy;
 - (iv) Carry out its function in as survivor-centred a manner as possible;
 - (v) Produce and submit a report to the Commission in relation to the survivor experiences recounted and formulate such proposals as it sees fit to inform future policy, particularly in relation to managing the lifelong impacts of childhood sexual abuse.
14. The Survivor Engagement Programme:
 - (i) shall receive oral and written accounts and/or documentation from survivors, family members of deceased survivors, and other relevant persons;
 - (ii) shall agree an anonymised summary of the account of each person who comes forward to it;
 - (iii) shall not hold formal hearings, nor act as a public inquiry, nor conduct a formal legal process;
 - (iv) shall not have powers to compel any person's attendance or the provision of documents;
 - (v) may adopt any informal procedures or methods it may consider expedient;

- (vi) shall explain to persons coming forward to it that it is not investigating their complaints, but compiling an anonymised record of their experience for publication which will inform proposals on policy and shall be included in a report to be published by the Survivor Engagement Programme; and
- (vii) shall provide in its procedures that the identity of individuals giving accounts to the Survivor Engagement Programme shall remain confidential. Any person or institution named in the statement shall not be identified or identifiable. Any anonymised account should be approved by the survivor concerned.

Proposed Framework for the Commission

1. The Commission shall, in so far as practicable, and in accordance with fair procedures, adopt a survivor-centred approach to the workings of the Commission.
2. The Commission shall set aside, at the outset, a period of time to consult with a wide range of survivors and other stakeholders on issues including cooperation with the inquiry, language used, mechanisms for engagement and communication with the commission.
3. The Commission shall provide information to survivors and other participants about its work and processes, including the following issues: whether it may employ sampling or sit in divisions, the scheduling of hearings, and the difference between the Commission and the Survivor Engagement Programme.
4. The Commission shall establish a means of regular communication with all stakeholders, particularly survivors, about its ongoing work.
5. At key stages of the Commission's work, all efforts should be made to ensure that survivors have access to appropriate one-to-one support.
6. The members of the Commission, its staff, and legal team should receive appropriate and adequate training to inform them about the needs of victims of child sexual crimes, including understanding trauma associated with sexual crimes and retraumatisation.
7. Consideration should be given by the Commission to adopting the following practices, in so far as is practicable and consistent with fair procedures:
 - (a) survivors being facilitated to provide witness statements of their experiences, as an alternative to giving evidence-in-chief to the Commission, if they so choose;

- (b) the Commission's own counsel being the primary channel by which lines of questioning sought to be explored by respondent parties are put to survivors;
 - (c) survivor evidence being given remotely or, if in-person, with the use of screens as appropriate;
 - (d) using separate rooms and communal spaces for survivors called as witnesses;
 - (e) using a venue other than a courtroom for commission hearings; and
 - (f) facilitating a familiarisation process similar to the 'court familiarisation' process undertaken in proceedings concerning sexual offences.
8. The Commission shall, in so far as practicable, in determining and implementing its processes and procedures for the taking of evidence, take into account the prospect of retraumatisation of survivors of sexual abuse when giving evidence and/or take all reasonable steps consistent with fair procedures to avoid such retraumatisation.

Appendices

Appendix 1:

Survivor Engagement Guide to Potential Government Responses

The survivor engagement process allows you to have your say about what the Government should do following the revelations of historical sexual abuse in day and boarding schools run by religious orders. Your views will inform the Scoping Inquiry's Report which will make recommendations to the Government about what should happen next.

The Scoping Inquiry acknowledges that any response is unlikely to fully address and remedy the harm that survivors have experienced.

A number of approaches have been taken in Ireland to acknowledge and try to rectify, if only in part, the harm done to survivors. These are set out below.

1. Investigating What Happened

Public Inquiries have been established as a response to allegations of clerical sexual abuse in the past. We set out below the types of public inquiries that can be established.

A. Tribunals of Investigation:

Tribunals are statutory public inquiries established under the Tribunal of Inquiry (Evidence) Acts 1921 to 2011, with court-like procedures and full statutory powers to compel witnesses to attend and to obtain documents. Tribunals generally conduct hearings in public, so that survivors' evidence and cross examination would be heard in public. Tribunals have not been used to investigate clerical sexual abuse to date.

B. Commissions of Investigation:

A Commission is a statutory public inquiry established under the Commissions of Inquiry Act 2004, with similar statutory powers to Tribunals, the main difference being that Commissions are generally conducted in private. Commissions have investigated the response of Church and State authorities to allegations of sexual abuse (e.g: Dublin Archdiocese & Cloyne reports). The Commission to Inquire into Child Abuse ('the Ryan Report' or 'CICA') investigated abuse, including sexual abuse, in a range of institutions for children under the Commission to Inquire into Child Abuse Act 2000.

Confidential Committees formed part of Commissions such as CICA and the Mother and Baby Home Commission. They operate alongside the investigative aspects of Commissions to allow survivors who do not want an investigation of their abuse, to give an account of it in a private and informal environment without lawyers. A confidential committee cannot make any findings or name abusers or institutions. However, survivors' accounts are anonymised and included in a report of the Confidential Committee.

C. Non-Statutory Public Inquiries:

Such inquiries have no statutory powers and rely on the voluntary co-operation of all concerned. The investigation of the handling of allegations of clerical sexual abuse in the diocese of Ferns was a non-statutory inquiry.

Outcomes of public inquiries in the past

Past public inquiries have been successful in:

- Investigating the extent of sexual abuse in certain institutions and dioceses.
- Informing the general public about the extent of sexual abuse in those cases.
- Revealing the failures of Church and State authorities to protect children from abusers.
- Leading to implementation of improved child protection policy and legislation.
- Creating an awareness of the seriousness of sexual abuse and reinforcing the need to act on suspicions of abuse.
- Creating awareness as to how the State should protect children from future abuse.

There are limitations on the findings that any public inquiry can make.

- Public inquiries do not have powers to convict or imprison an abuser, and do not directly lead to any criminal prosecution.
- Without an admission of or criminal conviction for child sexual abuse, if an alleged abuser is dead, untraceable or incapacitated, or the events complained of happened many years ago, a public inquiry may not be able to satisfy the legal requirements necessary to name an alleged abuser.
- Generally, a public inquiry does not confirm individual experiences of abuse, but rather investigates the nature and prevalence of abuse, and why it happened.
- There is a risk of further emotional harm to survivors in recounting their experiences to public inquiries and, in particular, in being cross-examined.

2. Compensation for Harm Done: Redress and Other Supports

Redress schemes have sometimes been established in response to revelations of abuse. For example, the Residential Institutions Redress Board ('RIRB') was set up to compensate people who suffered abuse in certain residential institutions as children.

Redress payments were based on the severity of, and effects of, the abuse. It was not necessary to establish wrongdoing by Church or State. If the amount of redress offered by RIRB was disputed a hearing was held at which the applicant could be cross-examined. Other schemes have been administrative rather than court-like, involving fixed criteria and levels of compensation. Some schemes involved support such as educational grants.

3. Some Potential Alternative Approaches

Mediation/Alternative Dispute Resolution (ADR) are potential methods of dealing with some aspects of historical sexual abuse after any criminal prosecution has been dealt with. Such an approach requires the agreement of all parties and may involve the legal representatives of the parties. A trained mediator is required. It has not, to date, been utilised to deal with historical sexual abuse on a large scale.

Restorative Justice involves all parties engaging in a dialogue aimed at understanding why the abuse took place and the effects of that abuse on the survivor, after any criminal prosecution or civil claim has been determined. It requires preparation of all participants by trained facilitators, who assist in the process. Commentators have different views as to whether restorative justice is an appropriate process for addressing sexual abuse. Restorative justice has not to date been utilised in Ireland as a response to historical sexual abuse on a large scale and requires the availability of trained facilitators.

4. Issues to Consider

- Any public inquiry process by which abusers or institutions may be publicly named will generally involve a court-like process, requiring that survivors give evidence and be cross-examined, usually in public if the public inquiry is a Tribunal, or in private if it is a Commission.
- Where there are large numbers of survivors coming forward, one approach has been to hear from a sample of survivors and/or a sample of institutions, as investigating each account and/or each institution may take many years to complete.
- Current data protection requirements suggest that any future inquiry into historic sexual abuse will need to be on a statutory footing to enable the necessary information to be provided to the inquiry.

Tell Us Your Views

You may favour one, or a combination of the above responses, or you may have different views on what the government response should be. The Scoping Inquiry wants to hear your views.

	Public or private hearing	Cross-examination of survivors	Compel witness/ documents
Tribunal of Inquiry: (Statutory)	Public (with exceptions)	Yes, usually in public, if abusers or institutions are to be publicly named as responsible for abuse.	Yes
Commission of Investigation (Statutory) if investigating whether abuse happened and who is responsible	Private (with exceptions)	Yes, usually in private if abusers or institutions are to be publicly named.	Yes
Commission of Investigation (Statutory) if investigating the handling of abuse allegations	Private (with exceptions)	Likely to be limited to the evidence about how complaints were handled. The Dublin Archdiocese & Cloyne Inquiries heard accounts of abuse as part of the background to the handling of complaints.	Yes
Non-statutory Inquiry (e.g. the Ferns Inquiry into the handling of abuse allegations in the diocese of Ferns)	Private	In a non-statutory Inquiry all evidence is unsworn. Where the Inquiry may make findings of serious wrongdoing against individuals, procedural rights (including the right to cross-examine) will arise. There was no cross-examination allowed in the Ferns Inquiry as it was only concerned with how allegations of abuse had been handled.	No. Modern data protection requirements may prevent voluntary production of documents to a non-statutory inquiry. Witnesses cannot be compelled to give evidence or answer questions.

Power to make findings against individuals/institutions	Compensation to survivors	Average Length
<p>Yes, if they are charged with investigating whether abuse happened or who is responsible for that abuse. The fair procedures rights of a person accused of abuse create certain legal requirements that must be met before they can be named. These may be difficult to meet where they are deceased, untraceable, or incapacitated, or the events complained of happened many years ago. Tribunals cannot convict or imprison alleged abusers.</p>	<p>No</p>	<p>6 years: This an estimate based on the average time between establishment and final report of Tribunals of Inquiry established since 1990. No tribunal of Inquiry has dealt with the investigation of sexual abuse to date. If a tribunal was to deal with a large number of complaints, this may take longer than 6 years.</p>
<p>Yes. The fair procedures rights of an accused person create certain legal requirements that must be met before they can be named. These may be difficult to meet where they are dead, untraceable, or incapacitated, or the events complained of happened many years ago. Commissions of Inquiry cannot convict or imprison alleged abusers.</p>	<p>No</p>	<p>9 years: This is the total timeframe of the Ryan Report/CICA, However, CICA's investigation of child abuse in institutions did not, for various reasons, get fully underway until 2005, and completed in 2009. CICA heard a sample of survivors' testimony in investigating selected institutions. CICA had circa 1,700 complaints and found that the process required to name alleged abusers could have taken up to 18 years to complete.</p>
<p>Where the commission is investigating the handling of allegations it will not generally name alleged abusers. While not mandated to name abusers, some abusers were named in the Dublin Archdiocese & Cloyne Inquiry Reports, predominantly where there was a criminal conviction, or they were widely identifiable.</p>	<p>No</p>	<p>3.5 years: This timeframe is based on the Dublin Archdiocese and Cloyne Inquiries, which concerned the handling of abuse allegations against a sample of 46 priests (Dublin) and 19 priests (Cloyne).</p>
<p>Yes. However, a non-statutory inquiry could have difficulty making negative findings against named individuals or institutions because it would not have the power to compel that documents be provided or that witnesses answer questions.</p>	<p>No</p>	<p>2.5 years: This is based on the Ferns Inquiry, which investigated the handling of allegations of abuse against 21 priests.</p>

	Public or private hearing	Cross-examination of survivors	Compel witness/ documents
Confidential Committees as part of a Commission of Investigation	Private	No. Confidential Committees cannot make findings or name abusers or institutions, and therefore cross examination does not arise.	No
Redress Schemes (e.g. the RIRB Scheme)	Redress schemes to date have held hearings in private, where hearings are required under the scheme.	Survivors could be questioned where a hearing was held. Other redress schemes are paper-based and do not involve formal evidence.	No
Mediation or ADR /Restorative Justice	Private	No	No

Power to make findings against individuals/institutions	Compensation to survivors	Average Length
No	No	7 years on average: The Mother and Baby Homes Confidential Committee heard 550 witnesses over 5 years. CICA's Confidential Committee heard 1,090 witnesses over 9 years.
No. Under the RIRB scheme it was not necessary to establish wrongdoing on the part of the Church or State to obtain compensation.	Yes	Variable
No	No. Restorative justice takes place after any criminal prosecution or civil liability is determined. Mediation/ADR takes place after any criminal prosecution.	The timeframe for mediation, depends on the cooperation between the parties and the issues being dealt with. A period of between 3 months and 2 years is suggested by some restorative justice practitioners. Each process relies on the availability of suitably trained personnel.

Appendix 2: About the Survivor Engagement Process

The Survivor Engagement Process

In response to recent reports of sexual abuse in some schools in Ireland, the Government has launched a Scoping Inquiry into historical sexual abuse in day and boarding schools run by religious orders. The Scoping Inquiry has a survivor engagement process at its centre.

The survivor engagement process aims to find out what survivors want the Government to do in response to historical sexual abuse in day and boarding schools run by religious orders. This will be done in a two-stage process. The intention is to reach out to survivors in a way that enables them to come forward without fear.

Stage One: Scoping Exercise

In the first instance the survivor engagement process will endeavor to explore the key matters to be addressed. Survivors will be invited to complete a questionnaire to identify themselves and their experiences. Survivors can choose to do this online using a secure survey tool; they can choose to complete the questionnaire using a printed form, posted out to them; or they can choose to answer the survey over the telephone where they will speak to a trauma- informed facilitator who will record their answers.

Survivors will be asked in this questionnaire about their experiences and if they would be willing to engage further in a one-to-one conversation with a trauma- informed facilitator where they can discuss the responses they would like to see from the Government. This is in recognition of the fact that different people may have had different types of experiences and have differing priorities.

The intention is that this initial questionnaire stage of the survivor engagement process will provide the Scoping Inquiry with the information that will guide Stage Two. It is anticipated that the information will outline:

- An indication of how many complainants there are and how they would like to be contacted;
- What school(s) they attended and when;
- The role of the person(s) they believe was responsible for abuse;
- If their complaints have been made known to An Garda Síochána and/or Tusla or other authorities.

Stage Two: Direct Contact

For survivors who choose to be contacted for the second stage of the process, the Scoping Inquiry will arrange for trauma-informed facilitators to reach out to them and survivors will be able to select the ways in which they are willing to be contacted by these facilitators. This is to give survivors an opportunity to tell their own stories, in their own words. People can participate via:

- On-line interviews
- Telephone interviews
- In-person interviews
- A written submission

The trauma-informed facilitator will agree a verbal summary of the conversation with the survivor at the end of the session to ensure that it is accurate and reflects what they want shared. Survivors will also be given a written summary of what they have told the facilitator shortly after the conversation.

The Voices of Survivors

Participants will have an opportunity to indicate whether they are happy for elements of their story to be used, anonymously, in the report of the Scoping Inquiry.

In particular, the Scoping Inquiry is keen to ensure that survivors have an opportunity to outline what they would like to see happen next in terms of a Government response. It is important that survivors know that they will be contributing to making Irish schools and educational settings safer for children and young people.

Appendix 3:

Survivor Engagement Participant Information Booklet

Introduction

What is the Purpose of Holding Interviews with Survivors of Historical Sexual Abuse?

Who is Doing the Interviews and How Will my Information be Treated?

What Happens if I Disclose Abuse During the Interview?

How Does the Interview Work and how are Notes Taken?

Giving Consent

Before the Interview

During the Interview

After the Interview

What Happens When My Interview is Finished?

Approving your notes directly after the interview

Reading your notes after the interview; and if you want to make changes or additions

What Happens to My Notes?

What Else do I Need to think of Before I Engage in this Process?

Your Safety and Wellbeing

Introduction

The Government has established an independent Scoping Inquiry into historical sexual abuse in day and boarding schools run by religious orders. Thank you for your interest in participating in an interview for this Scoping Inquiry. This information booklet describes what is involved in participating. It will also tell you how your information will be stored and used.

What is the Purpose of Holding Interviews with Survivors of Historical Sexual Abuse?

The purpose of the Scoping Inquiry's interviews with survivors is to hear from survivors of historical sexual abuse in day and boarding schools run by religious orders about what they would like to see happen next. The Scoping Inquiry wants to hear about your experiences and what your preferences would be for the Government's response. Some possible options are outlined in the 'Guide to Potential Government Responses' document which you will have received along with this information booklet. You do not have to take part in this process. Not taking part in this process will not affect your ability to apply or participate in any future responses or redress processes, should these be introduced.

Who is Doing the Interviews and How Will my Information be Treated?

The Scoping Inquiry has engaged an independent organisation called Quality Matters to undertake the one-to-one conversations with survivors. Quality Matters is a not-for-profit organisation. They have extensive experience facilitating conversations with people who have experienced trauma and with survivors of institutional abuse. All of the facilitators engaged for this process have at least three years' experience in working with people who have experienced abuse or have been marginalised, and all staff have trauma-informed practice training. All facilitators are trained on how to carry out the interview with you in a way which is as supportive to your needs as it can be. They have experience in handling sensitive information and will value your privacy and dignity above all else. They will explain what this means when they meet or speak to you. Two members of the Scoping Inquiry's Survivor Engagement team, with appropriate qualifications and experience, will also conduct some interviews using the same approach and methods that have been developed and agreed with the Quality Matters team.

Quality Matters will record and store any information you give under appropriate security measures. All files will be password protected and stored securely. The interview notes will be stored using a participant identification code rather than your name, to support careful management of your confidentiality. Only a limited number of staff at Quality Matters will have access to your notes or your identity, and only where it is necessary for the purposes of the inquiry.

Information that you give will be shared with the Scoping Inquiry team. The Scoping Inquiry apply a data minimisation policy, which means that members of the inquiry team will only have access to your name and contact details where it is necessary to contact you. The Scoping Inquiry will hold your name in a secure and confidential database, but the information you give us may be circulated on an anonymous basis to the inquiry team to be incorporated in the report of the Scoping Inquiry.

What Happens if I Disclose Abuse During the Interview?

If you disclose specific information of an instance or instances of physical or sexual abuse, including historical abuse that happened to you or another child and this was not contained in the information you provided in your questionnaire or if you name someone during an interview that would require investigation, Quality Matters must report this to Tusla. Under the Children First Act 2015, all reports of sexual abuse, including the information you are providing here, has to be sent to Tusla, the Child & Family Agency.

Tusla may contact you following receipt of the notification to seek further details from you to establish if there are reasonable grounds for concern and whether the person you complained about may have contact with children now. It is up to you whether you wish to engage with Tusla and you are not obliged to do so. Quality Matters will not make any reports without telling you in advance except in an unlikely situation where you disclose that you are planning to harm yourself or someone else. In this case information may need to be shared with the emergency services. Any disclosure you make will be anonymised in your notes. Specific details you give will be recorded separately and will be communicated to Tusla.

Please also read the 'What Else Do I Need to Think of Before I Engage in this Process' section of this booklet on page ??.

How Does the Interview Work and how are Notes Taken?

Quality Matters will contact you by email or phone, as you prefer (indicated in your questionnaire), so you can book an interview at a time that suits you. If you have any difficulty or want to ask any questions about the booking process, you can contact Oileán at Quality Matters on scopinginquiry@qualitymatters.ie or by calling +353 (0)87 296 2510 during office hours.

Key information on the interview process:

- You can choose to take part in this process in person or online, via Zoom or by doing an interview on a telephone or WhatsApp call.
- **Expenses:** A contribution of €50 to cover travel expenses can be provided to all survivors who attend an in-person interview in Ireland. If you have used public transport, i.e. bus or train (not including a taxi) to attend this interview and have receipts for an amount greater than €50, this higher receipted amount will be paid instead. This contribution towards expenses will be provided at the end of the interview and you will be asked to sign a receipt to confirm you have received the payment.
- **If you have additional needs or require any accommodations,** we ask that you let us know in advance so that we can make any necessary arrangements.
- You are welcome to have someone with you to support you in the interview. However, it's important that this person does not speak on your behalf but remains in a supporting role unless you require their assistance to participate.
- We strongly recommend that, where possible, you have someone available after the interview who can give you support should you need that.
- Interviews will last, on average, between 30 and 60 minutes. There is some flexibility to give you more time if necessary. If the interview is incomplete when we need to end the session, for instance if there is another interview booked in after yours, we will arrange an additional session with you.
- The facilitator will have read your responses to the questionnaire that you have previously completed as part of the survivor engagement process, so you don't have to repeat information. We may ask you to clarify your details (e.g., where you went to school) but we will not be asking you to repeat what's in the questionnaire.

- The interview will aim to feel like a conversation and will cover the following three topics:
 - 1 **Your experience:** 1) A brief outline of what happened and the circumstances at the time and, 2) were you able to tell anyone about it, and if so what was their response?
 - 2 **What impact this had on you:** Specifically, your mental health, your relationships and experiences of education as a child and as an adolescent/young adult, of work as an adult, and now at this current stage of life
 - 3 **What would you like to see the Government do next:** There is an opportunity for you to refer to the possible options for a Government response outlined in the Scoping Inquiry's 'Guide to Potential Government Responses' booklet as well as to raise other things you would like to see done. The facilitator will bring you through the information booklet if you have not had a chance to read it prior to the interview, or if you have any questions.
- The facilitator will go over the information in this booklet with you again at the beginning of the interview to ensure you know how everything works, and there is a chance for you to ask any questions.
- For online or telephone interviews, technical difficulties may arise from time- to-time and we understand this can be frustrating. If there are any technical difficulties, we will try to fix the problem. If for any reason these can't be resolved at the time, please be assured that we will arrange an alternative solution. This may involve rescheduling the interview or doing the interview in a different way. In the event that the call is disconnected for any reason we will attempt to re-establish contact with you. We'll try this twice. If, after the second attempt we cannot re-establish contact with you and you don't subsequently get back in contact with us, we will assume that you do not want further contact at this time. If at any stage you want to contact us, or want to reschedule your interview email: scopinginquiry@qualitymatters.ie or call +353 (0)87 296 2510 during office hours.
- Summary notes from the session will be taken by a note-taker on a secure laptop. These notes are a summary of your key points. The note-taker may take down some things you say, word for word, in your notes. However, if this information is used in the final report you will be anonymous and any reference to your experience will not contain any identifying information.

- The facilitator will talk through the key points you have made at the end of the interview and you will also be sent a written summary of the notes by email or post if you wish. You can make changes or additions to these notes if you would like to, and you will have ten working days to do this, after you receive the notes.

If you decide that you do not want to take part in an interview, you can choose instead to make a written submission to the Survivor Engagement team. For more information on this option, email survivorengagement@esi.gov.ie or call the Survivor Engagement phone line at +353 (0)90 6483610.

Giving Consent

Before the Interview

Taking part in this process is voluntary. You do not have to take part if you don't want to, and you do not have to answer any questions that you do not want to answer. You will be asked at the beginning of the interview if you consent to take part. If you do not consent or if you change your mind at any stage, the interview will stop.

During the Interview

If you decide at any time up to or during the interview that you don't want to continue, or you don't want to answer a specific question, that's fine too. If you discontinue an interview, you will be asked if you are ok with the information you have given so far being used for the survivor engagement process or if you would like that information destroyed. If you do not want your information used, we will destroy any notes taken up to that point. However, if you have disclosed information that would require us to make a report to Tusla as explained on Page 5 of this booklet, we will retain that information for that purpose.

After the Interview

If you decide after taking part that you don't want the information you gave to be used, you can email us on scopinginquiry@qualitymatters.ie or call +353 (0)87 296 2510 during office hours within 10 working days and we will delete your information, subject to the above reporting requirements. Subject to those requirements, no records of your information will be kept or given to anyone else at this point. After 10 working days, your information may form part of the report and cannot be removed.

What Happens When My Interview is Finished?

Approving your summary directly after the interview

Your note-taker will take a summary of the key points that you have made. These may include quotes from you but will not identify you in any way. The notes will summarise what you say, and so may leave out some details. However, the goal is that they represent the points that were most important to you.

Reading your summary after the interview; and if you want to make changes or additions

You have the option of receiving a summary of the key points of your interview by email or registered post. There is no requirement on you to receive a copy, or to respond. This is an option for those who would like it. We will ask what you would like at the beginning of the interview.

If you would like to have a copy of your summary emailed to you, this will be sent in a password protected file. This password will have been agreed with you at the beginning of the interview and is easily remembered. When you receive the email, open the document, and enter the password in the box that pops up. If you need help with this, email us on scopinginquiry@qualitymatters.ie or call +353 (0)87 296 2510 during office hours.

Whether you receive your summary by post or email, there will be three text boxes at the bottom of your notes asking if you want to add, remove or change anything. Please enter any changes in these boxes. You have ten working days from when you receive your notes to make changes. If we do not hear back from you within this time frame, we will assume that you do not want to make any changes, and the notes will be filed as a final record of the interview. We recommend that you delete these notes from your email for your own security after you have returned them to us.

Whilst there is no need to provide any additional documentation, if you wish to do so you need to send this directly to the Scoping Inquiry by email or post at the address below. If you attend in person and provide additional documents, these will be sealed and sent to the Scoping Inquiry by post. Please note that Quality Matters are not responsible for additional documents sent in this way to the Scoping Inquiry and cannot guarantee their delivery. For this reason, we recommend that you contact the Scoping Inquiry directly at survivorengagement@esi.gov.ie or post your documents via registered post to: Scoping Inquiry, c/o Department of Education, Marlborough Street, Dublin 1.

What Happens to My Notes?

Your summary notes, which do not contain your name or anything that would directly identify you or anyone else, will be used in the preparation of a report on what interviewees said. The report might say something like ‘of the people interviewed the majority said that they had (example) experience’ or ‘many of the people interviewed said that they wanted the Government to undertake (example) as a response to the revelations of historical sexual abuse in day or boarding schools run by the religious orders’. The report may use some direct quotes. This is something that someone said word for word but will not name that person in the report and we will make sure that that quote does not identify this person in any way.

Your anonymised notes will then be stored in a password protected electronic folder in Quality Matters for up to three months after the consultation is completed and may be shared with the Scoping Inquiry team during this period. At this stage all the notes will be transferred securely to the Scoping Inquiry.

Please note that while the report will not identify you or anyone else, the Scoping Inquiry will be storing your notes and questionnaire responses together. The transfer of this information both to and from the Scoping Inquiry will be done securely. The Scoping Inquiry will have a record of your interview which they can link to your questionnaire.

The Department of Education is providing administrative support and acting as the Data Controller to the Scoping Inquiry. All child protection concerns received by staff of the Department must be dealt with in accordance with the Department’s procedures for responding to child protection concerns. The Department will provide all of the Scoping Inquiry’s documentation, including questionnaire responses and interview notes, to any Inquiry or Body that may be set up on foot of any recommendations of the Scoping Inquiry. In that event, the documents concerned become part of documents of that Inquiry or Body. If no such Body or Inquiry is recommended or established, the documents will either be destroyed or be retained under the National Archives Act 1986.

What Else do I Need to think of Before I Engage in this Process?

If you are currently engaged in legal proceedings or think you may be in the future related to your experience and you disclose information with regard to those proceedings, you may, potentially, complicate that process. If this applies to you, we strongly recommend that you seek legal advice with regard to relating details of your abuse to the Scoping Inquiry. We have been advised by the Scoping Inquiry that if you are engaged in a pending criminal prosecution, details of abuse should not be disclosed as part of this survivor engagement process.

If you have signed a **Non-Disclosure Agreement** as a result of settling of any previous proceeding, where you agreed to keep certain information confidential, we advise you to seek legal advice prior to engaging in this interview process.

Please note that by consenting to an interview you are indicating that you have read and understood this information.

Your Safety and Wellbeing

It's important to note that feeling upset or distressed can be a really normal response when remembering or talking about past abuse. The interview will be conducted as sensitively as possible. However, in the event that you experience acute distress following your interview, support is available. As a participant in the Scoping Inquiry's survivor engagement process, you can avail of support by calling the number below up to six week after your interview.

Up to three sessions with a qualified counsellor are available for you in these circumstances. This can be online, by telephone or in person, depending on your location. The purpose of this is to provide you with an opportunity to debrief from your experience of the interview.

This is a short-term intervention to assist you with managing the impact of difficult feelings and emotions that may arise from your participation in the interview rather than the abuse that you experienced previously.

An appointment will be made available within three days of you requesting assistance and you will not be charged for these three sessions. To avail of support after your interview, call 01-8910703 and mention that you are participating in the Scoping Inquiry. If directed to leave a voicemail, you will receive a return phone call within 24 hours.

Longer term support is available from organisations such One in Four and/or the National Counselling Service. you can contact One in Four by calling 01 662 4070 or via their website at www.oneinfour.ie/contact.

As part of the State's response to individuals experiencing distress as a result of trauma and abuse in childhood, a free, professional and confidential National Counselling Service is operated by the HSE. You can contact the HSE by calling 1800 700 700, or from outside Ireland, by calling +353 1 2408787 to find the service closest to you. Information is also available online at <https://www.hse.ie/eng/services/list/4/mental-health-services/national-counselling-service/>

Thank You

Thank you for taking the time to read this leaflet. If you agree to take part in this process, all of this information will be explained to you again at the beginning of the interview, and there will be a chance for you to ask questions. If you have any questions in the meantime, you can email survivorengagement@esi.gov.ie or call +353 (0)90 6483610 from Monday to Friday between 9.15am and 5pm. Outside of those hours you can leave a voicemail.

Appendix 4:

Report on Child Protection for the Scoping Inquiry into Historical Sexual Abuse in Schools run by Religious Orders

Dr Helen Buckley, Child Protection Consultant

Introduction

This paper was commissioned by the Department of Education as part of the Scoping Inquiry into historical sexual abuse in schools run by religious orders. Its objectives have been:

- to consider the policy context in the 1960s, 1970s and 1980s during which recently reported incidents of child abuse in the education system were made;
- to analyse the recommendations of specific child abuse inquiry reports concerning priests and religious (The Ferns Inquiry, the Commission to Inquire into Child Abuse, the Report by the Commission of Investigation into the Catholic Archdiocese of Dublin and the Report by the Commission of Investigation into the Catholic Diocese of Cloyne);
- to consider current safeguarding arrangements in the primary and post primary education sectors and
- identify any current impediments to reporting, investigating and responding to allegations of sexual abuse in the education sector.

The paper has been informed by a review of documents, including annual reports, research reports, policy documents, circulars, guidelines, internet research and very helpful consultation with key informants from the following bodies:

- Tusla
- National Board for the Safeguarding of Children in the Catholic Church (NBSCCC)
- Department of Education (Parents and Learners Unit and Inspectorate)
- Department of Children, Equality, Disability, Integration and Youth
- The Dublin Diocesan Child Protection Office
- The Teaching Council of Ireland
- Dublin City University (Institute of Education)
- Mary Immaculate College, Limerick.
- National University of Ireland Maynooth (Department of Primary and Early Childhood Education)
- Trinity College Dublin (School of Education)

Responsibility for interpreting and representing information supplied by key informants in this paper remains with the author.

The paper will cover the following areas:

1. It will outline the context in which child protection practices operated during the latter part of the 20th century in Ireland up to the present time. It will also outline the development of current responses to the problem of child sexual abuse focusing particularly on the education sector.
2. It will consider the recommendations from a number of inquiry reports into the abuse of children by people including religious in settings outside of their families, indicate if recommendations have been implemented in the context of more recent reforms, and consider what factors combine to produce the most effective recommendations.
3. It will consider current methods for safeguarding that the catholic church and religious orders have instituted in response to concerns raised about abuse by priests and religious as well as the above inquiries.
4. It will consider current safeguarding in the primary and post primary education sector in both recognised and unrecognised/independent schools.
5. Finally, it will present a concluding summary which identifies any weaknesses or obstacles to the effectiveness of current measures.

Section 1: Development of child protection practices, guidance and legislation from the 1970s to the present time

1.1 Introduction

When the Irish state was formed, the Children Act 1908 continued to provide the legal framework for child care matters for the following 75 years until the Child Care Act 1991 was implemented. Commentators have described the 1908 act as providing more to protect the state against delinquent children than protecting children from harm per se (Raftery and O'Sullivan 1999) which is taken to mean that its philosophical basis was reactive rather than proactive when it came to the welfare of children. In the meantime, child protection and welfare services as we recognise them were operated mainly by charitable bodies and voluntary agencies such as the ISPCC and on a less formal scale within local dioceses, parishes and social service councils. Hospitals and other institutions employed almoners or the equivalent, and in some cases local social service boards employed qualified and unqualified social workers who worked with families.

The Health Act 1970 established the personal social services, which included social work located in health board community settings and this began the centralisation of formal child protection within the public service and away from the voluntary and community sector. Although employed by the state, health board social workers were not statutory agents under child care legislation at that point and while professionals and members of the public could contact social work offices directly, there was no formal pathway for the reporting or investigation of allegations of child abuse. It is also notable that child harm up to the 1980s was almost always conceptualised in terms of physical abuse or neglect with a moralistic tone adhering to the latter, for example where parents were drunk and/or mistreated their children in public or where parents, mainly mothers, were considered to be lax in their behaviour. As time went on, and knowledge about developments in the US and UK was transmitted through medical publications or other media, agencies like the societies for the protection of children, or high-profile inquiries into homicides such as the Maria Colwell¹ case, the emphasis shifted to non-accidental injury to children. Child abuse was then defined in terms of physical abuse or non-accidental injury.

1 Maria Colwell was a 7-year-old English child murdered in 1973 by her stepfather whilst under the supervision of social services. The criminal trial attracted a lot of attention and the subsequent inquiry was a trigger for social services reform in the UK.

In response to this new awareness of the problem, the Department of Health set up a working group, largely comprised of medical personnel which ultimately published the *Report of the Department of Health Committee on Non-Accidental Injury to Children* (Department of Health, 1976). The Report led to the establishment of the Task Force on Child Care which reported in 1980 and essentially laid the groundwork for the Child Care Act 1991 which had a much stronger focus on prevention of abuse and promotion of welfare than the previous act. In the meantime, recognising the urgency required to address the problem of physical abuse, the Department issued draft guidelines entitled *Memorandum on Non-Accidental Injury to Children* (Department of Health, 1977) which was largely based on the recommendations of the 1976 report. The guidance was directed primarily at medical and health workers and the memorandum acknowledges its focus on physical abuse, explaining that the evidence of injury arising from emotional deprivation or neglect 'might not always be as clear cut' and would therefore be more difficult to investigate.

A later edition, entitled '*Guidelines on The Identification and Management of Non-Accidental Injury to Children*' was published in 1980 (Department of Health, 1980) followed by a revised version in 1983 (Department of Health, 1983). The 1977 and 1980 guidelines vested responsibility for monitoring and co-ordinating the management of 'non-accidental injury' to the Health Boards, and the Director of Community Care was nominated as the person with overall responsibility. A list of potential clinical indicators of child abuse was provided, and the necessity for the co-operation of non-Health Board professionals was emphasised. Recommended procedures for the investigation of reports, and the 'monitoring and co-ordination' of child abuse cases were outlined, the case conference having a central position, and the maintenance by the (medical) Director of Community Care of a 'list' of suspected and actual cases of non-accidental injury was recommended. It is of note that from the 1977 guidance onwards, the Gardai were assigned a role in the investigation, for example the 1977 guidelines note that 'it should be borne in mind, however, that the Gardai must be notified as quickly as possible where a possible breach of the criminal law is indicated'. This is significant as later inquiries showed evidence that during these decades, a great many cases of alleged abuse that were reported to the health boards undoubtedly carried a criminal element, but the Gardai not informed.

The 1983 guidelines continued to focus on physical abuse but in its introductory section, the document notes its subject as ‘the problem of confirmed or suspected non accidental physical injury (including injury resulting from sexual abuse) to children. This was the first official recognition of the problem of child sexual abuse. By 1987, when ‘*Child Abuse Guidelines: Guidelines on procedures for the identification, investigation and management of child abuse*’, was published by the Department of Health, for the first time the Department gave a comprehensive definition of abuse as ‘physical injuries, severe neglect and sexual or emotional abuse’. The 1987 guidelines outlined a very clear step by step process and for the first time, identify teachers as one of the ‘others’ who ‘should’ on arousal of suspicion, ‘notify the DCC/MOH² immediately after consultation with his superiors’. It contains a separate section specifically on child sexual abuse, highlighting that ‘the identification and validation of child sexual abuse is fundamentally different’ from other types of abuse. As in the previous guidelines, it specifies that ‘the Gardai, if not already involved, must be notified as quickly as possible where a breach of the law is indicated’.

The Department of Education produced procedures for the primary and post primary sector in 1991 which will be discussed in a later section.

1.2 Recognition of child sexual abuse as a major social problem

Early in the following decade, an analysis of confirmed cases of child sexual abuse which were referred to the Eastern Health Board during 1988 confirmed the upward trend in statistics between 1984 and 1987 although acknowledged at the time to be a likely underestimate (McKeown and Gilligan 1991). The SAVI report, published in 2002, was based on research conducted in the late 1990s with persons who were then over the age of 25. The data provided by this study showed that one quarter to one third of the 3000 Irish people randomly surveyed had experienced sexual abuse in childhoods as far back as the 1940s and 1950s, and of this number one fifth had been abused by authority figures of which the largest group was religious ministers and teachers.

2 The DCC (Director of Community Care) or the MOH (Medical Officer of Health) were medical doctors who led community based services in the health boards or former local health authorities.

Although Irish governments had been aware since the 1930 Carrigan report of the prevalence of sexual offences against children, it was not really until the 1990s that it was openly discussed and reported on. A growing awareness of the problem of child sexual abuse could be seen in the publication by the Irish Council for Civil Liberties Working Party on Child Sexual Abuse (Cooney and Torode 1989) which identified 'unresolved moral questions in Irish society which appear too threatening or divisive to debate freely and rationally' (p.12), causing obstacles to adequately addressing the problem in Ireland. A number of events occurred during that decade which profiled child sexual abuse in a way that was unprecedented: the X case in 1992 which for the first time, illustrated that child sexual abuse happened in 'normal' families and the Kilkenny Incest Inquiry in 1993, which highlighted serious deficits in child protection and welfare services, failure to implement procedures and but also cultural/societal indifference to sexual and domestic abuse. The Brendan Smyth case in 1994 not only highlighted the issue of sexual abuse by religious, but also the political ambivalence that had been shown to the matter. Abuse in sport was also acknowledged (R. Murphy, 1998), and States of Fear, a tv documentary about abuse in industrial schools, provided the impetus for the Commission to Inquire into Child Abuse. These events combined to heighten awareness of risk to children that could occur inside and outside the family and the betrayals of trust that had occurred. What they also illustrated was that protective and preventive procedures and guidance were limited to certain settings but also that when they did exist, their operationalisation was considered optional.

1.3 Garda/Health Board guidelines

The 1993 Report of the Kilkenny Incest Inquiry illustrated the ambivalence held by professionals about the obligation to report suspected child abuse to the Garda Síochána. The need for tightening up of this matter had already been of concern to the Department of Health, which initiated meetings between the Gardai and the health boards to develop what became the 1995 guidelines entitled 'Notification of Suspected Cases of Child Abuse between Health Boards and Gardai' which obliged the health boards to formally notify the Gardai when they suspected that a child had been physically or sexually abused or wilfully neglected, without waiting for confirmation. A clear protocol was outlined, and informal consultation was encouraged. A procedure was also outlined for the Gardai to notify the health boards when they encountered suspicions of abuse or neglect. A strategy for investigation was outlined as well as arrangements for ongoing liaison and the requirement for Gardai to be present at case conferences.

1.4 Discussions on Mandatory Reporting

The question of whether reporting of suspected child abuse should be made mandatory, i.e. a legal requirement carrying penalties for non-compliance, was considered by the government during the mid 1990s and a discussion paper was published followed by a consultation process. The arguments against introducing mandatory reporting outnumbered those for it, and the Minister with responsibility for children, Austin Currie, instead proposed a number of measures including the establishment of an Ombudsman for Children and further development of child care services which removed the main responsibility from medical personnel, allowing for management by other relevant professionals.

1.5 Children First

Following the recent inquiries, the government committed to revising the official guidelines and in 1999 the first of several editions of Children First reflected the recognition that child sexual abuse was a substantial issue and gave detailed step by step instruction on the making and investigation of reports. While it recommended that individual organisations produce bespoke guidance, Children First held an overarching position. Significantly, it now included a separate section on the obligation to report to the Gardai, reflecting the 1995 guidelines. It contained a specific section for schools, highlighting the unique position of teachers as potential identifiers of child abuse, outlining management arrangements within primary and post primary schools and clarifying the responsibilities of boards of management including the need to have clear written procedures in place concerning action to be taken where allegations are received against school employees. The reporting line to be followed was from a staff member suspecting abuse to the principal or designated person who would be responsible for reporting the matter to the health boards or An Garda Síochána. A separate section deals with the responsibilities of employers to report to statutory authorities and the need to prioritise child protection and take proportionate measures to ensure that no child is exposed to unnecessary risk. In a later subsection it states that the management of schools must ensure that personnel are trained in the recognition of signs of abuse and on how to report it.

The next set of overarching guidance to be produced was developed for the voluntary and community sector. This was '*Our Duty to Care*' (Department of Health and Children, 2002), which was aimed at community and voluntary organisations such as youth clubs providing services to children and so encompassed persons who were not strictly employees. At that point, Garda vetting was not available³ to most categories of employees and while some of the bigger organisations had an awareness of child protection requirements, no national guidance had existed. *Our Duty to Care* was based on Children First 1999 but had a strong safeguarding focus. It specified the need for appointment of DLPs and the display of child protection policies. It contained specific and extensive sections for codes of behaviour between workers and children and safe recruiting practices, induction, safe management practices including trial periods, reviews and staff appraisal and adequate recording systems. The document has a specific section dealing with action to be taken when an allegation is made against a worker in the organisation, outlining the two processes of reporting the allegation to the civil authority and dealing with the employee with advice about the employer's responsibility towards workers. It outlines additional factors that have a bearing on the organisation and may impact on the willingness of volunteers and employees to report, such as the possible reactions of other staff members.

As will be detailed in a later section, the Department of Education and Science produced revised procedures for primary and post primary schools in 2001 which were aligned with Children First. At this point, both statutory and non-statutory services were now covered by overarching guidance while other organisations such as the Irish Sports Council, Swim Ireland, the GAA, National Youth Council and the children's hospitals produced guidance that was consistent with Children First but also contained aspects that were specific to their individual contexts.

The implementation of Children First was neither straightforward nor automatic however, as illustrated by a review of compliance conducted by the Office of the Minister for Children and Youth Affairs [OMCYA] and published in 2008 which had been requested by the Minister for Children following the Ferns inquiry. The review found that there were difficulties and variations in relation to the implementation of the guidelines, arising mainly from local variation and infrastructural issues rather than fundamental difficulties with the actual guidelines. Two main principles were not being adhered to in the way envisaged: consultation with children and sharing of information which was found to be problematic at a number of levels. The review suggested that issues of consistency in implementation should be given priority. It

3 The National Vetting Act was passed in 2012 and provided for vetting disclosures to be made in respect of persons intending to work with children or vulnerable persons.

essentially recommended a strengthening of child protection policies and training as well as support to be provided for organisations that needed to develop child protection policies.

Between 2005 and 2011 the Ferns, Dublin Diocese and Cloyne reports were published. The findings from these reports, which will be dealt with in a later section, shone a significant light on dioceses and religious orders. While it was acknowledged that guidelines had begun to address the issues, the fact that they were not mandatory created unease in the government which began again to consider the issue of mandatory reporting.

The Children First guidance was revised in 2011 to reflect new administrative structures and legislation that had been enacted since the 1999 edition. Unlike the previous edition, which contained step by step guidance for social work staff in HSE Children and Family Services, Children First 2011 was aimed at professionals and organisations who were likely to make reports. It again identified teachers as important caregivers who have regular contact with children. Reporting remained an administrative requirement but was not mandatory. A separate practice handbook was published by the HSE for practitioners within the statutory child protection service, which contained specific guidance and outlined internal business processes.

1.6 Children First Act 2015

Having consulted on the matter over several years, the government took the decision to introduce mandatory reporting of suspected child abuse and passed the Children First Act 2015. It appears that the government was ultimately convinced by the findings from the Cloyne report, which was published in 2011. At that time, the Taoiseach Enda Kenny made a speech in the Dail, in which he noted the dysfunction dominating the culture of the catholic church which upheld the primacy of the institution while downplaying the abuse of children. He was also critical of the 'unseemly bickering between the Minister for Children and the HSE over statutory powers to deal with extra familial abuse, the failure to produce legislation to enable the exchange of soft information and the long period of confusion and disjointed responsibility for child protection within the HSE'. He promised that putting Children First on a legislative basis would give children maximum protection and security.

Mandatory reporting was ultimately implemented in late 2017 and identified a range of persons mandated to report which included teachers who are registered with the Teaching Council and members of the clergy (howsoever described) or pastoral care worker of a church or other religious community. The legislation did not carry penalties in the form of fines or imprisonment, but the guidelines outlined the various sanctions that could operate if mandated professionals were found in breach of their

statutory obligation; these included reporting to the National Vetting Office and the professional registration bodies. As well as a duty to report, mandated persons were obliged under the legislation to assist the Child and Family Agency with assessments. The other measures covered by the Act were the responsibilities of organisations providing services to children to produce risk assessment and safeguarding statements and appoint relevant persons (designated liaison persons). The safeguarding statement was to be displayed prominently and reviewed when necessary. Any provider that failed to produce a copy of their safeguarding statement to the Child and Family Agency when requested was to be listed on a register of non-compliance maintained by the CFA as long as they were in breach of the legislation.

Children First guidance was again revised in 2017 to reflect the new legislation, and Tusla has developed a suite of documents, technical solutions and a training module to assist reporters. This online module is free and available to all child care professionals.

1.7 Increase in reporting

Referrals to Tusla social work departments have increased substantially since statistics were first published in the 1980s but particularly since the Children First Act 2015 was implemented. Comparisons between years are not entirely valid because of the different ways in which referrals have been counted, but there are some evident trends. It is possible to see that teachers now represent the third highest group of out of 21 categories of mandated reporters overall, behind Gardai and social workers. In 2018, teachers made 22.1% of mandated reports, and in 2019 teachers made 20% of mandated reports; this slipped in 2020 and 2021 to 15.6% and 14.4% respectively but recent data indicates that in January 2023, teachers made 19.1% of reports. The variations may be explained by school closures due to Covid. The smaller proportion may also be explained by the fact that other services are now also reporting more, particularly domestic violence services which shrinks the percentage made by teachers but not the volume. Overall, however, it is evident that teachers are significant reporters.

1.8 Church guidelines

Since the 1980s and more awareness of the problem of child sexual abuse, the reporting of allegations against priests and other religious increased. Some of these were reported to the then health boards but many alleged victims chose to report directly to different people in the dioceses. In recognition of the need to regularise the reporting process and avoid duplication and confusion, the church began to develop a procedural response. In 1996 the Irish Catholic Bishops' Advisory

Committee issued a report entitled '*Child Sexual Abuse: Framework for a Church Response*' which was colloquially known as the Framework Document or Green Book. Its purpose was to provide information and guidance to assist the Church authorities to make an appropriate and effective response to allegations of child abuse. It offered a set of guiding principles to underpin action and advised on the establishment of various roles to deal with allegations: Delegates to receive complaints, Support Persons to assist alleged victims and Advisors for accused priests or religious as well as an Advisory Panel including lay people and relevant professionals. The Delegate was to give 'consideration to reporting the allegation to the civil authorities' but was implicitly allowed discretion in relation to that decision. According to the policy, a complaint against a member of a religious order was to be reported to the dioceses by the superior of the order. The Framework Document gave further guidance on issues such as leave of absence, assessment and treatment and selection of candidates for the priesthood. The implementation of the Framework Document was intended for all dioceses and religious but was complicated by a lack of support from the Vatican and doubts implied by the Papal Nuncio that its operation was compliant with Canon Law. This meant that its adoption was considered discretionary by the dioceses.

The guidance was replaced nine years later in 2005 by *Our Children Our Church* which was a longer and more comprehensive document with the aim of bringing 'greater clarity and consistency to the Church's procedures in relation to child protection' (2005, p.1) and it signalled the establishment by the three sponsoring bodies, i.e. the Irish Bishops Conference, the Conference of Religious in Ireland and the Irish Missionary Union of a National Board for Child Protection to oversee its implementation and support and monitor child protection operations in the catholic church. Unlike the Framework Document, *Our Children Our Church* covered all types of child abuse and followed the 1999 Children First Guidance. It covered a broader range of church activities than the previous guidance and placed an emphasis on safeguarding practice in recruitment as well as key elements of responding to child abuse and neglect. It stipulated that the safeguarding of children must take priority over other matters. Like the Framework Document, *Our Children Our Church* was not considered 'normative' and therefore there was no binding obligation on dioceses or religious orders to comply with it. In the following years, child protection and safeguarding within the catholic church was taken over by the NBSCCCI which will be described in a later section.

Section 2: Inquiry reports

2.1 Introduction

Part of the remit for this paper was to consider the recommendations from the Ferns, Ryan, Cloyne and Dublin diocese reports, all of which were focused on abuse by priests and religious, the Ryan report having a particular focus on institutional abuse.

Each of these inquiries followed public concern about events that were revealed through media coverage. When an event or an issue causes considerable public concern, there are often demands for a 'full public inquiry'. While there are some technical definitions Buckley and O'Nolan (2013) suggest that a good working definition of a public inquiry is one that satisfies the public demand that a matter is independently investigated and publicly reported on. It is also considered that an inquiry will not satisfy the demand that 'something must be done' unless it is headed up by an independent chair and reports publicly. In general, the use of inquiries can be seen as consistent with a commitment to accountability and transparency in the management of the public sector. They have been very influential sources of evidence in the policy arena and have played important roles in shaping public policy in a number of areas though as will be shown here, they are often used by the government and policy makers as vehicles for the implementation of pre-existing agendas.

The function of inquiries was identified by the Law Reform Commission as

- To establish what happened, especially in circumstances where the facts are disputed, or the course and causation of events is not clear;
- To learn from what happened, and so helping to prevent their recurrence by synthesising or distilling lessons, which can be used to change practice. This includes identifying shortcomings in law or regulations;
- To provide catharsis or therapeutic exposure, providing an opportunity for reconciliation and resolution, by bringing protagonists face to face with each other's perspectives and problems;
- To provide reassurance, by rebuilding public confidence after a major failure
- To establish accountability, blame, and retribution; holding people and organisations to account, and sometimes indirectly contributing to assigning blame and to mechanisms for retribution;
- For political considerations, serving a wider political agenda for government either in demonstrating that "something is being done" or in providing leverage for change.

(LRC 2005:20).

Notwithstanding the useful aspects of inquiries reported above, they are also criticised for being time consuming and expensive, negatively focused, blaming and lacking context. Although one of the functions is fact finding, they are often held some years after events have happened and it is suggested that their function is more to confirm judgements already reached and are more likely to be considered valid if they criticise government. They are also considered to be tools for learning and assume that similar negative events can be prevented if the right policies and procedures are in place. As Buckley and O’Nolan have pointed out, inquiries tend to produce numerous recommendations which are usually focused on structural arrangements because cultural changes, often more necessary, are difficult to achieve. The factors that influence the implementation of recommendations will be discussed later in this section.

Of the four reports that are discussed here, three were Commissions of Investigation (which are statutory Inquiries (Note: CICA was established under special legislation i.e. the Commission to Inquire into Child Abuse Act 2000. Murphy and Cloyne were established under the Commissions of Inquiry Act 2004) and one of them (Ferns) adopted a non-statutory process after a preliminary inquiry established the likelihood of good cooperation from the diocese under investigation. This section will discuss the above reports with a particular focus on the recommendations from the Ferns and Ryan reports. The Dublin and Cloyne reports did not make recommendations but made observations which will be discussed in light of later reforms and current structures.

2.2 The Ferns Inquiry 2005

The Ferns report stemmed from publicity surrounding revelations of abuse by Sean Fortune who was a convicted paedophile as well as a number of other priests in the diocese. The inquiry reported on over 100 allegations of child sexual abuse made between 1962 and 2002 against 21 priests operating under the aegis of the Diocese of Ferns and including some who were teaching in St. Peter’s Diocesan school and at least one priest who was the chair of a primary school board of management. It showed a wide variation in the way that the diocese had responded over the 40-year period which covered the same time line as trajectory of child protection developments outlined in the previous section. The report showed that transgressions which came to the attention of the bishops in the earlier years were either ignored or treated as moral problems requiring a short term morally corrective response with a selective interpretation of any assessments conducted. Early guidance and procedures issued by the state and the church were not considered particularly relevant. Importantly, the inquiry highlighted the weak governance and a very narrow hierarchical authority structure in the church which meant that there was

little oversight of the performance of a parish priest, let alone the behaviour or suitability of individual clerics. There was a total absence of recording in respect of complaints until 1988. When disciplinary action was taken, it was frequently delayed and inadequate. The inquiry also found the handling of complaints by the Gardai to be inadequate in many cases, particularly up to 1990.

2.2.1 *Ferns recommendations*

The Ferns inquiry made 20 recommendations which could be loosely classified in three categories concerned with the following:

- (i) safeguarding or preventing abuse,
- (ii) the type of response to be made to allegations,
- (iii) new legislation that was deemed necessary to both prevent and respond to child abuse.

Although the report was submitted to the Minister for Children whose department had commissioned it and the bodies for which the recommendations were intended were not always specified, it was evident from their content that specific recommendations were intended the church, the then HSE, the Department of Health and Children and the Gardai. Some of the recommendations were broad in nature with an unspecified audience, for example 'the strengthening of a more open culture of reporting' and the appropriate interpretation of guidelines' and others very precise such as the creation of a recording system for complaints and the setting up specialist child protection investigative teams.

2.2.2 *Overall response to the Ferns recommendations*

In response to the Ferns report, the Minister made a statement accepting all the recommendations and the OMCYA established a working group to oversee their implementation. No formal or final implementation plan was available at this point from the DCEDIY but through a combination of discussions with key informants and online research, it was possible to establish that the recommendations concerning prevention and safeguarding were broadly addressed though not always with lasting effect. It would be valid to suggest that the combination of the NBSCCCI work and the Children First Act 2015 have considerably strengthened the reporting culture within the church and religious orders as well as the general public and this is affirmed by a year-on-year increase in referrals to Tusla. The establishment of Interagency Review Groups (IARGs), to include Tusla, the Gardai and church representatives, was an important recommendation to address the finding that rumour and innuendo had persisted around some of the perpetrators without any

action having been taken. The IARGs were intended as a forum where cases could be discussed, and soft information exchanged. However, key informants have commented that the IARG meetings have declined considerably in number and in nature in recent years. According to Tusla, this is largely due to developments within firstly, the HSE and then Tusla, whereby restructuring occurred, new legislation (the Children First Act 2015 and the Garda Vetting Act) was passed and there was a steady decline in church-based allegations. Tusla has pointed out further that the changed landscape with reporting and the very many designated liaison officers in religious orders and dioceses who contact duty in each local area, together with the reduction in allegations within the dioceses has meant that these meetings are no longer needed. Tusla further commented that recent allegations arising from religious institutions have been successfully managed without IARGs. There is also a view that GDPR obligations have contributed to the current situation, where discussions between agencies are confined to high level policy matters rather than individual cases and soft information is no longer exchanged.

Although it did not emerge specifically from the Ferns recommendations, the establishment in 2006 of the National Safeguarding Board for Children in the Catholic Church in Ireland (NSBCCCI) has been the most significant factor in promoting safeguarding within the church through the different standards that include creating safe environments and are underpinned by the prioritisation of child protection over the good name of priests or the reputation of the church. The NSBCCCI audits (www.safeguarding.ie) testify to the consistency with which the standards are now applied. However, the Ferns report had observed a significant weakness in the management structure within dioceses which has not really been addressed in the way intended. The recommendation for management training for bishops has only been partially covered (insofar as they now receive safeguarding training from the National Board and the Vatican issued an apostolic letter which sets out the accountability of a bishop in terms of safeguarding) but in essence, priests are still regarded as self-employed, so the normal organisational management systems do not apply to their work and rather than performance reviews or disciplinary procedures, priests are subject to a process called 'fraternal correction'. The catholic church safeguarding structure currently in existence, which is comprised of various officers, trainers and volunteers plays a key monitoring role as does the National Board but dioceses are still under the stewardship of the bishop with the limitations described above.

The second category of recommendations from the Ferns inquiry, concerned with responding to allegations, has also been addressed by the NSBCCCI standards as far as the church is concerned. In response to a specific recommendation, specialist teams for the investigation of alleged child abuse were set up by the Gardai, intensive training for interviewers is provided in the Garda college and child friendly

interview locations have been provided. It was originally intended that these teams would be multi-agency and include Tusla staff to avoid duplication and Tusla staff were included in training for several years. However, according to key informants, their inclusion in joint Tusla/AGS training and participation in the interview process has declined considerably, though this may change in the future as Tusla has stated that specialist interviewing is currently under review with AGS and there is a plan for further development of joint training.

The Ferns recommendations for the Gardai in respect of complaints have been largely addressed. The original Domestic Violence and Sexual Assault Investigation Unit, first set up after the Kilkenny Inquiry has evolved into the Garda National Protective Services Bureau which provides a national advice service, and each Garda division now has a protective services unit. Pursuant to the Garda Act of 2005, all offences of a sexual nature are sent to the DPP for a decision as to whether or not to institute a prosecution. This is on foot of a binding direction of the DPP issued pursuant to that Act in 2011. Any garda that fails to comply is subject to a disciplinary process.

In response to recommendations about legislation, Part 15 of the Criminal Justice Act 2006 now addresses 'reckless endangerment' of children and the National Vetting Bureau (Children and Vulnerable Persons) Act 2012 prevents people who have relevant convictions from working or volunteering in children's services. As part of the vetting process Gardai may disclose not just convictions but relevant information.

The inquiry was also concerned about the power of Tusla staff to investigate non familial allegations and recommended a study of their full remit. It is understood from key informants that this matter was discussed at length between the relevant government departments and agencies without full resolution, but it now appears that Tusla's duty under Section 3 of the Child Care Act 1991 is regarded as superseding any concerns of this nature and the current Child Abuse Substantiation Procedure (Tusla, 2022), whilst considered to have limitations⁴ provides a framework for Tusla staff to investigate whether any risk is posed by persons subject to abuse allegations to known and unknown children. [Note: The heads and General Scheme of the Childcare (Amendment) Bill 2023 were published in April 2023, which envisages that the Children First Act 2015 be amended to provide statutory authority to the CFA to assess reports received from non-mandated persons and members of the public in relation to harm to a child. The General Scheme has been referred to the Attorney General's Office for drafting]. The inquiry recommended that priests who dispute allegations be entitled to legal aid under the Civil Legal Aid Act

4 See Annual Report of the Special Rapporteur for Child Protection 2021; Statement by IASW July 2022.

1995 and this author has been informed that different arrangements exist within the dioceses but that once a criminal charge has been put, a priest may be granted free legal aid to defend himself.

2.2.3 *Specific response of the OMCYA/DCYA*

Research by Buckley and O’Nolan (2013) has shown that the response to inquiries can often be the implementation of actions that had previously been planned but had required further impetus and resourcing. This was also evident in the response to the Ferns Report by the Office of the Minister for Children and Youth Affairs which instituted actions that were not specifically mentioned in the recommendations but were nonetheless progressive and addressed the overall problems identified in the review. The OMCYA set up a monitoring group to agree on actions and it is understood by this author that regular interagency updating meetings took place between the Department and the HSE which may also have included the Gardai. However, neither the timeline nor the records of the meetings were available to this author from the DCEDIY so it is not possible to verify how often they took place or what the final outcome was. Nor has it been possible to identify the different workstreams that were under the remit of the monitoring group. It appears that the HSE had responsibility for two out of five working groups, Ferns 4 and 5. The HSE Review of Adequacy Reports up to 2013 reported on their progress and two ‘draft final’ reports on Ferns 4 and Ferns 5 were provided to this author on request, both dated 2014.

The terms of reference for Ferns 4 for were ‘to examine the assessment, therapy and counselling needs of children who have been sexually abused and their families’ and ‘to make recommendations concerning service requirements’. The final draft report for Ferns 4 gave a detailed outline of a proposed national assessment and therapy service for children who had been sexually abused and made a recommendation for specialist centres to be set up in Dublin, Cork and Galway. In 2019, the government launched the pilot of the Barnahaus⁵ model to provide assessment, forensic interviews/medical examination, treatment and therapeutic support for children who are victims of sexual abuse. Current information from Tusla indicates that to date, Barnahaus has been established in Galway and will open in Cork this year and that work is ongoing on the development of the model in Dublin. Tusla also notes that challenges with data protection, legal issues and integrated working are being addressed with the support of the Council of Europe.

5 The Barnahaus model was developed in Scandinavia and refers to multidisciplinary and interagency interventions provided under one roof.

The terms of reference for Ferns 5 were 'to advise the Forum of the needs and strategic direction of the HSE in the treatment of adults, teenagers and children'. The 2014 draft final report for Ferns 5 outlines a proposed the setting up of a Juvenile Sexual Behaviour Service under a national steering committee. Current information from Tusla confirms that the national steering group is no longer in existence but a National Inter Agency Prevention Programme for children who display sexually harmful behaviour has been established. The programme has some full-time staff but is reliant on the release of other staff from social work departments and the probation service and is subject to operational pressures. Its development in the six Tusla regions is continuing.

It can be surmised from the above information that the actions to be implemented by the HSE/CFA following the Ferns inquiry have been broadly implemented although some are still in process. As outlined, there is no information available from the DCEDIY on the outputs from the other Ferns project groups.

2.2.4 HSE /Tusla audit

The Minister for Children who received the Ferns report made an immediate response by requesting the then HSE Children and Family Services to undertake a full audit of the extent to which the Church was complying with the 1996 Framework Document or Green Book and implementing the recommendations of the Ferns report. The HSE/Tusla conducted two audits, one for religious orders and one for dioceses. The report on the dioceses was published in 2012 and the report on the religious orders was published in 2018.

During the period in which the audits were being conducted, the Church's guidelines progressed from the Framework Document to *Our Children Our Church* and then were overtaken by two sets of Safeguarding standards issued in 2008 and 2016 by the NBSCCCI which had in the interim become firmly established and was conducting its own audits. The HSE diocesan audit, which acknowledged its own limitations, found that while dioceses had made significant progress, implementation was inconsistent with an unequal application of the principles contained in the guidance. It has been noted that the HSE audit initially had some difficulty in obtaining all the information it sought. The HSE revised the questionnaire in response to legal challenges from the dioceses and whilst some dioceses declined to answer some questions at first, they all did so in the end. However, the audit uncovered a significant problem with tracking each allegation and a lack of consistency between reports made to the church authorities and those passed on to the civil authorities and made some strategic recommendations designed to standardise the dioceses' safeguarding policies which have since been addressed by the NBSCCCI.

The audit of religious orders' adherence to their safeguarding responsibilities showed that the orders had gained an increased understanding of the child protection process and had achieved successful collaborative relationships with Tusla. This report made a number of recommendations for Tusla, including a specific monitoring of allegations from religious bodies and outcomes of investigations. through a dedicated clerical abuse national central monitoring unit. This unit was developed but not progressed once it was believed that the introduction of the NCCIS to support the implementation of Children First would provide sufficient national oversight. The other recommendations mainly concerned the need for Tusla to support the religious orders in their safeguarding activities. Recommendations specifically for the religious orders were mainly concerned with appointing and retaining safeguarding personnel, policies and essentially adopting safeguarding as a part of religious life. The audit cautioned against complacency in relation to cultural paradigms within the orders that required constant challenging. Both of the HSE/audit reports were submitted to the minister. On reviewing the conclusions and recommendations at the current time, it is evident that the activities of the NBSCCCI have been able to address the majority of matters raised. However, it is concerning to note that some religious orders have now declined to take part in the NBSCCCI audit process because of concerns about data protection.

2.3 Commission to Inquire into Child Abuse (Ryan Report) 2009

While the recommendations of the Ferns report focused on specific actions and legal remedies relevant to reporting and responding to allegations of child abuse, highlighting child sexual abuse in particular, and placing an emphasis on methods to improve compliance by members of the clergy, the Ryan report adopted an expansive remit, looking at the broader picture of child welfare and protection services, capturing both ongoing and planned reform, and streamlining of systems. The task of the commission was to investigate child abuse in institutions, most of which had been under the aegis of the Department of Education. In summary, it found that low standards of care and physical and emotional abuse were common to all the institutions which operated rigid control and corporal punishment, and that sexual abuse occurred in many but particularly in those for boys. The report was critical of child care practices at the time but particularly of the deferential attitude of the Department of Education towards the religious orders who were allowed independence in the way they ran the schools without adequate financial oversight and in a very weak regulatory context where inspectors were largely powerless. It also noted that while the problem of sexual abuse was acknowledged, no attempt was made to deal with it from a systems perspective.

The Ryan commission made 20 recommendations which were intended to both respond to victims of past abuse and to protect children from future abuse, focusing on the current child protection and welfare and youth justice systems and emphasising the responsibility of the state to ensure that services were safe and effective. In response, the government made a commitment to build on the reforms of the 1990s and early 2000s and streamline the child care and youth justice systems with a heavy emphasis on management and accountability. The Office of the Minister for Children and Youth Affairs took a novel and transparent approach to the implementation process by establishing an interagency group which analysed and regrouped the recommendations and identified a series of actions in relation to each one. Essentially the implementation plan modernised the remedies required to address the themes that were revealed in the commission's report and contextualised them within current child care and youth justice structures.

The OMCYA published an implementation report based on the work of the interagency group which laid out 99 actions to be completed with timelines, in the process identifying reforms that were already underway as well as current identified deficits in policy and in services. There was a very ambitious tone to the plan which encompassed a number of service dimensions. Although the actions were broad ranging, the compartmentalisation of the process meant that expected outcomes and the services with responsibility for achieving them were very clear so it was possible to measure how far the actions were addressed during the first few years following publication. The recommendations and associated actions were classified the into six groups as follows:

- (i) addressing the effects of past abuse;
- (ii) evaluation and implementation of national child care policy;
- (iii) strengthening regulation and inspection;
- (iv) improving management of children's services;
- (v) giving greater effect to the voice of the child and
- (vi) revision of the Children First guidelines with legislative underpinning.

The group also identified a number of matters over and above the commission's recommendations which were considered necessary to the enhancement of services. The implementation process was then overseen by what was described as a High-Level Group chaired by the Minister for Children and with representation from government departments and later included the Children's Rights Alliance. Four annual reports were published detailing progress with the final one in March 2015, six years after the publication of the Ryan Report.

Between the publication of the initial and final implementation reports (2009 -2015), substantial changes had taken place in the sector, one being the establishment of a standalone Department of Children and Youth Affairs with a full minister. This consolidated into one department the functions that had previously been spread across three. The other significant change was the establishment of the Child and Family Agency which separated child protection and welfare services from the wider HSE and freed them from competing with priorities and the more complex administrative arrangements of the HSE. Its formal establishment was preceded by a change management programme. These two developments represented milestones in the provision of child protection and welfare policy and operations and, while they may not have emerged directly from the commission's recommendations, they were part of the overall reform programme and decisions to establish them undoubtedly reflected the increase in public and political concern that followed the various inquiry reports. In the meantime, a referendum on children's rights approved an amendment to the constitution, a new national policy framework (*Better Outcomes, Brighter Futures*) replaced the former National Children's Strategy, the child protection guidance was revised and plans were made to put part of it on a statutory footing. Some of the Ferns legislative recommendations had also been implemented. Child protection and welfare standards were developed by HIQA in 2011 and provided a framework against which the authority was able to inspect services at area level.

The final report of the Ryan implementation group claimed that all but five of the 99 actions had been completed or were ongoing either in nature or in terms of implementation status. These incomplete actions concerned the erection of a memorial, undertaking a ten-year longitudinal study on children leaving care, archiving of records, and research by the Courts Service. The longitudinal study has since commenced.

The actions that were deemed to have been completed were once off and readily visible such as the appointment of a specialist in the then OMCYA, development of guidance and standards, audits and restructuring. However, the majority of actions were considered simultaneously 'complete' and 'ongoing'. These included continuous processes such as safeguarding practices, recruitment, reviews, data collection, inspection, planning, continuous improvement and reform, ongoing funding or provision of services (e.g. specialist health services) and distribution of resources. There was a further set, where actions were deemed ongoing but expected to be completed within a specified timeline where negotiations were still underway about a particular development such as the establishment of children's services groups or the preparation of legislation for placing elements of Children First on a statutory footing. The final implementation report highlighted a concern that the

impetus for continuing improvements and inter departmental working would continue, particularly in relation to actions that were considered to be ongoing in nature.

An overview of the implementation of the Ryan actions and recommendations at the present time will show mixed outcomes and illustrate the degree to which implementation depends on different variables. The recommendations and actions in the different categories that focus on management, review, self- audit, regulation and inspection and articulation of values have been fulfilled through the establishment of the CFA, HIQA inspections, business and strategic plans, Review of Adequacy and annual reports and the establishment of the National Review Panel. The Children First Act 2015 has addressed the actions pertaining to child protection identified in the Ryan Report. The majority of child welfare and youth justice services that are provided directly either by statutory bodies or commissioned agencies operate in a much more transparent way than previously, with consistent publication of data, publication of inspections, and strengthened governance arrangements. Other positive developments and reforms have occurred in relation to the management of services and children's participation. However, desired outcomes in relation to all the actions that were deemed both 'complete' and 'ongoing' have not been achieved. This is evident from Tusla Review of Adequacy Reports, HIQA reports, National Review Panel (NRP) reports and a recent review of Child and Adolescent Mental Health Services which are not under the remit of Tusla. The underachievement of these outcomes partially stems from the combination of shortage of qualified staff and variables that are out of the control of the CFA or would have required interagency and cross departmental agreement. Examples include noncompliance with Child in Care Regulations and Child Protection Standards (see for example HIQA inspection of Cork services 2022), waiting lists and poor governance in CAMHS (Mental Health Commission 2023). The CFA has not managed to achieve the target of 100% allocation of social workers to children in care and in fact the percentage has slipped slightly since the publication of the final implementation report (Tusla Review of Adequacy Report 2021). NRP annual reports have highlighted lack of continuity in mental health services particularly for children whose placements change, lack of coordination between youth justice and Tusla alternative care services, lack of suitable placements for children with challenging behaviour, and lack of coordination between HSE disability services, limited therapeutic and assessment services and Tusla alternative care services (NRP Annual Reports 2010 – 2022). It is also evident that the interaction of some of the recommendations has had unintended consequences, for example, the placing of Children First on a statutory footing has increased the reporting rate and frontline services now struggle to meet their requirements. The expansion of services in all areas, which has been a positive move, has been impacted by a shortage of social

workers in frontline child protection and welfare services who now have more employment options than previously. Tusla commented to this author that the disestablishment of the National Social Work Qualification Board in order to provide a base for CORU has meant that there has been no integrated attention paid to the training or workforce planning for social workers in the last 20 years. It has been suggested in relation to child welfare services in other jurisdictions that the proliferation of administrative responsibilities emerging from the implementation of inquiry recommendations can detract from deeper and more reflective consideration of practice issues and there is no doubt that the current focus on compliance within child protection and welfare services is occupying an increasing proportion of the CFA's day to day operations.

2.4 Murphy Report

The Commission of Investigation into Abuse in the Dublin Diocese was set up at the time of the publication of the Ferns Report in 2005 and reported in 2009. Its remit was not to conclude whether or not abuse had occurred but to examine the response of the church and the state authorities to a sample of complaints, and suspicions of child sexual abuse by priests in the Archdiocese of Dublin between 1975 and 2004. The Framework Document had ostensibly been in operation for just less than half of that timeline albeit with the limitations described earlier. The commission had no remit to make recommendations in its final report and stated its view that there were already effective structures in operation by the time of its completion. It made a number of other findings including the following:

- Claims that the Church was 'on a learning curve' up to the late 1990s appear spurious given the level of education and qualification of the church authorities who were dealing with complaints and the long history of denunciations of clerical child sexual abuse and the more recent evidence that cases came to attention in the 1950s and 1960s. Rather, the diocese was preoccupied with maintaining secrecy, avoiding scandal, protecting the reputations of its members and preserving their assets. These preoccupations eclipsed their sense of obligation towards victims of abuse.
- The church failed to implement its own rules. Even though the church was governed by canon law, it did not exercise its power to institute canonical trials when indicated. The exception was the provision that dealt with secrecy. The latter resulted in failure to report cases to the Gardai up to the mid-1990s, despite knowledge that child sexual abuse is a crime. Not only was there a failure to report crimes of child sexual abuse to the Gardai, but victims were required to maintain secrecy. Canon lawyers exerted a disproportionate level of influence.

- The diocese did its best to ensure that as few people as possible knew about cases, with little concern for the welfare of abused children or any other children at risk. This was reflected in the way that complainants were dealt with.
- Cover ups were actively facilitated by the state authorities who allowed the church to be beyond the reach of normal law enforcement.
- In common with the Ferns report, the Murphy report highlighted the anomalous management hierarchy in the church. It noted that archbishops are appointed to high office without a transparent selection process, with no job description or clarity of responsibility and that each one in the Dublin diocese had interpreted his role in his own way. As some bishops had not reported complaints, the archbishop had responsibility without information.
- The report found that there was very poor communication within the church in relation to abuse and that people who would have needed to know about a priest's background were not told of abuse allegations made against him. There was a lack of clarity about reporting lines and poor communication between diocese and religious orders. Sometimes professionals were engaged to treat priests found to have abused children but not given the necessary information.
- There were examples of where priests had been sent for treatment and then allowed back into ministry with children and young people.
- The diocese was very slow to implement the structures outlined in the Framework Document and the current positive safeguarding work in the diocese is heavily dependent two individuals, the child protection officer and the bishop while institutional structures are not sufficiently embedded.

2.4.1 *Response to the Murphy Report*

Following the publication of the Murphy report, the archbishop acknowledged the findings, identifying what had happened as part of the history of the archdiocese which could never be 'whitewashed away'. The archdiocese had set up a child protection office in 2003 to rationalise the reporting of clerical abuse and the response to be made and had established relationships with the civil authorities. A qualified social worker had been employed as Child Protection Officer. The diocese also commissioned a consultant to examine files pertaining to abuse by priests and this meant that the issues addressed in the report had been partly addressed prior to its publication. The NBSCCCI was, at that stage, fully established and conducting audits based on the 2008 standards. An audit of the Dublin archdiocese completed in 2014 did not revisit cases examined in the Murphy commission but did take account of the findings of the report. While it made some recommendations, it

concluded that the majority of standards had been fully met at that point and commended the personnel in key roles in the child protection office for ‘turning around a shocking and grievous situation’. A further NBSCCCI audit in 2020 concluded that the archdiocese had put into practice all the necessary elements to ensure a culture of safety for children at all levels of Church activities.

2.5 The Cloyne Inquiry 2011

Part of the remit of the Dublin Commission was to investigate any other diocese that the Minister for Justice requested. Seven months before the Dublin report was published, the commission was asked to report the handling by Church and State authorities of a representative sample of allegations and suspicions of child sexual abuse against clerics operating in the diocese of Cloyne over the period 1996 – 2004. This followed two reports about the diocese in 2004 and 2008 both and particularly the second of which identified failures of compliance with child protection procedures and the presence of child protection risk in the diocese.

The significant difference between the Cloyne and other inquiries is that the period under review was one during which there was already an awareness of the problem of clerical sexual abuse, complaints had been made, and importantly, the Framework Document was in place and was ostensibly implemented in the diocese to the extent that that a particular member of the church had been appointed to a role of responsibility. The commission examined complaints made against 19 clerics and judged them by what it described as ‘the standards set in their own documents’, i.e. the Framework Document. It judged the Garda response against the standards in the 1995 Garda/Health Board notification guidance and Children First 1999. It was the opinion of the commission that the standards set by the church were more precise and higher than those of the state and would have, if used, afforded proper protection to children. The commission was critical of the bishop’s lack of interest in the operation the procedures and his delegation of responsibility to a monsignor who himself did not approve of the Framework Document or the obligation to report to the civil authorities, which he felt was a matter best left to the complainants.

2.5.1 Findings

The commission found the following failures:

- (i) Failure to report 9 of the 15 complaints, which were made during the review period, to the Gardai. The report also noted a certain laxity in the responses made to historic allegations, only some of which had been reported to the civil authorities and noted a disregard for the protection of unknown children from alleged perpetrators.
- (ii) Failure to report to health authorities, despite the requirement in the Framework Document.
- (iii) Failure to appoint separate support personnel. The commission noted that the same person was acting as delegate and support person.
- (iv) Absence of an advisory panel, intended to be an independent group. A panel had been appointed prior to the review timeline but ceased to function.

The commission noted efforts by the monsignor to respond to cases in a pastoral manner that would not attract legal liability to the diocese. It found that records were not properly maintained, that the diocese did not carry out canonical investigations when they should, and that in a number of cases, investigations were commenced but not finished. It found inadequate communication between the monsignor and the bishop or neighbouring dioceses, poor reporting practices and inadequate monitoring of retired priests against whom allegations had been made. The Gardai were also criticised in the Cloyne report in relation to three particular cases where investigations ground to a halt but, in general, the force was found to act appropriately.

The overall conclusion of the Cloyne inquiry was that while the diocese claimed to have accepted the Framework Document, it did not implement it, and the person who was delegated to act on behalf of the bishop in respect of child protection had not respected the document and did not implement it. The commission also pointed out that this person was supported in his view by the Vatican.

2.5.2 *Response to the Cloyne report*

The Cloyne report did not have the remit to make recommendations and therefore let the findings speak for themselves. The commission was of the view that the operational child protection structures were robust but also concluded that the State's laws and guidelines at the time were not sufficiently strong and clear to allow for the protection of children. By the time the report was published, remedial action had been taken in the diocese and an audit in 2013 by the NBSCCC which focused on activity since 2009 found that the diocese was making excellent progress in implementing child protection standards.

In the meantime, as outlined, the government response to Cloyne was very strong and it affirmed its commitment to putting Children First on a legislative basis.

2.6 Overview of the implementation of recommendations

Research by Buckley and O'Nolan (2013) highlighted some of the weaknesses of inquiry recommendations. It was suggested that most reports repeat recommendations about interagency communication, lack of resources, inadequate recording systems and poor information sharing and that such repetition indicates their ineffectiveness. Other criticisms included the quantity, the aspirational and unrealistic tone and the lack of empiricism underpinning them and the absence of consultation with those providing and using the services. An important finding, however, was that applying the technical question of whether recommendations are implemented may not be useful, because the policy environment is constantly changing along with the culture. Only two of the four inquiries considered in this paper had a remit to develop recommendations and it can be seen from the above discussion that judging whether or not they have been implemented is not straightforward as the inquiries took place against a backdrop of rapid investment and reform of services as well as the beginnings of a radical shift in public perceptions of the catholic church, compared with the periods during which the matters being investigated actually occurred. It is evident that both sets of recommendations were more or less congruent with the reforms and the economic environment at the time of the inquiry's publication as well as the growing knowledge base on best practice and the changing attitude to the church as a body that needed to cede its power.

In essence, the Ferns and Ryan reports made a number of recommendations that addressed the factors revealed by the reports, but both framed their actions in a way that acknowledged the progress that had been made in child protection systems since the timelines under review while identifying ongoing weaknesses and areas for improvement. With the passing of time, it has been difficult to establish how precisely the recommendations were implemented and it is evident that some

have been washed out in light of further and more recent policy and service developments. The Ferns report made some specific recommendations for the government, the Church, the Gardai and the child protection services and these have by large been addressed though maybe not in the precise manner intended. The Ryan report recommendations were interpreted in the form of a comprehensive and ambitious action plan, the implementation of which depended on several factors. Although there has been major development in child protection policies and services in the interim, and once off actions were mostly completed, it can be seen from several compliance and quality assurance reports and reviews that the aspirations underpinning the action plan have not uniformly come to fruition or have been subject to variables outside the control of individual departments or agencies. This indicates that if the impact of an inquiry is judged by the successful implementation of actions arising from recommendations, it may be wiser to temper them to take account of the many external factors that are likely to impact on their achievement.

The above-mentioned research identified two tiers of factors influencing the implementation of inquiry recommendations. The first tier consists of factors that are within the control of the inquiry and the second tier consists of factors external to the inquiry. Factors within the control of the inquiry and positively associated with the implementation of recommendations are: affordability, implementation planning and the absence of an undue delay in reporting. Factors outside the control of the inquiry which are positively associated with the implementation of recommendations include: a good fit with the economic environment; follow up reporting arrangements; professional interest among key stakeholders; a political champion; a supportive political environment and an issue that affects a large cohort rather than a small minority in society. As the above discussion has shown, some recommendations have been implemented on a partial or short-term basis, such as the inter-agency review groups, and have later diminished so that the longevity cannot always be assured. Finally, as with all inquiries, a superficial estimate of the implementation can only show that recommendations have been addressed, but not how far the actions that followed have been operationalised on the ground.

Section 3: Current Safeguarding Arrangements in the Catholic Church

The NBSCCCI was established in 2006 by the three sponsoring bodies (The Irish Bishops Conference, the Irish Missionary Union and the Conference of Religious Orders) that had commissioned the earlier guidelines. A CEO was appointed and in 2008 the board produced a set of standards to govern safeguarding of children who have contact with or participate in activities organised by the church. The standards cover the creation of safe environments, the requirement for a procedure to receive and respond to allegations against priests or religious, support for victims, support for persons accused, training, communication of the safeguarding message and quality assurance. Although adherence to the standards was not a mandatory requirement of dioceses and orders, there was agreement that they would all adhere to them, thereby operating one national child safeguarding policy in the church.

The first Annual Report of the NBSCCCI in 2009 recorded their initial efforts to evaluate the situation pertaining at the time. It identified that first requests for information from the dioceses and religious orders revealed what is described as a lack of clarity and common approach to safeguarding, and evidence that different interpretations of what it meant. The NBSCCCI was invited to conduct reviews on compliance with the standards and make appropriate recommendations where they were not met, but given the non-binding nature of the framework, dioceses could exercise choice over whether to request an audit. Between 2009 and 2016, all Bishops and Religious Leaders invited the NBSCCCI to review their practice and all reports can be found at www.safeguarding.ie/reports. In response to learning about required changes to practice which emerged from the Reviews, the standards were revised in 2016 and have replaced earlier church guidelines. Where priests and religious are engaged in activities, such as teaching, in organisations covered by Children First or organisation specific guidelines in line with Children First, their adherence to the Children First guidelines is required first and foremost. While the National Board has a remit regarding priests and members of religious orders who are teaching, it has no role in respect of lay teachers in catholic schools. The board recommended a standard safeguarding structure for implementation within each diocese/religious congregation. The personnel are now in place to receive training from the National Board on safeguarding.

The first set of audits were conducted under the 2008 standards and the results were variable with some dioceses and religious orders showing high levels of compliance but others not. By 2011, according to a press release at the time of the publication of six reviews, the NBSCCCI was noticing improvements in the area of implementation of systems and prompt notification of reports to the statutory authorities. An externally commissioned review published in 2015 looked at review

reports on the 26 dioceses that had been reviewed between 2010 and 2014 (Nolan, 2015). Some difficulties were presented by different methods of presenting data in earlier audit reports, but overall, the Nolan review showed a high level of compliance with safeguarding standards as instituted and monitored by the National Board. Nolan recommended some review of the standards to avoid repetition and confusion, and this took place in 2016 with further clarification and streamlining of the seven standards.

The second iteration of reviews by the NBSCCCI began in 2018 with an assessment against the 2016 standards. Reviews take place relatively infrequently and are at the invitation of the Church leader (bishop or religious leader). However, a number of factors may underpin confidence that the dioceses are compliant with safeguarding requirements; firstly, the reports are published, a fact that is likely to highlight those that have not come forward for review, and any reports that show deficiencies will attract scrutiny to see if improvements have been made. Secondly the safeguarding structure which involves a significant number of lay persons can act as a type of quality assurance and thirdly, the Pope issued an apostolic letter in 2019 which sets out the safeguarding accountability of a bishop, stating that negligence will be considered a crime under canon law. Finally, almost all the bishops in the 26 dioceses have been replaced since the first reviews and it may be reasonably assumed that the new appointees are aware of the commitment that they must now show to safeguarding.

Reviews of the religious orders took place under the 2008 standards again with very contrasting findings. The NBSCCCI published all the audits and published overview reports on the degree to which recommendations from each tranche of publications had been implemented. These reports are too detailed to reproduce here, but the overview reports indicate a general commitment particularly by the larger orders, to continue to try and meet safeguarding standards.

The second tranche of review reports on the diocese, which is based on the 2016 guidance and published on the NBSCCCI, indicates a significant improvement in compliance with the standards. Almost all allegations made concerning priests and religious are retrospective at this point. It is also evident that the numbers of priests and religious are declining rapidly, with an average age of 80 years in religious orders and a shrinking proportion of working priests at parish level. Currently, less than one third of the members of religious orders are in active ministry.

Only a handful (thirteen) reviews of religious orders have been published under the 2016 standards and at this point, the orders have all but ceased participation in reviews due to data protection concerns. This author was informed that the standards are being revised at present to reflect internal and external policy changes including data protection and are likely to contain more emphasis on governance, just responses and care for victims, prevention, quality assurance and training.

Section 4: Child Protection and Safeguarding in Schools

While the inquiry reports discussed above and the responses made to them had relevance to the education system because of the involvement of priests and religious in schools as patrons, teachers and chairpersons of boards of management, this section will deal more directly with the evolution of child protection and safeguarding in schools when it began in the 1980s and up to the present time.

As the Ryan Report disclosed, many historical abuse allegations against school employees date back to the 1950s, 1960s and 1970s when there was essentially no framework in place, either at state or school level, for identifying and reporting suspected child abuse to the authorities. Although there was some awareness at state level of child sexual abuse perpetrated in schools and institutions, the issue did not achieve a public or political profile up to the 1990s. However, the concept of child abuse at that time was more generally understood to mean physical abuse and the banning of corporal punishment in schools in 1982 could have been interpreted as an effort to address it. At that time, Circular 9/82 from the Department of Education noted the amendment to the Rules for National Schools and stated that:

‘Teachers should have a lively regard for the improvement and general welfare of their pupils, treat them with kindness combined with firmness and should aim at governing them through their affections and reason and not by harshness and severity. Ridicule, sarcasm or remarks likely to undermine a pupil’s self-confidence should not be used in any circumstances’

4.1 Child protection procedures for primary and post primary schools

While the ban on corporal punishment related to what would now be considered physical abuse by teachers, their role as identifiers and reporters of child abuse in the family home was implicitly covered by the initial Department of Health child protection guidelines (1977 and 1980) and specifically mentioned for the first time in 1983. In 1991, the Department of Education published ‘*Procedures for dealing with allegations or suspicions of child abuse*’. These guidelines, which were produced separately for the primary and post-primary sectors, were the first to be developed specifically for schools, though it is notable in the Ferns Report that in 1988, three years prior to their implementation, the principal of a national school in the diocese, having been made aware of a CSA suspicion against a parish priest (who would have been the Chair of the Board of Management), reported it to the health board Director of Community Care, illustrating that at least some schools were already aware of and prepared to act on their responsibility to report under the Department of Health guidelines from 1987.

The focus of the 14-page 1991 document was to 'assist school management authorities and teachers in handling disclosures from children' and it referred readers to the 1987 Department of Health Child Abuse Guidelines including the associated checklist which includes child sexual abuse. The Department of Education guidelines identified the Chairperson of the Board of Management as responsible for reporting suspected abuse to the health board but also allowed that a teacher (normally the principal) may make the report directly to the Director of Community Care if the Chairperson was unavailable and advise them afterwards. The guidelines allow for the possibility that the person suspected of abuse may be an employee of the school in which case the Chairperson of the Board of Management was identified as responsible for reporting the matter to the Director of Community Care having first informed the employee and afforded them the opportunity to make a response which may also be submitted with the report. The guidelines also allowed for the possibility that abuse may have been perpetrated by another pupil in which case the normal reporting responsibilities would apply. The duty to report a crime to the Gardai was clearly specified.

It is assumed here that the 1991 guidelines were distributed through normal channels to school principals by the Department of Education, but the extent to which they were implemented, or circulated beyond the office of the principal, is not known. However, a small scale study conducted in ten primary schools in the north west of Ireland by a social worker seconded to the Child Abuse Prevention Programme (Kelly 1997) found that during the 1990s, the 1991 guidelines were neither disseminated widely nor considered useful and that teachers were uncomfortable with their duty to report suspected child abuse.

At this time, there was no compulsory requirement for child protection input in teacher education in Ireland and it was frequently taught as part of an elective module, determined at college level, and comprised an average of 3.5 hours child protection teaching out of 1500 training hours.

In the interim, the introduction into schools of the *Stay Safe/Child Abuse Prevention Programme* a culturally sensitive developmentally staged programme aimed to prevent the sexual abuse of children by increasing their safety and disclosure skills (MacIntyre et al, 1991). The programme included opportunities for parents, teachers and key professionals to have joint training to enable them to increase caution and vigilance on behalf of children and help them avoid or thwart sexual abuse. There had been a certain amount of opposition to its introduction by conservative groups such as Parents Against Stay Safe but it was estimated that a decade later, 98% of primary schools included it in the curriculum. A 1999 evaluation of the programme indicated that by that time, both parents and teachers had shown significant improvements in knowledge and attitudes concerning protection. A later survey conducted by the Department of Education and the Child Abuse Prevention

Programme (2006) in 2005–06 on the implementation of the Stay Safe Programme indicated a need for further training. A targeted training programme was subsequently delivered to 700 schools but undertaken only by schools that elected to avail of it, (Shanahan, 2011).

In tandem with a growing awareness of child sexual abuse as a significant issue, the full implementation of the Child Care Act 1991, and the publication and publicity surrounding reports such as the Murphy report into allegations of sexual abuse in swimming (R. Murphy 1997), awareness of the vulnerability of children in out of home settings increased. The need for revision of the national child protection guidance was acknowledged and a working group was established to undertake this task. Following the publication of Children First 1999, the Department of Education and Science issued a further and more extensive set of procedures in 2001, entitled *Department of Education and Science Child Protection Procedures and Guidelines* of which a central element was the appointment in each school of a Designated Liaison Person (normally the school principal) who would be responsible for receiving reports from school staff and passing them to the HSE for further investigation. This replicated the section on schools in the Children First 1999 guidance and represented a significant change from the previous guidelines whereby responsibility was carried by the chairperson of the board of management. Detail was provided in the DES guidelines about the attendance of teachers at child protection conferences and the possibility that a teacher may be asked to keep a child's behaviour under close observation. This document also contained a chapter dealing with allegations against school employees, which outlines the reporting procedure in respect of the allegation and the procedure for dealing with the employee. It gives weight to the protection of the child but also emphasises the need for fair procedures in respect of the alleged perpetrator. The significant difference between this and the previous procedures was that the reporting line was directly from the DLP to the HSE, although the need to inform the Board of Management, who is the employer, was made clear. The role of the Board of Management in the disciplinary process with respect to the employee was clarified. The role of the (then) health boards in providing feedback on the outcome of investigations to employers was also clarified. The procedures also carried a chapter on peer abuse and bullying and the protective measures required to minimise the possibility of a recurrence. Reporting templates are provided. These procedures were for primary schools, and a further set was produced in 2004 that were tailored specifically for the post primary sector.

The implementation of the 2001 DES procedures was followed by a programme of training for DLPs which was designed and delivered by a collaborative team from the DES, the HSE and the INTO. Between 2001 and 2003, training was provided to 5000 designated DLPs. The INTO also responded to the 2001 procedures by

signalling a commitment to providing direct advice to DLPs and individual teachers and responding to queries about child abuse. It advocated that schools immediately appoint DLPs and facilitate their attendance at training seminars.

Following the publication of the Ferns report in 2005, the DES Primary Schools Section published a circular (Primary Circular 0061/2006) to reinforce the importance of implementing the guidelines widely, which included the following statement:

‘It is vitally important that each school has clear and effective child protection procedures in place which are in accordance with the Department Guidelines and Procedures and that these procedures are brought to the attention of management, staff and parents in the school. School management should provide all new staff, whether teaching or otherwise, with a copy of the school’s child protection guidelines and ensure that they are familiar with the procedures to be followed.’ (DES 2006, 9).

One of the first indications of disparity between the DES directives and the reality on the ground was the outcome from a review carried out by the INTO in late 2007, in which 330 DLPs were surveyed about their own experiences of training and their views on the child protection training needs of teachers generally (INTO, 2008). A number of those surveyed also took part in two focus groups in which they discussed their experiences of identifying and reporting suspected child abuse. The review, which reported in 2008, found that fewer than half of the DLPs in the state who are charged with reporting child abuse had had any training at that point, and 70% who had undergone training found it to be inadequate. There was also a general view that training should be extended to all teaching staff and provided on an ongoing basis. The INTO report raised several other issues that impacted on schools’ capacity to fulfil their child protection responsibilities, including communication difficulties with the statutory child protection system and the potential for disrupted relationships between DLPs and families as a consequence of reporting. It was pointed out that no recognition is given to the latter, nor any support offered to DLPs to deal with it. A later study (Buckley and McGarry 2011) conducted in 2009 illustrated a major gap in between DLPs and the remainder of teaching staff when it surveyed newly qualified teachers from 103 different primary schools about knowledge of and familiarity with their school’s child protection policies and procedures. The study found that despite the clarity of national guidelines, compliance with the requirement to inform new staff about them was weak. Half of the respondents did not know if their school had a policy, and of those who were aware, only half had read it. Under half knew if there was a DLP in their school, and nearly two thirds of respondents reported uncertainty or lack of confidence in being able to identify suspected child abuse.

The 2008 OMCYA review of compliance with Children First commended the significant progress that had been made in relation to child protection within schools including the circulation of policies, roll out of Stay Safe, commencement of Garda vetting and information on the Department of Education website. However, it highlighted the challenges posed by the 'unique structure of the education sector' whereby schools are independent entities and which could have a knock-on effect in relation to consistency with national standards and the roll out of training and information.

A further set of procedures was produced by the Department in 2011, based on the revised Children First guidance published the same year. The new elements in the 2011 procedures aimed at achieving greater adherence to the procedures and improved oversight including the requirement for DLPs to be more readily identified and to inform Board of Management meetings of the number of cases reported to the HSE. Templates and checklists were provided to assist schools in drawing up and annually reviewing child protection policies. Schools were now obliged to implement the Stay Safe programme.

4.2 Current safeguarding arrangements in schools (2017 to the present)

4.2.1 *Legislative Framework*

In addition to the Protection for Persons Reporting Child Abuse Act of 1998, four significant pieces of legislation relevant to safeguarding in schools were enacted between the publication of the 2011 child protection guidelines and the next set in 2017. Firstly, the Children First Act was enacted in 2015 and came into effect in late 2017. Under this legislation teachers who are registered with the Teaching Council are mandated to report child protection concerns above a certain threshold and to assist Tusla in the assessment of risk when requested to do so. Schools were also given legal obligations in respect of safeguarding which will be detailed in the following sections. Although there are no criminal sanctions for failure to comply with statutory requirements, the Act specifies action that may be taken should a person or organisation be found in breach of the law. These include reporting to the Teaching Council under Fitness to Teach provisions and to the Garda National Vetting Bureau which may disclose the information to employers when the teacher is next vetted.

The second piece of legislation was concerned with recruitment and concerned vetting which had been in operation since 2007 but was now formalised and facilitated by the establishment of a specific service. Under the Teaching Council legislation, staff employed by schools are required to undergo a vetting process through the National Vetting Bureau and it is an offence for a school authority to employ persons without complying with the law. Repeat vetting is required every three years for all teaching staff.

Thirdly the Criminal Justice (Withholding of Information on Offences Against Children and Vulnerable Persons) Act 2012 created a criminal offence of withholding information relating to the commission of a serious offence including a sexual offence against a person under 18 years or a vulnerable person.

Fourthly, the Criminal Law (Sexual Offences) Act 2017 created offences relating to sexual exploitation of children and also of grooming and using online methods of preying on children. The Act recognises the existence of underage consensual peer relationships where sexual activity is not considered intimidatory or exploitative. This creates challenges for teachers who have to make difficult judgements.

4.2.2 The Department of Education Child Protection Procedures for Primary and Post Primary Schools

The Department of Education issued child protection procedures for primary and post-primary schools in 2017. These were developed in line with the Children First Act 2017 which for the first time places statutory child protection obligations on registered teachers. In addition to the statutory requirements, the procedures outline best practice obligations for all school staff including teachers. The procedures repeat much of the content of that had been in previous editions but gives extensive and additional detail on both the obligations that had now become statutory and the oversight now required by boards of management and the Department of Education. These procedures were revised with effect from 1 September 2023 to take account of the Addendum to Children First (2019), General Data Protection Regulation (GDPR), the Child Protection and Safeguarding Procedures for Boarding Facilities associated with Recognised Schools 2023 and the Teaching Council (Information to be Furnished by Employer in Case of Dismissal or Resignation of Registered Teacher) Regulations 2023.

4.2.3 Role of schools and boards of management in safeguarding

Detailed guidance is provided in the procedures on each of the statutory requirements imposed on organisations, which are: ensuring as far as practicable that children are safe while using school services; conducting comprehensive risk assessments which must consider activities with potential for high or low harm; preparing and displaying Child Safeguarding Statements which must now be reviewed annually; appointment of DLPs; providing the safeguarding statement to school personnel and others when required. Detail is also given on the specific responsibilities of registered teachers who now must not only report reasonable child protection concerns to the DLP but, if the concern is at the threshold as defined in the Act, must make a mandated report to Tusla either on their own or jointly with the DLP where applicable. Advice is provided in the guidance on judging when the

threshold has been reached and teachers are encouraged to consult with Tusla when in doubt. The obligation to report also applies when teachers, including counsellors, are working with adults whom they may consider to present a risk to children, or when they receive disclosures of past abuse. As mandated reporters, teachers are now required to provide mandatory assistance to Tusla when conducting assessments, which could mean providing further verbal or written information or attending a child protection conference.

The procedures require schools to appoint a deputy DLP although the role of the deputy is currently defined as acting as a substitute when the DLP is absent rather than providing ongoing support, leaving the DLP with sole responsibility for decision making in respect of reporting. Under the procedures, if a member of school staff reports a concern to the DLP which the latter believes is below the threshold for reasonable concern, the DLP is obliged to make a written response to the staff member. The member of school personnel shall also be advised by the DLP that if he or she remains concerned about the situation, they are free to consult with or report to Tusla. If the member of school personnel decides to report the concern to Tusla, the member of school personnel shall provide a copy of that report to the DLP. Where that report concerns a member of school personnel, the DLP shall inform the employer, (the board of management/ETB as appropriate). If the allegation involves the DLP, the reporter must report it to the chair of the board of management (or the CEO of the ETB if relevant) and the chair of the board of management then fulfils the reporting responsibilities of the DLP.

The oversight requirements including those of the board of management which were first contained in the 2011 procedures are considerably strengthened in the 2017 procedures which acknowledge that the ability of the board to fulfil its oversight obligation depends on the level and quality of information provided to it. Very specific advice is provided about the requirement for school principals to provide a Child Protection Oversight Report to each board of management meeting with details of allegations made either against members of school personnel or in respect of pupils, details of child protection concerns arising from alleged bullying behaviour amongst pupils and summary data in respect of reporting. The board of management must review the school's Child Safeguarding Statement every year and put in place an action plan to address any areas for improvement that are identified.

As in earlier editions, the 2017 procedures include a large section on dealing with abuse allegations in respect of school employees but in this document, there is a greater emphasis on data protection, the potential role of the Gardai and the limits to which Tusla can share information with schools. The procedures stipulate that if a concern is raised by a parent against a member of school personnel, the DLP must write to the parent within 10 days to report the school's response to the concern and explain that allegations of abuse will be dealt with by Tusla rather than under the

school parental complaints procedures. The board of management has oversight of this process. Guidance is provided in respect of the information and documentation that the DLP/principal is required to provide to the board of management in the case of an allegation against an employee including the protection of records.

The board of management has specific responsibilities as the employer of school personnel and must hold emergency meetings when an allegation is made against an employee to decide on what, if any, disciplinary process is to be activated.

Certain safeguards are built into the procedures to ensure that reports are passed on to the relevant authorities and do not drift, for example the chair has an obligation to follow up on any allegations against school employees where the DLP has either failed to seek the advice of Tusla or not reported it as advised by Tusla. Where the board of management fails to comply with this requirement, the patron needs to be informed. The procedures note that if a complaint against an employee is made directly to Tusla, Tusla will contact the relevant school employer when it considers there is a risk to children.

The procedures have made the Social, Personal and Health Education compulsory for primary and junior cycle classes, and all post primary schools are now required to have a Relationships and Sexuality Education programme at senior cycle. All primary schools are required to fully implement the Stay Safe Programme.

4.2.4 *Revision of Procedures*

The 2017 procedures were updated with effect from 1 September 2023 to take account of the Addendum to Children First (2019), General Data Protection Regulation (GDPR), the Child Protection and Safeguarding Procedures for Boarding Facilities associated with Recognised Schools 2023 and the Teaching Council (Information to be Furnished by Employer in Case of Dismissal or Resignation of Registered Teacher) Regulations 2023. The Department of Education plan to issue substantially revised child protection procedures for schools in 2024 which will incorporate a number of recommendations from an independent review of child protection commissioned by them and published in 2023. The 2024 procedures are likely to include an expanded role for the Deputy DLP in a school. Overall, it is anticipated that the 2024 procedures will contain significant changes and updates, with more of a focus on qualitative aspects of safeguarding and strengthened training requirements.

4.2.5 *Safeguarding in boarding schools*

In addition to the 2017 procedures, the Department of Education has for the first time in 2023 developed child protection procedures for the relatively small number of boarding facilities associated with recognised schools that operate in the jurisdiction. The procedures include specific advice from Tusla about the Child Safeguarding Statement (clearly identifying the name of the DLP and stating the fact that this is a boarding facility) and about identifying and listing additional mandated persons who may not be teachers. As a number of non-mandated school personnel will be employed in a boarding facility the procedures recommend that all staff undertake the online Tusla Children First training module.

The child protection procedures for boarding schools are based on those for primary and post primary schools but allow for additional factors, such as the possibility of separate DLPs and boards of management for day and boarding schools. They outline the specific responsibilities of each of these including the need for the management authority of the boarding facility to meet at least once a term. They also outline the requirements in respect of the presentation of a Child Protection Oversight Reports for the boarding facility should be presented at each meeting to the relevant management structure.

Although risk assessments are required of all schools, the safeguarding risk assessment in a boarding school is critically important in light of the fact that children will be away from their parents and families. The boarding school procedures contain a quality assurance checklist highlighting potential risks which include use of technology, collective bullying, use of substances, children being in the unsupervised company of older students, interpersonal relationships, inappropriate attachments and emotional vulnerability, the fact that some children may need to stay in schools over weekends, and that some may be international students with different languages and cultural backgrounds. The mandatory template for the Child Safeguarding Statement and Risk Assessment for Boarding Schools specifies all the above risks and outlines examples of procedures to address risks of harm.

4.2.6 *Role of the Department of Education in safeguarding*

In addition to producing and regularly reviewing child safeguarding procedures, the Department of Education has an overview role and some specific functions to strengthen safeguarding in schools, including training and inspection. The division with most responsibility is the Parents and Learners Unit, although there are other sections which are also associated with safeguarding.

4.2.6.1 *Internal child protection procedures*

The Department of Education has developed procedures for responding to child protection concerns that are made directly to its staff. The procedures cover instances where children made direct disclosures, where reports are made in respect of parents, school personnel and members of the Department. The procedures make it clear that the Department's responsibility is not to investigate but to refer to Tusla and if relevant, to a school or to the Gardai. Detailed guidance is given about how to respond to different ways in which reports may be made and there are clear directions about the process of recording and managing reports to ensure that anything of concern is appropriately passed on to the appropriate authority and not misplaced. The process for responding to an allegation made against a staff member of the Department is also detailed and the roles and responsibilities of principal officers are explained.

The only staff in the Department that are mandated to report are psychologists attached to the National Educational Psychological Service (NEPS) which means that they are statutorily obliged to follow the reporting requirements set out in the 2017 Children First guidance using the Tusla reporting portal. They are also required to bring any allegations to the attention of the DLP of the relevant school to be dealt with under the Department of Education child protection procedures for primary and post-primary schools. Copies of all notifications and correspondence must be submitted to the Parents and Learners section in the Department in line with the Department's internal child protection procedures.

4.2.6.2 *Oversight within the Department*

The Department has a Child Protection Oversight Group comprised of senior members of the Inspectorate, Parents and Learners Unit, NEPS and senior officials from relevant sections. Its key role is to oversee the implementation of the internal procedures and it also coordinates the Department's activities in cases where there are serious concerns regarding the compliance of school. It receives regular updates on the compliance of schools with child protection inspections and on the number and types of allegations received in the Department and it reports to the Management Board on a quarterly basis. The Department furnishes the reports to the Minister.

In addition to the above roles, the Department participates in the Children First Interdepartmental Implementation Group whose role is to promote consistent compliance by Departments of State with the Children First Act 2015.

4.2.6.3 *Inspections*

One of the most important safeguarding functions in the Department of Education is the inspectorate. While the inspectorate had included implementation of the child protection procedures in Level 1 and Level 2 school inspections during 2017 and 2018, the Department of Education instituted Child Protection and Safeguarding Inspections (CPSI) in schools starting in February 2019 with guidance published in January 2019. The process, which is categorised as a Level 3 inspection and focuses only on child protection and safeguarding, is comprised of two inspections, an initial and a final, several weeks apart. The inspections conclude with a meeting between the inspector and the school principal and DLP, possibly including the chairperson of the board. In this new inspection model, interviews are held with DLPs, board of management chairs and a sample of personnel. 'Focused discussions' are held with pupils, their parents' consent having been obtained and meetings are held with members of the parents' associations. An online survey is conducted with parents. The guide to inspections details the ten checks that are made, which are further divided into a number of sub-checks. They cover the requirements of the procedures and require inspectors to check the minutes of board meetings, record keeping, actual records and implementation of the SPHE curriculum and the RSE programme (post-primary) and the Stay Safe programme (primary). When a school is less than fully compliant the report provides evaluative comment and advises actions that may be required. Schools are given an opportunity to respond to drafts of both the initial and final reports, and their formal response to each report is published with the relevant report. Both reports are published simultaneously on the gov.ie website. If non-compliance with safeguarding requirements is noted at the final inspection, the inspectorate will continue to engage with the school until full compliance is achieved.

The Department has developed a framework for safeguarding inspections of boarding facilities which is very similar to the framework for inspecting schools and state that both boarding facilities and associated schools will be inspected simultaneously. The inspection process is committed to including the views of boarders (through focus groups) and their parents about the boarding experience, atmosphere and climate and their understanding of whom to approach with any concerns. Like the framework for school inspections, the boarding facility framework requires the facility to show how identified risks are mitigated.

It is difficult to estimate how often Level 3 inspections are carried out in schools but they are likely to be infrequent. Since the process was initiated in 2019, 170 inspections have been carried out from a total of 3,800 schools. Level 1 and Level 2 inspections take place in most post-primary schools annually, less frequently in primary schools and any child protection concerns are likely to elicit a full Level 3 safeguarding inspection. It has been pointed out by the Department that the

awareness that an inspection may take place acts as a strong incentive for schools to address child protection in schools. (See Section 4.2.6.6. below for planned revisions to the inspection model).

4.2.6.4 *Training in child protection for school staff*

Teacher Professional Learning (TPL) is provided by Oide, the new support service for teachers and school leaders, funded by the Department of Education. Currently, online training is provided for DLPs and deputy DLPs. The DLP module covers the legal and policy context and guidance on the implementation of the child protection procedures. A further presentation covers the specific duties of DLPs including liaison with Tusla, the process of informing parents, and the role of the DLP and the board of management when an allegation is made against an employee. The third part of the training module covers record keeping and oversight. As outlined, updated child protection procedures are currently being developed by the Department and will contain a revised suite of TPL opportunities to support these procedures, to follow. Tusla provides a Children First e-learning module and a Mandated Person e-learning module, both of which provide certification. These are useful to school staff, although Tusla supports are based on legislative frameworks and Children First and do not reference the child protection procedures for schools.

4.2.6.5 *Child Protection Resources made available to schools*

In addition to training materials, the Department has developed some templates to assist schools to implement the procedures, three of which are mandatory (covering the child safeguarding and risk assessment template, the checklist for review of the child safeguarding statement and the notification regarding the board of management's review of the safeguarding statement). The template for the Child Safeguarding Statement and Risk Assessment is very comprehensive, identifying the school context before, during and after school activities and outlining potential risks and the measures that may minimise them. The Department has also produced other templates and documents that are not mandatory which assist DLPs in recording their contacts with Tusla and with parents to convey whether or not a report had been made to Tusla as well as templates associated with the Child Protection Oversight Report.

A number of other supporting documents have been made available including FAQs and guidance on notes.

4.2.6.6 *Ongoing developments*

At a meeting held with the Parents and Learners Unit and the Inspectorate of the Department of Education to inform this paper, this author was informed of ongoing developments, some of which are almost complete and some of which are due for action in the near future. Many of the innovations follow the recommendations of the high-level independent review of child protection referenced above. As outlined, the child protection procedures were updated with effect from 1 September 2023 to reflect a number of changes and to bring the procedures into line with GDPR pending the publication of substantially revised procedures in 2024.

Plans are underway to rebalance the CPSI Level 3 model to provide a focus on both compliance related issues and more qualitative components relating to aspects of school culture. Various options are being considered to increase the number of inspections.

It is also intended to develop stronger links between the inspectorate and the training and support service which has been consolidated and is now called Oide. The Department has engaged with Tusla to discuss their views on bespoke training for mandated persons and any staff member with a special role. There are a number of plans for expanding training for DLPs and deputy DLPs who are currently limited to the online training originally provided during Covid-19. It is planned to bring back in-person training in line with the forthcoming procedures, and to provide refresher training.

The Department also has plans to update the anti-bullying procedures for schools as a priority and has already outlined a number of actions contained in Cineáltas: Action Plan on Bullying, including the establishment of a Student Participation Unit in the Parents and Learners Unit. Guidance for teachers in judging when a bullying incident needs to be addressed as a child protection matter will be clearer in the 2024 child protection procedures and the updated anti-bullying procedures.

In addition, the oversight role of the Parents and Learners Unit in relation to child protection within the Department has been strengthened. Training of all school personnel is also to be addressed and all schools are to be encouraged to set up Student Safeguarding Support Teams or equivalent structures.

Some current anomalies relating to the possibility of the re-employment of school staff who are currently on leave of absence due to allegations will be considered, and efforts will be made to engage with Tusla and the Gardaí towards more expeditious investigations where school personnel are involved.

4.2.7 Safeguarding in non-recognised/independent schools

Under the Constitution, parents are not obliged to send their children to any particular type of school; they can provide education in their homes, private independent schools or schools recognised or established by the State. The role of the state is to ensure a certain minimum level of education, and any education provided to a child must be subject to assessment.

Under Section 14 of the Education Act 2000, Children attending independent schools must be registered with Tusla, the Child and Family Agency. Prior to the establishment of the CFA, this function was carried out by the then National Educational Welfare Board. Independent schools are not registered per se, but are assessed by Tusla in respect of the children who apply for registration. The relevant directorate in the CFA is that of Children's Services Regulation and within that, registration of children is carried out by the Alternative Education Assessment and Registration Service (AEARS).

4.2.7.1 Assessment

To register a child, the CFA must be satisfied that the child will receive a 'certain minimum education'. The assessment is conducted under guidance which was issued in 2003 in line with the 2000 Education (Welfare) Act and is still current today. It is carried out by 'authorised persons' who are Tusla officers or others acting on behalf of the CFA who are qualified in assessment and inspection as well as teaching and learning. In the case of a school or centre of education setting, the assessment consists of a school-based interview with the principal and/or any other relevant person and examines core areas in line with the legislation. These include literacy and numeracy as well as areas related to social, emotional and moral development. The assessor will also visit the classroom to view the learning environment and resources. A draft report is then prepared by the authorised person/AEARS assessor to include findings, an evaluation of the provision of education and a recommendation for registration for children attending the school. It is sent to the school for consideration and feedback, following which the draft report and any feedback received are brought to the Tusla registration panel for a decision. Children are registered based on the outcome of the most recent assessment and the process of assessment is repeated at least every three years. In addition, schools are obliged to submit annual returns which confirm compliance with relevant requirements. An assessment could also be triggered if AEARS receive information which indicates that one may be required.

The 2003 guidance does not mention safeguarding, but under the 2015 Children First Act, independent schools are considered to be 'relevant services' and as such, are obliged to comply with the requirement to appoint a 'relevant person' to convey any child welfare reports to the CFA. Tusla staff confirmed to this author that all schools are compliant or are linked with the CSSCU (see below) working towards compliance. They also confirmed that the majority of schools appoint Designated Liaison Persons and Deputy DLPs although the requirement for a DLP is not specified as such and safeguarding arrangements for relevant services (in this case independent schools) under Children First legislation only obliges independent schools to appoint 'relevant persons'. Independent schools are also required, under the Act, to develop and display a child safeguarding statement which identifies the relevant person/designated liaison person, to have the staff and volunteers Garda vetted and to ensure that they have minimum child protection training. Their compliance with these requirements is examined when an assessment is being carried out and is also confirmed in their annual returns to AEARS.

4.2.7.2 *Tusla Child Safeguarding Statement Compliance Unit*

The Tusla Child Safeguarding Statement Compliance Unit (CSSCU) works with AEARS to ensure that the safeguarding statements produced by schools are compliant with the requirements of s.11 of the Children First Act. All child safeguarding statements have been provided to the CSSCU following a formal request from the unit as part of an overall audit of CSSCU. When a school is applying to be assessed, child safeguarding statements are provided to AEARS in the first instance and annually thereafter. AEARS refers to the CSSCU for guidance or a formal referral as required. The CSSCU can provide support to schools in the development of statements if necessary or requested, and also has the authority to withhold approval for a school if a statement is not up to standard. It can also receive concerns about services that do not appear to have developed or implemented one. The CSSCU has a memorandum of understanding with the Parents and Learners Unit in the Department of Education and has worked closely with them for example in the development of the Safeguarding Guidance for (recognised) Boarding Schools and assists in their scheduled reviews of the Department of Education Policy for Child Protection in recognised schools in operation pursuant to the Education Acts.

Section 5: Concluding Summary

The information presented in the foregoing chapters provides evidence of significant, if not fundamental, changes to the systems for safeguarding and protecting children over the past 50 years. Progress has evolved through a combination of deeper and more sophisticated understanding about children's developmental needs, the risks to which they may be subjected, the impact of child abuse and neglect, awareness of the extent of reported child sexual abuse, estimates of unreported abuse, exchange of knowledge between jurisdictions and increased standards of living and economic prosperity. A key factor has been political interest in the topic which has led to the commissioning of inquiries into failures by state organisations or the church. These in turn have served to expedite developments, some of which had already been in train.

Although it is well established that harm to children occurs mainly within their families and in community settings, evidence that it has occurred in situations where children and young people are in the care of allegedly trusted adults in residential, educational or recreational settings has incentivised governments to create safer structures based on legislation, policy and guidance. The purpose has been to minimise the possibility of child abuse occurring by instituting safer environments in children's services, including educational establishments, supported by clear pathways for identifying and reporting any suspicions of harm.

The first section of this report outlined the development of child protection systems since the 1970s and illustrated the trajectory from a legal framework which tended to protect society from delinquent children and relied on charities to provide interventions to one which confers the obligation to promote the welfare and protection of all children and provides for a range of services to achieve this. It has also demonstrated the paucity of formal safeguarding during the decades in which the majority of historical allegations against priests and religious were made. The second section reviewed the recommendations and observations made in the reports of inquiries into sexual abuse by priests and religious. It noted that while most of the recommendations were implemented in some fashion, by and large they fitted with the overall reform and developments that were occurring internationally in the child protection environment. The third and fourth sections reviewed current safeguarding arrangements in the catholic church and in the education sector and have illustrated robust regulation and oversight. It should be added here that in addition to the extensive guidance and materials available to schools, one of the major safeguarding strengths is the inclusion of SPHE as a compulsory subject and the efforts that are made to keep the different strands relevant and appropriate to various age groups. This not only provides information but can give children and young people confidence to identify and report situations that that they are not

comfortable with. Key informants endorsed the benefits of SPHE, but also emphasised the importance of prioritising this module, and ensuring that the persons delivering it are confident and positive about their role.

Section 4 has also reported on the role of Tusla in assessing independent schools and registering children who attend them. Although Tusla was able to provide a lot of information about the safeguarding elements of the assessment and registration process, as well as ongoing monitoring of compliance, it is notable that very little information on this particular process is publicly available on the Tusla website and that the guidance document is now 20 years old and precedes both the Children First Act and the establishment of Tusla.

This final section will reflect on the information provided in previous sections and note any remaining vulnerabilities in the education sector highlighted in research or during the course of discussions with key informants. It will cover both specific and general areas related to the both the education system and the catholic church, which continue to have relevance for child protection. First, it will consider recent Irish research on child protection in schools, focusing on the role of DLPs and pre-qualifying teacher training, which gives a sense of how recent developments are playing out day to day and whether the reality on the ground matches the rhetoric underpinning the procedures and policies.

5.1 Research on the role of DLPs in schools

As indicated in a previous section, research conducted in the early 2000's (INTO, 2008; Buckley and McGarry, 2011) revealed difficulties experienced by DLPs in schools. It is concerning to see that more recent research continues to highlight challenges. A later study, which examined child protection in primary schools from the perspective of DLPs (Nohilly, 2018) found many of the same issues that had been shown in the earlier study: a sense of isolation, challenges in dealing with 'newcomer' and culturally different families, difficulties dealing with families where child protection concerns had been reported and the judgement calls that were required. A further survey (Nohilly and Treacy 2022) was conducted following the implementation of the Children First Act 2015 and looked at the experiences of DLPs following the legislation and introduction of mandatory reporting for teachers. The research was carried out with 387 DLPs from different primary schools around the country. Supports that were identified included guidelines, other staff, professional networks, management bodies and Tusla. However, a significant number of challenges were also identified including: 'unending' paperwork, sense of being ill prepared and inadequately trained, lack of response from Tusla, the business of reporting families, pressure involved in making judgement calls, emotional toll, time constraints, isolation, and a sense of responsibility for other

staff's skills. The researchers recommended additional training, a dedicated support network for DLPs, a framework for interagency working particularly with Tusla and a review of the administrative burden to make it workable. A more recent, yet unpublished study by the same authors about DLPs understanding of the implications of mandatory reporting has indicated dissatisfaction with the quality of training which is repeated but not refreshed or differentiated in line with their experience and criticisms of the excessive 'box ticking' and bureaucracy associated with inspections (Nohilly and Treacy 2023, unpublished).

5.2 Research on pre-qualifying teacher training

A survey of teachers from 103 primary schools in their first year of teaching, conducted in 2009 by Buckley and McGarry looked at the amount and quality of child protection training on pre-qualifying courses. One third of the teachers interviewed, who had only recently trained, could not remember if they had any child protection input in their course. Of those that did remember it, 3/4 said that the total input had been between 1 and 4 hours in a two-year course. Unsurprisingly, 2/3 of those who had received this level of input found it to be inadequate. This finding was reiterated in a later empirical study conducted in 2013 by a doctoral student in Trinity College (R. Buckley, 2013), who found that pre-service child protection training was inadequate to instil a sense of professional responsibility in practitioners.

R. Buckley's study also revealed frustration on the part of teachers about the lack of post qualifying child protection training for teachers other than DLPs. Still on the topic of pre-qualifying training, a review of Irish and international research by Bourke and Mounsell (2015) noted the tendency for training at any level to focus on procedures and guidelines, to the exclusion of more qualitative aspects of safeguarding. The review identified implicit obstacles to reporting including teachers' individual belief systems, interpretations of what constitutes abuse or neglect, a sense that the harm of reporting outweighs the benefits, poor interagency cooperation, perceptions that the child protection system is not helpful and fears that the teacher-parent and teacher-child relationship will be damaged by reporting. Training addresses explicit issues such as legislation, policies and procedures but as two academics involved in teacher education, Bourke and Mounsell (2015) point out, a linear relationship between knowledge of these matters and the identification and reporting of suspected child abuse cannot be assumed. They concluded that in the Irish context, the benefits of mandatory reporting legislation would be limited in the absence of more holistic, comprehensive and extensive teacher education. They assert that teacher education should target the more implicit obstacles to reporting through a more reflective model of training that encourages them to reflect on their own attitudes and beliefs.

Some academics involved in graduate and post graduate teacher training courses provided information for this paper which indicates that training is still at a very basic level. Standards set by Céim, the Irish Teaching Council, require qualified teachers to

‘show an understanding of and practise within the statutory framework pertaining to education, including child protection guidelines, and any other identified, relevant, national priorities’.

Likewise, student teachers going on placement are expected to:

‘Be familiar with the school’s Code of Behaviour, Child Protection Policy and other relevant policies’.

However, there is no requirement for a specific type of module or a substantial level of training in teacher education colleges. The Céim requirements mean that there will be a minimum, mainly information based, input to prepare students but it cannot be claimed that there has been or is currently a greatly increased focus on child protection in teacher education courses. Discussions with key informants indicated that while all students will complete the Tusla or Department of Education online child protection training session and are Garda vetted prior to placement, other child protection inputs in the colleges are left to the discretion of individual course directors and vary between institutions. There are some very impressive examples of child protection modules currently being delivered by very knowledgeable and committed staff but the fact that they are not a standard requirement implies that if particular personnel retire or move on, there could be a deficit in any individual training course.

While the Department of Education has provided online training for all school staff, there is no provision at this point for whole school in-person training and while the boards of management and inspections need to be satisfied that all school staff all avail of training, it is difficult to see how this can be established.

5.3 Remaining obstacles to safeguarding in the education sector

The above research findings provide evidence that safeguarding on the ground is more complex than may be apparent from the high-level solutions that have been put in place. A UK academic, Andrew Cooper, writing about the Victoria Climbié inquiry⁶, identified what he called ‘surface’ and ‘depth’ issues in child protection work and argued that inquiries focus mainly on surface issues such as procedures and regulation but do not always engage with the emotional realities and practice dynamics in child protection work, pointing to the disconnect this can create between policy aims and practice reality. This paper has highlighted that despite positive reforms, some of which emanated from inquiries, a number of ‘surface’ issues may cause future problems. For example, data protection legislation is evidently impacting on the exchange of soft information; one of the findings from inquiries that caused so much distress to victims has been the amount of gossip and innuendo that was apparently circulating about perpetrators over the years during which they were abusing children. It now appears that efforts to address this have been negatively impacted by the way that GDPR is being interpreted and it is possible that it is also impacting on areas not considered in this paper. Other ‘surface’ issues identified here include the above referenced research finding about the paucity of child protection training, including in person training for teachers at pre and post qualifying levels. These may have a limiting effect on a schools’ capacity to act protectively.

Relationships between schools and their local Tusla offices were highlighted in the research as supportive to good safeguarding practice when they worked and problematic when they did not. Interagency working is both a surface and a depth issue; it depends on structural arrangements, but its quality can be determined by more qualitative factors such as familiarity, local culture and pressure of work as well as the willingness of local managers to initiate cooperative ventures.

Other less tangible or ‘in depth’ issues include the more human dynamics, highlighted above in the Bourke and Mounsell research that may cause hesitancy in taking the first step to report child abuse. Although not specifically mentioned in the research, it may be assumed that taking the step of reporting a school employee or colleague presents a significant challenge. Key informants identified the difficulty in distinguishing between bullying and abuse. Reliance on the commitment and motivation of individuals is a matter which was identified in the Murphy report as a vulnerability. The earlier research by Buckley and McGarry (2011) identified lack of confidence, regular engagement with the family, poor communication between

6 The Victoria Climbié Report (2003) resulted from a high profile inquiry and concerned a child who was murdered by a family member whilst known to local child protection services. It was responsible for a major policy shift at the time.

schools and Tusla, lack of feedback from social workers as factors which discourage reporting which are likely to have endured despite legal and policy changes. Finally, the nature of child sexual abuse, the manipulation and control exerted by perpetrators and the established reluctance of children to disclose abuse are factors external to the education sector which are made more challenging by the uncontrolled nature of online communication and social media. Overall, there are a number of tangible and less quantifiable issues that may still present as obstacles; the objective of identifying them is not to undermine the current efforts made to promote safeguarding but to demonstrate that caution must always be exercised when making claims about the effectiveness of new measures.

Although this author was not asked to make recommendations about the nature or scale of any prospective inquiry, the last section of the paper which reported on the relatively small amount of research on child protection in schools conducted in the Irish context highlights that, while the formal structures now in place are robust, the operationalisation of safeguarding is subject to a lot of variables particularly in the recognised schools. The independent school sector is small, and safeguarding appears to be well managed by Tusla.

The protection of children and young people from abuse by religious is the responsibility of three principal institutions, the education sector, the church and Tusla. While the NBSCCC audits can give reasonable confidence about the church at present albeit that the religious orders have opted out of reviews, HIQA and National Review Panel reports indicate that Tusla child protection services struggle at times to comply with all the protocols and policies that regulate its practice. The education sector has robust safeguarding procedures in place, but effective implementation is dependent on the ability of schools to resource compliance with them and on the Department to monitor them. Level 3 inspections in the education sector fulfil a useful role but are not frequent enough to really illustrate how well the safeguarding system is working. Rather than any weaknesses in the system, it is inconsistency in their application that may render children vulnerable in certain situations. For that reason, an inquiry which culminates in further recommendations about child protection structures is unlikely to add a great deal of value, but an exercise that seeks qualitative data about the factors which help or hinder the institutions identified above to fulfil their safeguarding roles could prove constructive.

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Appendix 5:

Report on Restorative Justice for the Scoping Inquiry by the Centre for Effective Services

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1. Defining Restorative Justice

Restorative justice has been cited as “one of the most significant innovations in the administration of criminal justice to have arisen in the modern era.”¹ The application of restorative justice has brought about much change in response to the harm caused by both criminal and non-criminal acts. The purpose of this chapter is to define restorative justice and outline its aims, values, processes, and outcomes, as well as present criticisms of the practice. This section tracks the emergence of restorative justice as a viable and increasingly popular response to harm. For this report, due attention will be given to the role and position of the harmer and the survivor within restorative practices.

Development of Restorative Justice

Before examining restorative justice, it is necessary to consider the justice system most commonly in use across a large number of jurisdictions especially within westernised and anglophone countries. In starting with a brief discussion of the justice system the report allows for later comparison between it and restorative justice.

Retributive Justice

The focus on guilt and punishment has resulted in most current criminal justice systems being built upon the premise of retributive justice.² In response to criminal behaviour, retributive justice pursues a form of justice that focuses on:

- Assessing the state of the law.
- Assessing who violated the law; and
- Punishment of offenders, usually in the form of incarceration of some form and sanctions.³

1 Christopher D Marshall, ‘Restorative Justice’, in Paul Babie and Rick Sarre (eds), *Religion Matters* (Springer Singapore 2020).

2 Michael Wenzel & Tyler G. Okimoto, ‘Retributive Justice’ in Sabbagh, C. and Schmitt, M. (eds) *Handbook of Social Justice Theory and Research* (Springer 2016)

3 Charles Barton, ‘Empowerment and Retribution in Criminal Justice’ (1999) 7 *Professional Ethics, A Multidisciplinary Journal* 111.

Retributive justice is a complex and widely debated concept within the fields of criminal justice and legal philosophy, whose proponents argue that it is an essential element of a just society. Retributive justice relies on procedures and processes delivered by officials working within a formal criminal justice system to determine the punishment for a specific crime. However, it also faces significant criticism and scrutiny:

- **Proportionality:** Retributive justice is grounded in the principle of moral desert, where individuals should receive punishment commensurate with their wrongdoing. The severity of the punishment is considered proportionate to the seriousness of the crime and the extent of the harm inflicted. Achieving an exact measure of proportionality can be challenging and there are different views on what constitutes a proportional punishment which in turn can lead to potential disparities in sentencing.
- **Accountability:** Retributive justice places a strong emphasis on individual responsibility. Underlining the idea that individuals are responsible for the consequences of their choices aligns with the sense of justice that many people hold. However, reliance on individual agency of a person as a motivator for crime presupposes a sense of rational choice that is formed entirely without any consideration of the external factors that contribute to crime. It is becoming increasingly recognised that factors such as mental health, poverty, and other societal issues can influence a person's decision to commit crime. It is also suggested by critics that the retributive approach can have a negative impact on rates of recidivism.
- **Just Desserts:** Inherent in retributive justice systems is that the just dessert's philosophy rejects any perspectives that focus on the outcomes of punishment. While it ensures that punishment is not contingent on achieving a specific rehabilitative or deterrent goal, a focus on the past wrong can be criticised for failing to consider the potential benefits of rehabilitation. Thus, a retributive approach may miss opportunities for rehabilitation and societal reintegration, in turn, this could fail to reduce recidivism rates or enhance public safety.
- **Legal Procedures:** Within retributive justice it is argued that due process and fair legal procedures are critical for protecting individuals' rights and preventing miscarriages of justice. Bias, socioeconomic disparities, and inadequate legal representation can still result in unjust outcomes and there are numerous examples of injustices.⁴

4 Janine Natalya Clark, 'The three Rs: retributive justice, restorative justice, and reconciliation' (2008) 11 *Contemporary Justice Review* 331.

In his seminal 1977 paper, “Conflicts as Property,” Norwegian criminologist Nils Christie challenges conventional perspectives on conflicts within the criminal justice system⁵. Grounded in the shortcomings of the retributive justice approach, there was a growing recognition of the need for an alternative approach to administering justice that moved away from punishment and deterrence as well as the stigma and shaming that is generated as a result.⁶ It is this context that restorative justice has gained popularity and traction as either a complementary or alternative approach to repairing the harm done by offending. In relation to sexual offences, Naylor, an Australian criminologist, argues that the conventional, adversarial justice system in place throughout the English-speaking world has failed to address sexual assault and that it is time to consider what can be learned from alternatives such as restorative justice.⁷

The next section examines restorative justice in more detail, identifies the emergence of the approach and discusses the values, processes, and outcomes.

Emergence of Restorative Justice

The use of restorative justice in the Global North/westernised/English speaking countries during the 1970’s and 1980’s was motivated by a desire to develop an approach to harm and offending that encompassed the ideas of social justice and moved away from the adversarial approach of establishing guilt and then punishing.⁸ Restorative justice offered a solution by focusing on repairing harm, fostering empathy, and reintegrating harmers into society. Secondly, as use of restorative approaches increased, empirical research began to provide strong evidence of the effectiveness of restorative approaches. This empirical support lent credibility to the approach and encouraged its adoption in various jurisdictions.⁹ This emergence of restorative justice is based upon ideas of conflict resolution from non-westernised cultures and the practices of the Indigenous peoples of North America, Australia, and New Zealand.¹⁰ Values such as respect, equality, accountability, unilateral participation, rehabilitation, and reintegration are cornerstones of Indigenous societies.¹¹ These values form the basis for restorative theory and practice.

5 Nils Christie, ‘Conflicts as Property’ in Declan Roche (ed) *Restorative Justice* (Routledge 2017).

6 Ibid.

7 Bronwyn Naylor, ‘Effective justice for victims of sexual assault: taking up the debate on alternative ways’ (2010) 33 UNSW Law Journal 662.

8 Randy E Barnett, ‘Restitution: A New Paradigm of Criminal Justice’ (1977) 87 *Ethics* 279.

9 Ibid.

10 Jon’a F. Meyer, ‘History Repeats Itself’ (1998) 14 *Journal of Contemporary Criminal Justice* 42.

11 Michael Wenzel et al. ‘Retributive and restorative justice’ (2008) 32 *Law and Human Behavior* 375.

Furthermore, restorative justice's emphasis on collaboration and community engagement resonated with many communities and policymakers seeking alternative approaches to conflict resolution. Grassroots movements, advocacy organisations, and dedicated restorative justice practitioners played pivotal roles in advocating for and implementing restorative justice practices at the local, national, and international levels.¹² Schools, workplaces, and various community settings have also embraced its principles to address conflicts and build more harmonious relationships.¹³ Initial research found that restorative approaches were effective in promoting healing and reducing recidivism, the spread and adoption continued, reshaping approaches to conflict resolution. However, as the use of restorative approaches has grown, so has the discussion and definition of what constitutes restorative justice practice.

Definition and aims of Restorative Justice

Restorative justice is a term that can be understood and defined differently, and its use may vary depending on its intended purpose. Ireland has accepted and adopted the Council of Europe Recommendations on Restorative Justice. Given the wide ranging and varying definitions of restorative justice, this document uses the definition provided by the Council of Europe recommendations.

“Restorative justice refers to any process which enables those harmed by crime, and those responsible for that harm, if they freely consent, to participate actively in the resolution of matters arising from the offence, through the help of a trained and impartial third party.”¹⁴

The focus on the process of restorative justice is to enable those who have been directly or indirectly affected by the harm caused to participate actively in the response to the harm.¹⁵ As such, restorative justice is a collaborative process where communication between those impacted is fundamental to resolving the conflict and achieving a resolution. It also addresses the damage caused by the harm and then seeks to reach a point of reparation for the harmed person. Allowing all parties involved to benefit from the process provides a balanced approach that emphasises accountability, harm repair, and rehabilitation. This requires a balance to be struck

12 Carol A Hand, Judith Hankes, and Toni House, 'Restorative Justice: The Indigenous Justice System' (2012) 15 *Contemporary Justice Review* 449.

13 John Braithwaite, 'Setting Standards for Restorative Justice' (2002) 42 *British Journal of Criminology* 563.

14 Council of Europe, *Recommendation CM/Rec(2018)8 of the Committee of Ministers to member States concerning restorative justice in criminal matters* (2018).

15 Steve Kirkwood, 'A Practice Framework for Restorative Justice' (2022) 63 *Aggression and Violent Behaviour*; Nils Christie, 'Conflicts as Property' in Declan Roche (ed) *Restorative Justice* (Routledge 2017).

between accountability and healing, as well as between process and justice. In doing so, restorative approaches and practices can be inclusive and flexible while meeting the needs of those involved. In short, restorative justice is an approach to conflict resolution and justice that has several aims. In its aim to repair harm, it recognises that when an offence occurs, harm is inflicted not only on the survivor but also on the harmer and the broader community. Restorative justice aims to address this harm by actively involving all affected parties in the resolution process. Restorative justice also seeks to hold harmers accountable for their actions and behaviour, then actively work towards making amends.

A critical element of restorative justice is the promotion of understanding. Using a facilitator, parties can share their experiences and perspectives with the aim of fostering greater empathy and comprehension of one another's needs and motivations. Restorative justice looks to enable reconciliation if the parties so desire, aiming to restore relationships that may have been strained or broken by the harm done. It encourages healing, forgiveness, and the reintegration of harmers into their communities. Finally, restorative justice involves the community in the process, recognising the broader impact of harm and conflict on society.¹⁶

Principles of Restorative Justice

The core principles of restorative justice are positioned around enabling active participation in the resolution and addressing of any harm caused. These principles include stakeholder participation, repairing harm, voluntarism, respectful dialogue, equal concern for the needs of those involved, procedural fairness, collective agreement, a focus on reparation and reintegration, achieving mutual understanding, and avoiding domination. These principles aim to create a safe and respectful space for all participants, regardless of their background, and to empower individuals to make informed choices and find solutions that best meet their needs.

It was noted above that shame and stigma are a potential by-product of the retributive justice approach. Shame and guilt are central to the theoretical and practical functioning of restorative justice, however, are mobilised in a way that can reintegrate harmers. Originally developed by Braithwaite¹⁷ in relation to restorative justice, he considers that guilt is what we feel following an action that is out of step with social convention, and shame is the emotion that guilt drives. Therefore, the shame becomes not about the action but about being found out as the perpetrator

16 Chelsea J Mainwaring, Anat Bardi and Rosie Meek, 'A Glimpse into the Role of Personal Values within the Restorative Justice Process: A Qualitative Study with Restorative Justice Facilitators' (2019) 22 *Contemporary Justice Review* 60.

17 John Braithwaite, *Crime, Shame and Reintegration* (Cambridge University Press 1989).

or survivor of that action, which leads to self-blame.¹⁸ This accounts for the guilt and shame that survivors of historical abuse may feel following being abused.¹⁹ In acknowledging the use of shame in restorative justice, Braithwaite asserts that shame can be reintegrative when used as a means for survivors to receive forgiveness, let go of their own guilt, and reform social bonds with those close to them.²⁰ In this way, it can be said that reintegrative shaming is not a restorative value but a mechanism for reintegration.

Restorative Processes

There are several processes that can be used in restorative justice.²¹ 'Restorative processes' refer to any process in which the harmed person and the harmer or any other appropriate parties affected by a harm actively participate in resolving matters. This is generally aided by a facilitator. Restorative processes can include survivor-harmer mediation, reparation boards, conferencing, and circles.²² Restorative justice processes aim for an agreement regarding how the harm done can be addressed. Central to restorative justice processes or approaches are a range of deeply personal outcomes for those involved. The process of healing is central to these outcomes. Survivors often find solace in having their needs acknowledged and addressed, which can aid in their emotional recovery. Restorative justice processes provide the opportunity to face the harmer, ask questions, and share their feelings in a safe space. This can allow them to regain a sense of control over their lives and the traumatic events they have experienced.²³ Harmers have an opportunity for self-reflection, growth, and redemption. Through acknowledging their wrongdoing and actively participating in making amends, harmers can begin their journey towards reintegration into society as responsible and empathetic individuals.²⁴

18 John Braithwaite, 'Shame and Modernity' (1993) 33 *The British Journal of Criminology* 1; Anne-Marie McAlinden, 'Apologies as "Shame Management": The Politics of Remorse in the Aftermath of Historical Institutional Abuse' (2022) 42 *Legal Studies* 137.

19 This involves understanding the various sources of shame, which can include families, culture, and religion.

20 John Braithwaite, *Crime, Shame and Reintegration* (Cambridge University Press 1989).

21 Daniel W Van Ness, 'An Overview of Restorative Justice Around the World' (2005) Eleventh United Nations Congress on Crime Prevention and Criminal Justice.

22 Liam J Leonard, 'Can Restorative Justice Provide a Better Outcome for Participants and Society than the Courts?' (2022) 11 *Laws* 14.

23 Tinneke Van Camp, 'Understanding victim participation in restorative practices: Looking for justice for oneself as well as for others' (2017) 14 *European Journal of Criminology* 679.

24 Lois Presser and Patricia Van Voorhis, 'Values and Evaluation: Assessing Processes and Outcomes of Restorative Justice Programs' (2002) 48 *Crime & Delinquency* 162.

However, it is important to note that the outcomes of restorative processes are dependent on various variables; for example, the extent and willingness of all parties to engage, the severity of the offence, and the effectiveness of facilitators. Levels of engagement and cooperation from all participants can significantly impact the success of the process and, in turn, reduce the potential for healing and reconciliation. The nature of the offence can also play a role. Restorative justice is often more effective in cases of non-violent incidents and offences where the harm caused is primarily emotional or psychological. In cases of acts associated with deep trauma the process can be more challenging. This will require specially trained and experienced facilitators and the effectiveness of facilitators and the quality of the restorative justice programme itself will strongly affect the outcome. Skilled facilitators create a safe and productive environment for dialogue, and poorly managed programmes may hinder the overall process of repairing the harm done.²⁵

In summary, there are some **commonalities within restorative justice processes** that reflect the underlying aims and values:

- They all involve bringing together the survivor, harmer, and other stakeholders to address the harm caused by the offense and find ways to repair it. Where a harmer is dead, those representing the harmer need to hear point of view of the survivor and respond in a well-informed and genuinely compassionate way.
- They all aim to provide a safe and respectful environment for dialogue and understanding between the survivor and harmer.
- They all prioritise the needs and perspectives of the survivor, while also holding the harmer accountable for their actions.
- They all seek to promote healing, reconciliation, and restoration of relationships between the survivor, harmer, and community.
- They all require the active participation and engagement of all parties involved and emphasise the importance of community involvement and support.

There are advantages and disadvantages to the restorative process and approach. The next section will briefly discuss some of them.

25 Courtney Julia Burns and Laura Sinko, 'Restorative Justice for Survivors of Sexual Violence Experienced in Adulthood: A Scoping Review' (2023) 24 *Trauma, Violence, & Abuse* 340.

Exploring the Advantages and Disadvantages of Restorative Justice

The Advantages of Restorative Justice

Restorative justice offers several advantages and has gained recognition as an alternative approach to conflict resolution and justice administration. Advocates of restorative justice argue that it offers unique benefits, including the potential for healing and repairing harm, fostering personal accountability, promoting empathy and understanding, and survivor satisfaction.

“A restorative justice-based alternative can address at least some feminist and therapeutic goals. It can provide clear and fair incentives to offenders to accept responsibility and engage in a restorative procedure.”²⁶

However, it is important to acknowledge its limitations as well as the need for specific implementation for it to be effective in particular contexts.²⁷ In this discussion, we explore some of the perceived advantages of restorative justice.

Survivor-centeredness

The restorative process places the survivor at the centre and the use of restorative justice practices has been shown to alleviate post-traumatic symptoms in survivors. While restorative justice approaches do not guarantee a stress-free experience for survivors, they do hold out the possibility of much less stress, provided the process is handled skilfully.²⁸ This reparation between the survivor and the harmer can also positively extend to the community.²⁹

26 Liz Kelly, *Surviving sexual violence* (University of Minnesota Press 1988).

27 Randy E Barnett, ‘Restitution: A New Paradigm of Criminal Justice’ (1977) 87 *Ethics* 279; Jeff Latimer, Craig Dowden, and Danielle Muise, ‘The Effectiveness of Restorative Justice Practices: A Meta-Analysis’ (2005) 85 *The Prison Journal* 127; Mark Umbreit, *The Handbook of Victim Offender Mediation* (Wiley 2001); Steve Kirkwood, ‘A Practice Framework for Restorative Justice’ (2022) 63 *Aggression and Violent Behaviour*.

28 Caroline M Angel et al, ‘Short-Term Effects of Restorative Justice Conferences on Post-Traumatic Stress Symptoms among Robbery and Burglary Victims: A Randomized Controlled Trial’ (2014) 10 *Journal of Experimental Criminology* 291; Courtney Julia Burns and Laura Sinko, ‘Restorative Justice for Survivors of Sexual Violence Experienced in Adulthood: A Scoping Review’ (2023) 24 *Trauma, Violence, & Abuse* 340; Alex Lloyd and Jo Borrill, ‘Examining the Effectiveness of Restorative Justice in Reducing Victims’ (2020) 13 *Post-Traumatic Stress. Psychol. Inj. and Law* 77.

29 Jennifer Llewellyn and Robert Howse, ‘Restorative Justice: A Conceptual Framework’ (1999) Prepared for the Law Commission of Canada.

The Reconceptualisation of the 'Victim' to 'Survivor'

In recent years, much thought has been given to the terming of those who have experienced sexual harm, by moving away from terming someone who experienced sexual harm as a victim and rather as a survivor of sexual harm.³⁰ The term 'victim' is, for some, associated with passivity and retains the person in a state of victimhood, by which it means the person who experienced harm is considered only in relation to the harm that was done to them.³¹ Whereas, for others, 'survivor' is associated with strength, power, and hope, and signals that they are not only defined by the harm that was done to them and are instead wilful and resilient agents.³²

However, in recent years, this categorisation has been questioned. It has been suggested that people who have suffered sexual harm cannot be easily divided into 'survivors' and 'victims.' A study by Boyle and Rogers (2020)³³ found that of those who suffered sexual assault, the majority identified as both a 'victim' and a 'survivor'. The finding was more prominent for men specifically, as the term 'victim' was particularly damaging for their emotional state, and so they may choose to endorse 'survivor' in response to the perceived emasculation of sexual assault.³⁴ In many cases, those who suffer sexual abuse see themselves as a 'survivor' in an attempt to regain strength.³⁵ However, this is highly specific to the person who suffered the harm. For the purpose of this report, we will use the term survivor.

Restitution

Restorative justice contributes to the overall satisfaction of the healing process for the survivor.³⁶ As a result of restorative processes, the survivor has a greater likelihood of receiving compensation for the harm suffered because the harmer has actively accepted responsibility for the harm caused. Therefore, the harmer is more likely to comply with restitution agreements.³⁷ This is in contrast to research specific

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- 30 Jericho M Hockett and Donald A Saucier, 'A Systematic Literature Review of "Rape Victims" versus "Rape Survivors": Implications for Theory, Research, and Practice' (2015) 25 *Aggression and Violent Behavior* 1.
- 31 Joel Best, 'Victimization and the Victim Industry.' (1997) 34 *Society* 9.
- 32 Michael Papendick and Gerd Bohner, "'Passive Victim – Strong Survivor'? Perceived Meaning of Labels Applied to Women Who Were Raped' (2017) 12(5) *PLoS ONE*.
- 33 Kaitlin M Boyle and Kimberly B Rogers, 'Beyond the Rape "Victim"– "Survivor" Binary: How Race, Gender, and Identity Processes Interact to Shape Distress' (2020) 35 *Sociological Forum* 323.
- 34 Janine Natalya Clark, 'A Crime of Identity: Rape and its Neglected Victims (2014) 13 *Journal of Human Rights* 146.
- 35 Aliraza Javaid, 'The Role of Alcohol in Intimate Partner Violence: Causal Behaviour or Excusing Behaviour?' (2015) 13 *British Journal of Community Justice* 75.
- 36 Courtney Julia Burns and Laura Sinko, 'Restorative Justice for Survivors of Sexual Violence Experienced in Adulthood: A Scoping Review' (2023) 24 *Trauma, Violence, & Abuse* 340.
- 37 Lode Walgrave, 'Restoration in Youth Justice' (2004) 31 *Crime and Justice* 543.

to Ireland's approach to managing mass damages through tort law. A 2020 study found that survivors are subjected to poor procedures and where the State is responsible for compensation payments, these don't reflect the impact of the suffering and are generally of low monetary value and homogenised.³⁸ Finally, a study of Norwegian redress schemes found that financial compensation was the most common outcome, however the findings also stated that survivors should have the opportunity for their story to be told.³⁹

Cultural Sensitivity

Restorative justice can be adapted to be culturally sensitive, respecting the values and traditions of the parties involved. See cases in Chapter 3 for examples of possible approaches. Thus, the cultural aspects and make up of a participant's heritage can be reflected in the restorative process. In contrast with other systems of justice where the dominant culture influences and restricts the responses to justice.

Accountability

In most cases of restorative justice, the harmer must take responsibility and agree the basic facts of the harm caused with the harmed. This can lead to a greater understanding of the consequences of their behaviour and promote accountability. The Council of Europe Recommendations on Restorative Justice includes recommendations in relation to the operation of criminal justice in relations to restorative justice. Section 30 states:

*"The basic facts of a case should normally be acknowledged by the parties as a basis for starting restorative justice. Participation in restorative justice should not be used as evidence of admission of guilt in subsequent legal proceedings."*⁴⁰

38 Kim Watts, 'Managing Mass Damages Liability via Tort Law and Tort Alternatives, with Ireland as a Case Study' (2020) 11 *Journal of European Tort Law* 57.

39 Ingunn Studsrød and Elisabeth Enoksen. 'Money as Compensation for Historical Abuse: Redress Programs and Social Exchange Theory' (2020) 13 *The Journal of the History of Childhood and Youth* 288.

40 Council of Europe, *Recommendation CM/Rec(2018)8 of the Committee of Ministers to member States concerning restorative justice in criminal matters* (2018).

From the survivor's perspective, accountability can be more important than punishment.⁴¹ Survivors may be seeking other outcomes from a justice process, such as an admission and acknowledgement of the harm done. In the restorative process, this is achieved through the genuine remorse, apology, and willingness of the harmer to make amends and is directed at the survivor. However, in some cases, it is not possible for the harmer to be present, and in these cases, a tertiary person or organisation can represent the harmer. For example, it is the focus on agreeing basic facts, harm reparation, truth telling with the representative of the harmer, and participation that allows for the restorative process to still go ahead even though the harmer may be deceased.⁴²

Cost-Effective

Restorative justice programmes can be more cost-effective than other traditional processes, as they often require fewer resources. This was highlighted in the 2009 report by the National Commission for Restorative Justice, where they dedicated a chapter of the report to examine the cost implications of restorative justice intervention in Ireland and then drew comparisons with other jurisdictions.⁴³ In short, the Commission found that restorative justice offered a more cost-effective approach than other resolutions offered through the justice system and that, as the restorative justice response was scaled up, the cost per case was reduced. While noting this finding from the Commission, it is beyond the scope of this report to provide a detailed economic comparison between restorative justice and other interventions, and there may be other barriers to the process such as the availability of appropriate facilitators.

Diverse Solutions

Restorative justice is flexible and can offer a wide range of solutions tailored to the specific needs of the parties involved. This can result in more creative and satisfying outcomes for all parties.⁴⁴ See Chapter 2 for examples of a variety of restorative approaches.

41 Judith Herman, *Truth and Repair: How Trauma Survivors Envision Justice* (Hachette UK 2023); Courtney Julia Burns and Laura Sinko, 'Restorative Justice for Survivors of Sexual Violence Experienced in Adulthood: A Scoping Review' (2023) 24 *Trauma, Violence, & Abuse* 340.

42 Daniel Van Ness, 'Accountability' in D. Philpott (ed), *Restorative Justice, Reconciliation, and Peacebuilding*. (Oxford University Press 2014).

43 National Commission on Restorative Justice, *Final Report* (2009) https://www.drugsandalcohol.ie/13955/1/NCRJ_Final_Report%5B1%5D.pdf

44 Randy E Barnett, 'Restitution: A New Paradigm of Criminal Justice' (1977) 87 *Ethics* 279. Jeff Latimer, Craig Dowden, and Danielle Muise, 'The Effectiveness of Restorative Justice Practices: A Meta-Analysis' (2005) 85 *The Prison Journal* 127; Mark Umbreit, *The Handbook of Victim Offender Mediation* (Wiley 2001).

Criticisms of Restorative Justice

Restorative justice has also garnered criticism. Critics argue that while restorative justice offers several advantages, it has limitations. The effectiveness of restorative justice can vary depending on the severity of the offence, with more violent crimes posing challenges to the reconciliation and healing process. Critics also raise concerns about the potential for unequal power dynamics during face-to-face meetings between harmer and survivor. It is essential to understand the limitations of restorative justice, as well as its advantages, to determine its appropriateness in different contexts.⁴⁵

There is one concern in particular that is most relevant to the context of this report, which is discussed below.

Revictimisation

Restorative justice has attracted criticism for its use in relation to particular types of crime, particularly those of a violent or sexual nature, involving children or young people.⁴⁶ The impact on, and outcome of, the restorative process differs greatly depending on the type of crime restorative processes are being used to address. Concerning the survivor, it has been shown that for sexual offences, particularly child sexual abuse, restorative processes such as conferencing can retraumatise a survivor,⁴⁷ and raises the concern of secondary victimisation as a possibility within these processes.⁴⁸ This criticism highlights the need to ensure that skilled facilitators are essential to prepare all participants in order to utilise restorative justice most appropriately, beneficially, and effectively.

45 Kathleen Daly, 'Restorative Justice and Sexual Assault: An Archival Study of Court and Conference Cases' (2006) 46 *The British Journal of Criminology* 334.

46 Alice Hwang, 'Restorative Justice: A Better Alternative for Reducing Recidivism?' (2020) 6 (1) *Sociological Imagination: Western's Undergraduate Sociology Student Journal*; Clare McGlynn, Nicole Westmarland and Nikki Godden, "'I Just Wanted Him to Hear Me": Sexual Violence and the Possibilities of Restorative Justice.' (2012) 39 *Journal of Law & Society* 213.

47 A Cossins, 'Restorative Justice and Child Sex Offences: The Theory and the Practice' (2008) 48 *British Journal of Criminology* 359.

48 Jo-Anne Wemmers, Isabelle Parent and Marika Lachance Quirion, 'Restoring Victims' Confidence: Victim-Centred Restorative Practices' (2023) 29 *International Review of Victimology* 466.

Conclusion

In conclusion, restorative justice represents a significant innovation in repairing harm. It emphasises respect, accountability, and rehabilitation, and has gained traction in various settings, from criminal justice to schools and workplaces. Restorative justice is a values-driven approach, prioritising accountability, open dialogue, empowerment, respect, and collaboration among participants. It seeks to repair harm, promote empathy, and restore relationships. The advantages of restorative justice include survivor-centeredness, a greater likelihood of restitution, cultural sensitivity, accountability, cost-effectiveness, and diverse solutions. However, it is not without its limitations, particularly in more severe cases, and the potential for revictimisation in certain contexts.

In light of these advantages and disadvantages, it is essential to recognise that restorative justice is not a one-size-fits-all solution but rather a valuable tool in addressing the harm caused by others. Its success depends on factors such as the willingness of participants and the nature of the harm. By addressing its limitations and continually refining its practices, restorative justice can continue to play a significant role in promoting healing, accountability, and reconciliation in various societal contexts.

2. Standards within Restorative Justice

While there is no commonly agreed “gold standard” for applying restorative justice, there are key characteristics that frequently appear in different standards. As such, this chapter will identify common approaches to practice and standards within restorative justice. There are a variety of principles reflected in the standards across the different jurisdictions and these have been consolidated below. It should be noted that some of these have been discussed in Chapter 1.

During analysis of the standards, it was noted that the standards fell into two distinct categories:

- 1 What the process should be – reflecting key characteristics of delivering restorative justice approaches.
- 2 What the process should build or promote – the characteristics that restorative justice aims to support and foster for participants.

In identifying standards in restorative justice, this chapter analysed standards from the following jurisdictions and international bodies:

- The United Kingdom⁴⁹
- Canada⁵⁰
- Australia⁵¹
- The European Forum for Restorative Justice⁵²
- The Council of Europe Recommendations for Restorative Justice.⁵³

Key Elements in Delivering Restorative Justice

Voluntariness

The elements of voluntariness and informed consent were the most consistent across the jurisdictions.

49 The Restorative Justice Council ‘The RJC Practitioners Handbook’ (2016) https://restorativejustice.org.uk/sites/default/files/resources/files/Practitioners%20Handbook_0.pdf

50 Canadian Intergovernmental Conference Secretariat, ‘Principles and Guidelines for Restorative Justice Practice in Criminal Matters’ (SCICS 2018).

51 Victorian Association for Restorative Justice, *Best Practice Standards for Restorative Justice Facilitators* (Victorian Association for Restorative Justice 2009).

52 Tim Chapman, Malini Laxminarayan and Kris Vanspauwen (eds), *EFRJ Manual on Restorative Justice Values and Standards for Practice*. (European Forum for Restorative Justice 2021).

53 Council of Europe, *Recommendation CM/Rec(2018)8 of the Committee of Ministers to member States concerning restorative justice in criminal matters* (2018).

Inclusion

Inclusivity and concerns of inclusion were universally reflected in the standards despite some differences about who is to be included and what the idea of inclusion extends to.⁵⁴

Safety

In restorative justice, safety can be viewed in two ways: as risk reduction and as creating a safe space for dialogue.⁵⁵ Safety was noted in all jurisdictions and was present in all the standards examined. There was a concern that no further harm results from participation in restorative justice.

Collaboration and Cooperation

Collaboration and cooperation are foundational in restorative justice and underpin a number of key principles.⁵⁶

Proportionate and Appropriate

In the context of selecting a restorative justice approach and any agreement reached, “proportionate” and “appropriate” refer to the fairness and suitability of the approach and its outcomes in relation to the specific circumstances of the case. Proportionate and appropriate restorative justice approaches and agreements are key elements in ensuring fairness, effectiveness, and responsiveness in addressing harmful behaviour.⁵⁷

Not About Establishing Guilt or Apportioning Blame

These two concepts are linked and are key factors in restorative justice approaches that speak to the primary focus of restorative justice to address the harm caused by the offence. Promoting healing is achieved when steps are taken to resolve any harm caused in a non-adversarial manner.

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- 54 Gerry Johnstone (ed), *A Restorative Justice Reader: Texts, Sources, Context* (Willan 2003); Gerry Johnstone and Daniel W Van Ness, *Handbook of Restorative Justice* (Willan 2006).
- 55 John Braithwaite, ‘Setting Standards for Restorative Justice’ (2002) 42 *British Journal of Criminology* 563; Braithwaite J., ‘Restorative Justice’ in M Tonry (ed), *Handbook of Crime and Punishment* (Oxford University Press 2015).
- 56 H Zehr, H Mika and M Umbreit, ‘Restorative Justice: The Concept.’ (1997) 59 *Corrections Today*.
- 57 John Braithwaite, ‘Setting Standards for Restorative Justice’ (2002) 42 *British Journal of Criminology* 563.

Future focused

Any Restorative justice approach should be future-focused, and all the jurisdictions examined used restorative justice approaches that align with this. Restorative justice looks to a time when the harmer is no longer engaging in harmful activity and the survivor has been able to go some way to reconciling the emotional hurt of the harm.⁵⁸

Reparation

Reparation is important in restorative justice as it seeks to acknowledge and repair the causes and consequences of human rights violations and inequality, aiming to restore justice and make amends for wrongs committed. Reparations are essential in addressing historical injustices, as they hold governments, citizens, churches, and private organisations accountable for past wrongful acts, seeking to redress harm and injustices perpetrated.⁵⁹

Confidential

Confidentiality in restorative justice refers to the protection of sensitive information shared during the restorative justice process. Confidentiality is essential to ensuring that all parties involved in the process feel safe to express their opinions and concerns without fear of criticism, rejection, or punishment.

Neutral Facilitation and Process

Neutral facilitation is considered best for restorative justice because it ensures impartiality, equal support for all participants, and a safe environment for open communication.

58 Liam J Leonard, 'Can Restorative Justice Provide a Better Outcome for Participants and Society than the Courts?' (2022) 11 *Laws* 14.

59 Antonio Buti, 'The Notion of Reparations as a Restorative Justice Measure' in Jorge Oliveira and Paulo Cardinal (eds) *One Country, Two Systems, Three Legal Orders – Perspectives of Evolution* (Springer 2009).

Key Elements that Restorative Justice Builds and Promotes in Individuals, Organisations, and Communities

Respect and Equity

In restorative justice, respect refers to valuing the inherent worth of all individuals and recognising their interconnectedness. This is reflected in the inclusive and collaborative decision-making process. Equity in restorative justice involves ensuring fairness and impartiality in the treatment of all parties involved, including survivors, harmers, and others affected.⁶⁰

Empowerment

Empowerment in restorative justice involves giving those impacted by the harm the opportunity to actively participate in a justice process, make decisions, and have a voice in addressing the harm caused. Empowerment appears in the standards in most of the jurisdictions and is framed as participants being provided and facilitated with a platform and a voice.

Healing (repairing harm) and Transformation

All reviewed jurisdictions and international bodies noted that healing and transformation are foremost in restorative justice because they aim to repair the harm caused by harmful behaviour.

Empathy and Understanding

Empathy and understanding are fundamental in restorative justice as they foster compassion, healing, and transformation and are represented in all jurisdictions. Empathy allows participants to recognise the pain, suffering, and needs of all involved, creating an environment where individuals can truly listen to one another's experiences, perspectives, and emotions without judgement or prejudice.

Honest, Open Communication and Transparency

Honest, open communication, and transparency are required to acknowledge the facts of what happened, and to promote trust, understanding, and resolution among the parties involved. Allowing all participants to openly share their experiences and take active accountability for what happened helps with the healing process.

60 Gerry Johnstone (ed), *A Restorative Justice Reader: Texts, Sources, Context* (Willan 2003).

Accountability

Accountability is evident in all the standards examined. It is a key concept in restorative justice as it shifts the focus from punishment to taking active responsibility for one's actions and making amends. Accountability is defined as taking responsibility for one's behaviour and taking action to repair the harm caused which moves the harm resolution beyond a question of punishment and into one of making amends. (See Chapter 1 for more detail).

Agency

By emphasising healing, rehabilitation, and the involvement of survivors and harmers in resolving conflicts, restorative justice promotes and builds agency. By engaging survivors and harmers in a safe and facilitated way, restorative justice aims to empower them and promote healing and reconciliation. The approaches and principles applied across all the jurisdictions evidenced in this report support the development and promotion of individual, organisational, and community agency.

Flexibility

Flexibility is important in restorative justice as it allows the process to adapt to the diverse needs of the individuals involved, the nature of the harm, and the specific circumstances of each case.

Table 1: Consolidated Standards

		Voluntary	Inclusive	Safety	Collaboration and Cooperation	Proportionate and appropriate	Not about establishing guilt or apportioning blame	Focused on a better future	Reparation	Confidential	Neutral
The process should be:	Canada	✓	✓	✓			✓		✓		✓
	Australia	✓	✓	✓	✓					✓	✓
	New Zealand	✓	✓	✓							✓
	UK	✓	✓	✓	✓	✓	✓	✓		✓	✓
	European Forum	✓	✓						✓	✓	✓

		Respect and equity	Empowerment	Healing (repairing the harm) and transformation	Empathy and understanding	Honest, Open communication and transparency	Flexibility	Agency	Accountability
The process should build or promote:	Canada	✓	✓	✓	✓			✓	✓
	Australia	✓	✓		✓	✓	✓	✓	✓
	New Zealand	✓	✓		✓		✓	✓	✓
	UK	✓	✓	✓		✓		✓	✓
	European Forum			✓		✓			

Commonly Used Restorative approaches

There are several approaches to resolving conflict that can be classified as restorative and could be used in a restorative justice context.⁶¹ These include:

- Survivor Empathy Programmes
- Reparation Programmes
- Survivor-Harmer Mediation
- Survivor Impact Panels
- Restorative Justice Conferences
- Restorative circles
- Restorative Inquiry
- Bespoke models of practice.

From the discussion with the religious orders, there were three main approaches identified. They are outlined below.⁶²

Restorative Justice Conferencing

Conference facilitators begin by contacting the survivor(s) and the harmer(s) to gather information about the incident and gauge its impact. Conference facilitators will also meet with the participants, talk them through the process, and ensure that they are able to take part in the conference.

61 Marian Liebmann, *Restorative Justice: How It Works* (Jessica Kingsley Publishers 2007).

62 The description of the approaches here is from the literature, rather than the descriptions of the orders activities.

At a mutually agreed time, the conference is convened with all invited participants seated in a circle facing each other. During the conference, all parties can share their perspectives on the incident, its impact on themselves and others, and what they would like to see happen as a result. Eventually, the group will begin to identify actions required to repair the harm that has been done. This can involve the development of a restorative agreement outlining specific actions to be taken by the harmer(s).

Central to the process is the facilitated dialogue that is used by facilitators to guide the parties. Facilitators will start by asking questions such as “What happened from your perspective?” “How have you been impacted?” “What impacts or harms have you contributed to?” and “What can be done to make things as right as possible?” Those who experienced harm can share how they were impacted, and those who caused the harm have the opportunity to accept accountability and work towards making things as right as possible.

At the conclusion of the conference, a written agreement is drafted by the facilitators, while participants have an opportunity to interact informally if they wish to do so. Once the drafted agreement is signed, the conference is considered complete. If required, the facilitator(s) may report back to the referring organisation that the conference was or was not successful. However, details of the conference dialogue will not be shared with anyone outside the conference.

Survivor-Harmer Mediation

Survivor-harmer mediation is a restorative justice process that brings together the individuals who have committed harm and the survivors to resolve the conflict in a constructive and empathetic manner. The process is similar to conferencing; however, typically only the harmed and harmer will attend.

The mediation process begins with a thorough preparation stage, where the mediator meets with the survivor and the harmer separately to explain the mediation process, assess their readiness, and address any concerns or fears they may have. During the mediation session, the survivor and harmer meet face-to-face, allowing them to express their feelings, thoughts, and experiences in a safe and supportive environment. The mediator facilitates the conversation, helping both parties understand each other’s perspectives and work towards a mutually acceptable agreement. Once the parties have reached an understanding of each other’s needs and concerns, they develop a restitution plan that addresses the harm caused by the crime. Apologising for the harm caused will be a fundamental part of any restitution plan.

Once both parties are happy with the plan, the mediator will make arrangements to monitor its progress. In some cases, the mediator may offer support to both the survivor and the harmer to help them navigate any challenges they encounter and ensure that they stay committed to the plan.

Restorative Circles

A restorative circle typically involves bringing together affected individuals and stakeholders in a facilitated, structured conversation. The goal is to foster understanding, accountability, empathy, and healing rather than punishment. Initially common in education settings, circles are becoming frequently used in other settings and are particularly suited to resolving conflicts with larger groups or communities.

In practice, the circle is initiated by a facilitator or trained mediator who prepares the participants for the circle, outlining the process, setting guidelines, and establishing a safe and respectful environment. Participants, including those directly involved in the conflict and sometimes affected community members, are invited to join the circle, and there are no barriers, such as tables, as a way of signifying equality and open communication. Using a symbolic object (known as a talking piece) participants share their thoughts, feelings, and experiences related to the issue. The aim of sharing helps to build understanding and empathy among the participants. Unique to this restorative approach is that only the person holding the talking piece can speak. This ensures that everyone has a chance to be heard and helps the facilitator guide the dialogue of larger groups as they encourage active listening, ask clarifying questions, and ensure respectful communication.

The focus is on understanding the impact of actions, acknowledging feelings, and exploring potential solutions. As with the other approaches outlined above, the end goal is for participants to work towards a resolution or agreement that addresses the harm caused, often involving commitments to repairing relationships, making amends, or taking actions to prevent similar conflicts in the future. The circle is closed with a reflection on the process, expressing gratitude for participation, and discussing any follow-up actions or ongoing support needed.

Conclusion

While there is no commonly agreed “gold standard” for applying restorative justice, there are key characteristics that frequently appear in different applications. By examining and collating principles and standards across five jurisdictions and international bodies where restorative justice is established, this section has identified the commonly occurring standards – covering both the process and what restorative justice promotes in participants. Standards around processes include being voluntary, inclusive, and safe with a view to reparation and the future, and the process should build healing, agency, respect, and accountability. The breadth of these standards means that any developing restorative justice approach needs to provide guidelines, standards, and principles that guide practice for practitioners and set expectations for participants.

A variety of approaches can be used in this process. The approaches of Restorative Justice Conferencing, Survivor-Harmer Mediation, and Restorative Circles were highlighted. The next section will examine how restorative justice and the principles outlined have been used in restorative inquiries from other jurisdictions.

3. Restorative Justice Use Cases: A Comparative Analysis.

This section presents the use of restorative justice approaches in response to historical sexual abuse. There is a lack of literature surrounding restorative justice and its use in the cases of historic sexual abuse and therefore this section presents cases on interrelated themes, such as sexual abuse, child abuse, and gender-based violence, to capture the use of restorative justice in cases of wider harm and trauma. We present three international cases in which restorative justice has been used as a means of seeking healing. We then look at how a restorative justice approach both positively and negatively impacts the survivor.

International Examples of Restorative Justice in Cases of Institutional Harm and Trauma: Cases of US, Canada and New Zealand

While the use of restorative justice in inquiries into harm and abuse is limited, and even more so within religious settings, there are a number of examples of case studies centred on institutional harm and abuse from the US, Canada, and New Zealand that have adopted a restorative justice approach. These case studies are described below.

St. Joseph's Orphanage Restorative Inquiry (SJORI)

Background to the Inquiry

The *St. Joseph's Orphanage Restorative Inquiry (SJORI)* was launched in 2019. St. Joseph's Orphanage operated between 1854 and 1974. It was established as an affiliate to the Burlington Roman Catholic Diocese and was located in Burlington, Vermont, USA. The Orphanage was a temporary home to more than 13,000 children in its 120-year history. In September 2018, a task force was convened by the Vermont Attorney General's Office because of allegations of historical abuse at the Orphanage. It included the Vermont State Police as well as the mayor's office to investigate the allegations.

"Task Force members recognized the inherent limits to their investigation, particularly given the expiration of the statute of limitations on most of the potential Orphanage crimes. The Task Force, however, also recognized the Orphanage's pernicious legacy of abuse and neglect, and the long-ignored-obligation to attend to the needs of the harmed".⁶³

63 St Joseph's Orphanage Restorative Inquiry, *Final Report*, 16, December 2023.

As a result, the Task Force also established a Restorative Inquiry. The Inquiry sought to

*“understand and document the events of the orphanage through the voices, experiences, and stories of those most impacted (former residents); and then facilitates inclusive processes of accountability, amends-making, learning, and change”.*⁶⁴

As part of the restorative aspect of the task force, the Restorative Inquiry team worked with a core group of former Orphanage residents, now formally recognised as *Voices of St. Joseph’s Orphanage (VSJO)* to identify, facilitate, and coordinate their goals.

The *SJORI* team comprised restorative justice professionals and survivor advocates. They sought to ensure a well-facilitated, survivor-centred, transparent, individual, flexible, and inclusive process. The *SJORI* team conducted regular outreach to all participants regardless of their level of participation. The Inquiry consistently used the Circle process as their primary restorative structure for their internal group meetings, and ‘listening sessions’ with external stakeholders to the Inquiry process.

Key Learnings

The five key learnings are outlined in the final report and are discussed below:

1. Building a Restorative Container
2. Impacted Parties Engagement
3. Responsible Parties Engagement
4. Community Engagement
5. Process Facilitation

Building a Restorative Container

The survivor-centred process was based on the participants sharing the impact of the trauma and abuse they had suffered. Initially, the conversations were individual, and drawing on these conversations, the team formulated a guiding set of restorative principles and values that were attuned to the individual experience and needs of the survivors. These foundational principles became the operational framework for the Inquiry. As a result, the process moved to group meetings held in person and later online due to the COVID-19 pandemic. The aim was to work collaboratively to design the restorative processes, decision making processes, and

64 Ibid, 3.

personalised guidelines. These meetings also helped to build familiarity and trust in Circles as a restorative justice process. The commitment to survivor-centeredness demonstrated by way of the co-creation is credited as strengthening the participants' engagement and continued commitment to the Inquiry process overall.

Impacted Parties Engagement

In the next stage, the *SJORI* invited participants to say what a successful inquiry would look like. These sessions were valuable and helped to identify both individual and group goals. These goals included:

- validation,
- access to information,
- restitution,
- apology,
- and work to ensure that such harms never happen again.

This dialogue also meant that the facilitators were then accountable to meet the needs of these “primary stakeholders.” While engagement with impacted parties was an enduring commitment, ‘closing the circle’ is an important part of the process. At the conclusion of the Inquiry, a final reflection circle was held to hear and record to participants’ experience with the Restorative Inquiry.

Responsible Parties Engagement

Contact was made with representatives from institutions and other agencies directly or indirectly responsible for the care and supervision of the children, as well as engaging with agencies and elected officials who could enable the needs of the survivors to be met. Several agencies and parties engaged in facilitated discussion with participants. The participants’ voices and detailing of their experiences are credited with positively impacting actions and follow-through. This model was used throughout the inquiry with public and private stakeholders. Despite formal invitations and requests to engage from the facilitators and the *VSJO*, the two local institutions that were primarily responsible for the operation and supervision of the Orphanage, the Roman Catholic Diocese of Burlington, and Vermont Catholic Charities, refused to engage with the Restorative Inquiry. The Final Report notes that this was “a source of profound disappointment”⁶⁵ to the survivors and the Inquiry Team.

65 Ibid, 7.

Community Engagement

The *SJORI* sought to have the voices of survivors heard first-hand by the public and there was a 'Voices of St. Joseph's Orphanage Exhibition' and a project website. Spokespeople from the *VSJO* were nominated to share group approved statements. Each member's willingness to share their story and engage publicly was respected and this was a voluntary process.

Process Facilitation

The operational principles formulated at the initial stage of the process supported the facilitators in their role and purpose. The facilitators were further supported by an informal advisory board. These supports ultimately focused on the core obligation of the *SJORI* process, which was to centre, support, and hear the voice of the survivors. A difficulty arose when the formal inquiry and facilitated process ended, as the survivors wanted to continue their work together. This transition proved challenging. The value of the *SJORI* to our learning is in its well facilitated process, which encouraged high engagement and promoted and prioritised the well-being, needs, and agency of the survivors. This example is interesting particularly in the use of the formal justice system to identify offences in combination with a restorative approach.

This case provides a valuable example of a restorative justice approach where the directly responsible parties refuse to engage and how the restorative justice process can be flexible and enable actions that pursue the stated needs of survivors. In this case, the engagement of other institutions and agencies with responsibility for the care and supervision of children supports the survivors' stated need of working to ensure such harm never happened again.

Nova Scotia Home for Colored Children (NSHCC)

Background to the inquiry

The Nova Scotia Home for Colored Children Restorative Inquiry was established under the authority of the Public Inquiries Act (c.372 RSNS 1989, as amended 2015, c.50)⁶⁶ in response to allegations of abuse and neglect at the Nova Scotia Home for Colored Children (NSHCC) in Halifax, Nova Scotia, opened in 1921. The public inquiry into the NSHCC had a comprehensive mandate aimed at addressing the home's historical legacy of abuse and systemic racism in Nova Scotia. From the outset, the whole inquiry process was conducted with a restorative approach. It focused on understanding the home's role in systemic racism, examining the experiences of former residents, assessing the broader impacts on African Nova Scotian communities, and promoting systemic changes and healing. The Inquiry was grounded in the experiences of former residents and broader societal contexts, aiming to initiate long-term goals and social transformation. As such, there was a broad mandate for the inquiry which was initiated and supported by the Government of Nova Scotia.⁶⁷ The information below is taken from the report of the inquiry.⁶⁸

The Inquiry had several objectives. The overall objective was to establish and examine the abuse at the NSHCC within the context of historical and current systemic racism in Nova Scotia. This meant that the Inquiry would focus on the broader impact and meaning of the events at NSHCC to African Nova Scotians, as well as the wider Province. In turn, the broader focus expanded the remit of the Inquiry to examine the role of other systems and institutions in the abuse, such as education, justice, and health. While acknowledging the broader context, the Inquiry also focused on the institutional abuse and experience of the residents of the home, as well as their families. The involvement of former residents was crucial to understanding and repairing the extent of the harm that had been done. A focus on the future was evident as the Inquiry engaged in public education programmes and aimed to shed light on institutional abuse and to promote social change. Finally, the inquiry was committed to strengthening and upholding the culture of the African Nova Scotian community. By employing a restorative approach, the inquiry was able to demonstrate an alternative way of resolving conflict and repairing harm.

66 Under that Act, Commissioners have the power and authority of a Supreme Court Judge in civil matters to compel witnesses and the production of evidence. Commissioners also enjoy the same privileges and immunities as Supreme Court Judges. Nova Scotia Home for Colored Children Restorative Inquiry, *Final Report of the Restorative Inquiry*, (2019) 34.

67 Further details regarding the scope of the mandate can be found at: <https://restorativeinquiry.ca/>

68 Nova Scotia Home for Colored Children Restorative Inquiry, *Final Report of the Restorative Inquiry* (2019). <https://restorativeinquiry.ca/>

The Inquiry was envisioned as a starting point for comprehensive and restorative change, grounded in the experiences of former residents and broader societal contexts. It included facilitated dialogue and Restorative Circles to develop mutual understanding and collaboration aligned with culturally appropriate traditions and involving various parties at various levels for specific issues. The Inquiry produced and publicly shared three reports to inform the public about its ongoing work.

The Process

From the outset the inquiry was embedded in a restorative philosophy and approach that was underpinned by collaboration with former residents. A key aim of the Inquiry approach was not just establishing guilt or finding fault but to examine how various systems, such as health, justice, and education, had contributed to the abuse directly or indirectly. The inquiry process was not focused on apportioning blame in the sense of a retributive process, but as a journey of healing and learning where facts were established, and lessons taken from them. Therefore, the former residents had a key part in designing and deciding the approach that all aspects of the inquiry would take. A design team was established that comprised a broad range of stakeholders, and an acknowledged expert in the field of restorative justice was appointed to guide and facilitate the design process (See Appendix A). The design process lasted ten months and focused not only on the inquiry process and structure but also on trust, relationship building, honesty, and openness. Following the design phase, the team produced a mandate and Terms of Reference for the Inquiry⁶⁹ that detailed the scope and focus of the inquiry.

The inquiry was divided into three phases:

- 1. Relationship building**

Here the inquiry was focused on building relationships that were concerned with the social, structural, and systemic levels that the inquiry operated at. However, as a corollary of this interpersonal relationships would be established, and trust built on an individual level.

- 2. Learning and understanding**

In this phase the inquiry team divided the task into two distinct parts. Firstly, examining happened at the Care Home by examining the history and experiences to gauge the central issues and what mattered most. By developing a common understanding, the inquiry team were then able to focus on what lessons needed to be learnt for the future.

69 Ibid.

3. Planning and action

This phase drew on the understandings and learning from phase two and was designed to allow the various groups to work together to identify what was required to make a difference on the central issues.

A focus on relationships was fundamental for the restorative approach adopted by the Inquiry and allowed for an iterative approach that assembled, interpreted, and then acted on the knowledge to progress the aims and objectives of the Inquiry. Overseeing the process were three key groups. Initially, a group of former residents was convened with the purpose of supporting and advocating for survivors but also to collaborate on the design and implementation of the Inquiry methodology. This group was not just the 'study group' but key stakeholders during the Inquiry process.

Following consultation with stakeholders, a Council of Parties group was appointed to facilitate and oversee the Inquiry. A key learning from this group was that establishing and running the Inquiry took more time and resources than anticipated. To support the Council of Parties, a Reflection and Action Task Group was created with a primary function of ensuring collaboration and engagement across Government departments. Finally, a team of staff drawn from the African Nova Scotian community were employed to support the administrative and reporting processes. It was felt that drawing staff from the community would bring an increased understanding and connection with the community. One issue noted in the report about this approach was the time and resources required to upskill staff in working restoratively.

The Restorative approach

Unlike many inquiries, this one used a restorative process selected to meet the nature of the issue, the needs of the parties involved, and the phase of the work. Circles were the predominant restorative approach used. The report mentions other restorative approaches, but there is limited information as to what they are. What is, however, made clear in the report is that all the inquiry processes, including administrative, were underpinned by restorative values. The report also notes the time taken in preparing the Circles especially in identifying and preparing those individuals involved.

Key Learnings identified in the report

The actions, plans, commitments, and recommendations from the Restorative Inquiry into the NSHCC focus on three central issues: systemic and institutionalised racism, the experience of the care system, and responding to institutional abuse and care system failures. However, the actions and recommendations are not structured strictly along the three central issues due to their interrelated nature.

1. **Understanding context:** An important aspect of the integrated approach adopted by the inquiry was its ability to look at the historical context of the abuse from the perspective of all those involved and especially the survivors. Adopting this lens allowed for the inquiry to not apply the standards, procedures, and attitudes of the current time but those of when the abuse occurred. Seeing the whole picture in this way supports a deeper understanding of the complex relationships between systems, people, and impact. A number of social theorists, Bourdieu, Elias, and Foucault in particular, have written about the benefits of this approach that is known as historicity.
2. **Human-Centred Focus:** The Inquiry advocated for a shift to a human-centred approach, emphasising justice and equality for African Nova Scotians and improving care for young people, families, and communities across the province. Engaging with survivors and the wider African Nova Scotian community ensured that peoples experiences of abuse and systemic racism were placed at the centre of the inquiry and any resulting outcomes or recommendations. It was noted in the report that survivors and community members appreciated the opportunity to have their voice heard.⁷⁰ Hearing these accounts give perspective on how people interact with systems and how one system may not fit all people. As referenced in Chapter 1, restorative justice can be flexible in its response to cultural needs of participants and it is demonstrated in the approach taken by the inquiry in this case.
3. **Beyond Traditional Structuring:** This aspect of the inquiry combines the preceding two aspects to facilitate an understanding of the issues raised from the inquiry to not only look at the physical acts of abuse but also how the system supported those acts both consciously and unconsciously. Bringing the findings together helps an understanding of how the system shaped and determined the actions of those working within it. There is a tendency, highlighted by the report, to consider situations and then respond within the framework of the system to meet or resolve the situation. In adopting the three responses, the inquiry is advocating responses that do not negate current systems but that ensure the system does not dictate the way or the ‘why’ of how people react to issues.

70 Ibid, 498.

Conclusion

Adopting a restorative approach to the whole of the inquiry is noted by the report authors to be a Canadian, and possibly a world, first and a move away from the usual *modus operandi* of an inquiry. Using restorative justice as a mechanism to achieve the objectives and aims of the inquiry when dealing with such a sensitive issue as racial abuse allowed, in this instance, for the voice of all participants to be heard. The inquiry has been able to examine the systemic causes of the harm and support survivors in the healing process, thereby establishing the facts of what happened while situating the harm within the historical context within which it occurred.

There are parallels here with the historical sexual abuse in Ireland, which is covered extensively in other sections of the Scoping Inquiry Report. Timeframes are also similar, meaning that the majority of harmers are deceased.⁷¹

‘Healing After Harm’-Hearing and Responding to the Stories of Survivors of Surgical Mesh

Background to the Inquiry

Surgical mesh has been a recognised medical procedure for treating incontinence or pelvic floor issues in women. The mesh had been used as a way of supporting the pelvic floor where reconstructive surgery was required. However, the use of mesh can lead to complications requiring further surgery or ongoing medical treatment.⁷² New Zealand’s Ministry of Health commissioned the ‘Hearing and responding to the stories of survivors of surgical mesh: *Ngā korero a ngā mōrehu – he urupare*’ project to evaluate the restorative approach used to understand and address the experiences of New Zealanders affected by surgical mesh harm. The following section is drawn from the evaluation report of the Inquiry.⁷³

71 Claire McLoone-Richards, ‘Say nothing! How pathology within Catholicism created and sustained the institutional abuse of children in 20th century Ireland’ (2012) 21 *Child Abuse Review* 394; Raftery M, O’Sullivan E, *Suffer the Little Children: The Inside Story of Ireland’s Industrial Schools* (New Island Books 1999).

72 Health Service Executive ‘Diagnosis and Management of Mesh Complications: plain language summary’ (2023) <https://www.hse.ie/eng/about/who/acute-hospitals-division/woman-infants/clinical-guidelines/plain-language-summary-mesh-complications-2023-.pdf>

73 Jo Wailling, Jill Wilkinson, and Chris Marshall, *Healing after harm: An evaluation of a restorative approach for addressing harm from surgical mesh. Kia ora te tangata: He arotakenga i te whakahaumanu* (New Zealand Ministry of Health 2020).

The Process

The Inquiry was established after a grassroots campaign from women who suffered complications due to surgery⁷⁴. There is little detail in the report that identifies the process for establishing the Inquiry or how it was run and governed. A short paragraph at the outset of the report states that the inquiry response was restorative from the outset and included co-design and a focus on the individuals and relationships affected. The inquiry was divided into three phases:

1. **Listening and understanding**

- (a) The co-design team comprising of stakeholders from various state agencies, the Department of Health, advocacy groups and the restorative justice team met to plan a framework the engagement.
- (b) The agreed process involved Restorative Circles of 10 to 20 people coming together to tell their stories. These comprised a range of stakeholders including survivors, their families, and friends as well as medical professionals, representative bodies, the Department of Health, and state agencies.
- (c) Some people were unable to attend the circles and individual meeting were held with those people. There was also bespoke software where participants could tell their story through video or audio.

2. **Planning and acting**

- (a) Following the design and storytelling phase, Circles were reconvened with the aim of deciding how the harm could be repaired and promote positive change in the future.

3. **Reporting and evaluating**

- (a) Throughout the process the team gathered data to report on the process and capture the voice of those involved.
- (b) As a part of the final phase, nineteen actions were identified for implementation.

74 Isaac Davison, 'Mesh Surgeries to be halted in New Zealand because of safety concerns' *The New Zealand Herald* (22 August 2023).

The Restorative approach

The Project used a restorative approach for understanding the impact of surgical mesh harm and to guide reparative actions and future harm prevention. This consisted of a relational approach with a focus on reacting to existing harm and establishing trusting relationships to prevent future harm. The methods chosen were non-adversarial, including facilitated conversations among all affected parties for collective insights into restoration, and risk mitigation. The project used Circles, facilitated meetings, and restorative conversations centred on storytelling, empathy, and collaborative problem-solving. For those unable to attend the facilitated conversations, a 'story database' was established with options for private meetings and contribution.

Overall, the inquiry approach demonstrated a desire to engage with all those involved in a way that was inclusive. The use of video conferencing (via the 'story database') is of particular interest as this approach is logistically less demanding than in-person meetings. In total, 600 people took part in the conversations broken down as follows:

Table 2: Engagement by method

Listening Circles	249
Story Database	462
Individual Meetings	7

Key Learnings

Drawn from the report, these learnings focus on the positive outcomes of the project including rebuilding trust and collaboration between mesh-injured individuals, government agencies, and health professionals, balancing the dynamic between less powerful individuals and organisations through independent facilitation, understanding the impacts of harm and including different approaches, such as storytelling methods, to address varying needs. However, the report notes there were areas where more work was needed; post-circle resources did not consistently meet the diverse needs of all parties. There was also a need for bespoke emotional and follow-up support, particularly for those experiencing intense psychological challenges. Additionally, there was burnout among facilitators and responsible parties due to the intensity and frequency of the Circles.

The surgical mesh project demonstrates the effectiveness of a restorative approach in addressing the complex challenges of healthcare harm. It highlights the importance of relational methods, inclusiveness, and the humanising power of storytelling. While showing significant strengths, the project also points to the need for further research and adaptation, particularly in improving post-event support and trust restoration.

Recommendations from the inquiry are informing the New Zealand Ministry of Health's approach to the use of surgical mesh⁷⁵.

The Use of Restorative Justice in Ireland

Restorative justice is still in its infancy in Ireland compared to some other jurisdictions. Initially much of the focus was placed on its use within the criminal justice system. However, the primary reason for its use was not based on the perceived or evidential benefits of the approach but because it was seen as: “an invaluable cost-effective option for the criminal justice system in responding to and combating crime in Irish society”.⁷⁶

Over the past 10 years there has been a surge of interest in restorative practices in Ireland, mainly within the justice and education sectors. It is also being used to address the harms caused by sexual offences and more detail about this is given below. Of note, is the adoption of restorative justice by agencies such as the Probation Service, An Garda Síochána and the Irish Prison Service which contributes to the mainstreaming of the approach. Increasingly, schools are using restorative justice approaches⁷⁷. The use of Circles and Restorative Conferences is growing with a large community of restorative practice being established in some schools in Tallaght (a suburb of Dublin).

While justice and education are the principal areas for the use and development of restorative justice, of relevance to this report is the work of ‘One in Four’, an organisation dedicated to assisting adults who have suffered childhood sexual abuse, their families, and individuals who have displayed sexually harmful behaviour.

75 New Zealand Ministry of Health, ‘Surgical mesh statement from the Director-General of Health,’ effective 23 August 2023 <https://www.health.govt.nz/our-work/hospitals-and-specialist-care/surgical-mesh>

76 National Commission on Restorative Justice, (2009) https://www.drugsandalcohol.ie/13955/1/NCRJ_Final_Report%5B1%5D.pdf

77 Gilleen McCluskey et al ‘I was dead restorative today’: from restorative justice to restorative approaches in school (2008) 38 Cambridge Journal of Education 199.

Their aim is to address and halt the cycle of sexual violence. The organisation uses survivor-harmer dialogue and family conferences where suitable. Staff from the clinical and advocacy teams at One in Four are trained in Restorative Justice with specialised training focused on trauma and complex cases. One in Four offers several restorative justice and restorative practice services, including survivor-harmer mediation, restorative justice conferences, restorative circles, and advocacy. they run two main therapeutic programmes:

1. **Family Support Programme:** This programme aids those indirectly affected by the revelation of childhood sexual abuse by a relative or friend.
2. **Prevention Programme:** This focuses on sex offenders, supporting them in acknowledging the damage they have caused and assisting them in leading lives without sexually harmful behaviours. The programme integrates the Good Lives Model and risk management principles to minimise recidivism. Survivor-harmer dialogues and family conferences are also utilised when suitable.

In their 2019 report⁷⁸, One in Four recommend further research into restorative justice as a possible alternate model to the existing justice system for certain cases. There are further requirements,

“The offender should have completed a treatment programme and exhibit genuine remorse and that a substantial period of preparation be available to all parties would be required.”⁷⁹

One in Four note the need for appropriate resourcing and facilitated. In particular, One in Four flagged that these facilitators should have an understanding of the complexity of sexual abuse as well as restorative justice.

78 One in Four, *Only a Witness: The experiences of clients of One in Four in the criminal justice system*, (2019) <https://www.oneinfour.ie/one-in-four-research>

79 Ibid, page 93.

Considering the Survivor in the Use of Restorative Justice in Cases of Sexual Harm and Abuse

The use of restorative justice processes in cases of sexual harm is controversial.⁸⁰ It is highly contested as to whether restorative justice approaches cause additional victimisation and trauma resulting from meeting and recounting their experiences to the person who harmed them (See Chapter 1).⁸¹ As previously highlighted in this report, there are a number of recognised benefits of restorative justice for the survivors of sexual harm. These have been recognised in recent years when used as an alternative or complementary mechanism to criminal justice.⁸²

Considering the Needs of the Survivor

It was highlighted in Chapter 1 that there is acknowledgement in the literature and that the needs of sexual violence survivors are diverse, and oftentimes complex, and can conflict and change over the course of time.⁸³ There are several needs specific to survivors of historical sexual abuse that are not served by the formal justice system⁸⁴ and these are identified as essential elements for survivors to achieve what they would see as justice.⁸⁵ The elements are shown in the table below and matched against the standards identified earlier in the report, which were categorised as those things that a restorative justice approach should be and what a restorative justice approach should build or promote. Using the definitions from those categories the needs of the survivor – identified by survivors – have been matched against them. This has been done to provide the reader with some indication of how the restorative justice standards meet the needs of the survivor.

80 Ibid; Vince Mercer et al, 'Doing Restorative Justice in Cases of Sexual Violence: A Practice Guide' (University of Leuven 2015).

81 Kathleen Daly and Julie Stubbs, 'Feminist Engagement with Restorative Justice' (2006) 10 *Theoretical Criminology* 9.

82 Mary P Koss, 'The RESTORE Program of Restorative Justice for Sex Crimes: Vision, Process, and Outcomes.' (2014) 29 *Journal of Interpersonal Violence* 1623; Estelle Zinsstag and Marie Keenan, *Restorative Responses to Sexual Violence: Legal, Social and Therapeutic Dimensions* (Routledge 2017).

83 Clare McGlynn, Nicole Westmarland and Nikki Godden, "'I Just Wanted Him to Hear Me": Sexual Violence and the Possibilities of Restorative Justice.' (2012) 39 *Journal of Law & Society* 213.

84 Natalie Hadar and Tali Gal, 'Survivors' Paths Toward Forgiveness in Restorative Justice Following Sexual Violence.' (2023) 50 *Criminal Justice & Behavior* 911; Judith Rafferty, "'I Wanted Them to Be Punished or at Least Ask Us for Forgiveness": Justice Interests of Female Survivors of Conflict-Related Sexual Violence and Their Experiences with Gacaca.' (2018) 12 *Genocide Studies and Prevention* 95.

85 Jennifer M Balboni and Donna M Bishop, 'Transformative Justice: Survivor Perspectives on Clergy Sexual Abuse Litigation.' (2010) 13 *Contemporary Justice Review* 133.

Table 3: Meeting the needs of the survivor using restorative justice. (Adapted from Balboni and Bishop, 2010)

	Voluntary	Respect/ equity	Inclusive	Empower	Safe	Heal/ Transform	Collaborative	Empathy/ understanding
An open, independent, and fair investigation	✓	✓	✓		✓		✓	
Having a voice in the justice process and establishing a rebalance of power.				✓	✓		✓	
Share the impact of the abuse with the responsible person or religious order.					✓	✓		✓
Validation of their abuse and suffering			✓	✓	✓	✓		✓
Confronting organization, having them be accountable and remorseful								
Being informed if the person responsible for the harm is alive and where they are.					✓			
Procedures are in place to ensure that harm is prevented from happening to others.							✓	
Financial compensation						✓		
Vengeance and retribution against the church						✓		
Support and services from the church relating to their healing and treatment.				✓		✓		✓
Be made aware of the scale of the abuse perpetrated by the member.					✓			
Restoration of their faith in the Church.						✓		

Proportionate	Honest, open communication	No guilt/blame	Flexibility	Reparation	Agency	Confidential	Accountability	Forward focus	Neutral
✓	✓	✓	✓						✓
			✓		✓				
	✓						✓		
	✓	✓				✓			
	✓						✓		
							✓	✓	
				✓					
					✓				
			✓	✓				✓	
	✓							✓	
								✓	

In cases of sexual abuse, it is put forward that restorative justice, when implemented carefully and in a well-prepared manner, can meet the justice needs of survivors. As noted earlier in the report, restorative justice is premised upon the idea of healing and reparation. However, given the harm context of sexual violence, it is paramount to see restorative justice as facilitating a continuous healing process. Therefore, it should not be assumed that having engaged in restorative justice that survivors are healed and that their needs have been met.⁸⁶ For the restorative justice process to be successful it is important that the needs of survivors are clearly identified and that the scope of these needs may be addressed through the restorative process.⁸⁷

Advantages of a Restorative Justice Approach for Survivors

The use of restorative justice in cases of historical sexual abuse is said to offer processes that are respectful, non-adversarial, fair, and promote a personal sense of justice and reparation.⁸⁸ The benefits of restorative justice to the survivor come in a variety of forms. Firstly, Umbreit and Armour propose that the high intensity of emotions associated with the harm experienced can lead to emotional transformation and a heightened emotional intelligence in the areas of empathy and forgiveness.⁸⁹ Forgiveness following harm and wrongdoing has been shown to reduce signs of depression, improve quality of life, and promote positive self-esteem, mental health, and social wellbeing of the survivor.⁹⁰

Secondly, restorative justice processes can reduce the feelings of shame and guilt that affect survivors of sexual violence.⁹¹ As noted in Chapter 1, shame and guilt are central to the theoretical and practical functioning of restorative justice. When shaming is done in a reintegrative manner, it avoids the negative consequences that stigmatisation brings and support the survivor accept forgiveness and release their feelings of guilt about what happened to them.⁹²

86 Tom Johnson et al, 'The Role of Restorative Justice in Addressing Clergy Sexual Abuse and Helping Its Survivors' (2020) 17 University of St. Thomas Law Journal 133.

87 Clare McGlynn, Nicole Westmarland and Nikki Godden, "'I Just Wanted Him to Hear Me": Sexual Violence and the Possibilities of Restorative Justice.' (2012) 39 Journal of Law & Society 213.

88 Douglas E Noll and Linda Harvey, 'Restorative Mediation: The Application of Restorative Justice Practice and Philosophy to Clergy Sexual Abuse Cases', *Understanding the Impact of Clergy Sexual Abuse* (Routledge 2014).

89 Mark S Umbreit and Marilyn Peterson Armour, 'Restorative Justice and Dialogue: Impact, Opportunities, and Challenges in the Global Community' (2011) 36 Wash. UJL & Pol'y 65.

90 Sadaf Akhtar and Jane Barlow, 'Forgiveness therapy for the promotion of wellbeing: A systematic review and meta-analysis' (2018) 19 Trauma Violent Abuse 107; Robert D Enright and Suzanne Freedman, 'The Use of Forgiveness Therapy with Female Survivors of Abuse' (2017) 6(3) Journal of Women's Health Care.

91 Vince Mercer et al, 'Doing Restorative Justice in Cases of Sexual Violence: A Practice Guide' (University of Leuven 2015).

92 John Braithwaite, *Crime, Shame and Reintegration* (Cambridge University Press 1989).

Studies have found some evidence that survivors of sexual harm were positively affected by taking part in restorative processes.⁹³ In one meta-analysis of 22 restorative justice studies involving 35 programmes it was found that participants were generally satisfied with having participated in these processes.⁹⁴ This satisfaction was related to several elements such as:

- Acknowledgement and validation of harm.
- Accountability and an apology from the person who caused harm.
- Opportunity to be heard and learn more by asking questions of the person who harmed.
- A sense of emotional healing and closure.
- The gaining of some measure of justice.
- The experience of being an active, key participant in the justice process.
- Offering greater control over ‘naming their experience’ compared to court or adversarial approaches.⁹⁵

Specifically referring to historical sexual abuse, a restorative approach of open dialogue and accountability may help to account for the spiritual aspect of the survivor’s trauma experience⁹⁶. For those whose faith and spirituality were negatively affected, restorative justice may help to reconcile this. Traditional criminal justice processes may not facilitate reparation in this area, whereas restorative justice addresses interpersonal relationships and can facilitate a platform where the survivor and the person/representative of the order responsible for the harm come together to reconnect the survivor with their spiritual needs.⁹⁷

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- 93 Ana M Nascimento, Joana Andrade and Andreia de Castro Rodrigues, ‘The Psychological Impact of Restorative Justice Practices on Victims of Crimes—a Systematic Review’ (2023) 24 *Trauma Violence Abuse* 1929.
- 94 Jeff Latimer, Craig Dowden, and Danielle Muise, ‘The Effectiveness of Restorative Justice Practices: A Meta-Analysis’ (2005) 85 *The Prison Journal* 127.
- 95 Clare McGlynn, Nicole Westmarland and Nikki Godden, ‘“I Just Wanted Him to Hear Me”: Sexual Violence and the Possibilities of Restorative Justice.’ (2012) 39 *Journal of Law & Society* 213; Douglas E Noll and Linda Harvey, ‘Restorative Mediation: The Application of Restorative Justice Practice and Philosophy to Clergy Sexual Abuse Cases’, *Understanding the Impact of Clergy Sexual Abuse* (Routledge 2014); Mark S Umbreit and Marilyn Peterson Armour, ‘Restorative Justice and Dialogue: Impact, Opportunities, and Challenges in the Global Community’ (2011) 36 *Wash. UJL & Pol’y* 65.
- 96 Barbara R McLaughlin, ‘Devastated Spiritually: The Impact of Clergy Sexual Abuse on the Survivor’s Relationship with God and the Church.’ (1994) 1 *Sexual Addiction & Compulsivity* 145; Joseph J Guido, ‘A Unique Betrayal: Clergy Sexual Abuse in the Context of the Catholic Religious Tradition’ (2008) 17 *J Child Sex Abus.* 255.
- 97 Theo Gavrielides and Dale Coker, ‘Restoring Faith: Resolving the Roman Catholic Church’s Sexual Scandals Through Restorative Justice (Working Paper I).’ (2005) 8 *Contemporary Justice Review* 345.

Criticism of the Use of Restorative Justice in Cases of Sexual Violence

Despite the positive potential of restorative justice, there are several criticisms surrounding the use of restorative justice in the context of sexual violence. Significant critiques centre on the significant power imbalances particularly in the case of historical institutional child sexual abuse.⁹⁸ Although it has been said in the context of historical sexual abuse that the use of restorative justice “eliminates any type of power differential,” there may still be a symbolic power imbalance.⁹⁹ Despite best efforts to promote fairness and equality in the restorative process, the church wields far more power, influence, and moral capital in the interaction. The concept of symbolic power refers to the ability to exert influence or control over others through cultural means, such as language, social habits, and cultural practices. What can be gathered from the concept of symbolic power is that it helps to understand the tacit and unconscious modes of cultural and social domination that shape religious practices and power dynamics.¹⁰⁰

Criticisms of restorative justice processes in the cases of sexual trauma and harm are also on account of the risk of re-victimisation to the survivor.¹⁰¹ Having to recount the abuse suffered can cause mental/emotional distress for the survivor; however, it should be noted that survivors have control over what they disclose in relation to what happened. This can be especially exacerbated in instances of high imbalances of power, in the presence of the person who caused them harm, and in cases where the account of the survivor is disbelieved, challenged, or belittled.¹⁰² Survivors may also experience manipulation, or a pressure to participate, or in fact, not participate. This raises key concerns over the safety and security of the survivor.¹⁰³ In this vein, scholars have stated the importance of developing a restorative justice process that is inherently survivor-centred and can allow for a personalised approach for each survivor.¹⁰⁴

98 Natalie Hadar and Tali Gal, ‘Survivors’ Paths Toward Forgiveness in Restorative Justice Following Sexual Violence.’ (2023) 50 *Criminal Justice & Behavior* 911.

99 Tom Johnson et al, ‘The Role of Restorative Justice in Addressing Clergy Sexual Abuse and Helping Its Survivors’ (2020) 17 *University of St. Thomas Law Journal* 133.

100 Erwan Dianteill, ‘Pierre Bourdieu and the Sociology of Religion: A Central and Peripheral Concern’ (2003) 32 *Theory and Society* 529.

101 Clare McGlynn, Nicole Westmarland and Nikki Godden, “‘I Just Wanted Him to Hear Me’”: Sexual Violence and the Possibilities of Restorative Justice.’ (2012) 39 *Journal of Law & Society* 213.

102 Natalie Hadar and Tali Gal, ‘Survivors’ Paths Toward Forgiveness in Restorative Justice Following Sexual Violence.’ (2023) 50 *Criminal Justice & Behavior* 911.

103 Kathleen Daly and Julie Stubbs, ‘Feminist Engagement with Restorative Justice’ (2006) 10 *Theoretical Criminology* 9.

104 Courtney Julia Burns and Laura Sinko, ‘Restorative Justice for Survivors of Sexual Violence Experienced in Adulthood: A Scoping Review’ (SAGE Publications 2021) 340; Meredith Rossner and Miranda Forsyth, ‘Is now the time for restorative justice for survivors of sexual assault?’ (Koninklijke Boom uitgevers, 2021) 365.

While forgiveness has been hailed as a therapeutic tool of sorts as mentioned above, the idea of ‘forgiveness’ in sexual violence and harm has been critiqued.¹⁰⁵ Forgiveness is defined as the “willingness to abandon one’s right to resentment, negative judgment and indifferent behaviour toward one who unjustly hurt us, while fostering the undeserved qualities of compassion, generosity, and even love toward him or her”.¹⁰⁶ It is thought that restorative processes can conversely urge the survivor towards forgoing their feelings of hurt and trauma, and therefore questions the appropriateness of restorative justice in cases of sexual violence and harm. However, proponents of restorative justice argue that forgiveness does not mean excusing or justifying the harm that was caused to them.¹⁰⁷ Instead, forgiveness is regarded as contributing to emotional restoration, which positively impacts the survivor’s wellbeing, which supports the healing purpose of restorative justice.¹⁰⁸

105 Natalie Hadar and Tali Gal, ‘Survivors’ Paths Toward Forgiveness in Restorative Justice Following Sexual Violence.’ (2023) 50 *Criminal Justice & Behavior* 911.

106 Robert D Enright and Suzanne Freedman, ‘The Use of Forgiveness Therapy with Female Survivors of Abuse’ (2017) 6(3) *Journal of Women’s Health Care*.

107 Julie Juola Exline et al, ‘Forgiveness and Justice: A Research Agenda for Social and Personality Psychology’ (2003) 7 *Personality and Social Psychology Review* 337.

108 Mark S Umbreit and Marilyn Peterson Armour, ‘Restorative Justice and Dialogue: Impact, Opportunities, and Challenges in the Global Community’ (2011) 36 *Wash. UJL & Pol’y* 65.

Conclusion

Inquiries are a familiar and much used response to systematically investigating events of significant public concern. Usually, the inquiry is conducted by an individual or team of people charged with gathering evidence, hearing testimony, and making findings. While the inquiry provides a platform for voices to be heard, rarely do they involve those affected by the event in the way demonstrated by the three examples above. While dependent on the terms of reference, inquiries are often concerned with establishing facts, apportioning blame and making recommendations for the future. However, the examples above show that a restorative approach can meet these outcomes of an inquiry and by conducting the process in a collaborative and co-produced manner healing can be promoted and answers are provided to questions not normally addressed by inquiries. Deploying restorative justice in inquiries can have positive effects on survivors, such as making them feel more empowered and validated. However, it also has its critics, especially when it comes to using restorative justice in cases of sexual harm and violence. When it comes to historical sexual abuse, there are many aspects that need to be carefully considered as they can affect the restorative process and the relationships involved. These aspects include power imbalances and the risk of the survivor being victimised again. It is important to fully and impartially consider both the positive and negative outcomes in these situations. This means that the potential impact on the survivor should be carefully, and subjectively evaluated, and restorative justice should be used appropriately in such cases. Keeping all of this in mind, the next part of this report looks at how some religious orders in Ireland have developed processes to respond to allegations of historical sexual abuse.

4. Implementing Restorative Justice Responses to Historical Sexual Abuse

Drawing on the findings from interviews with ten religious orders in the Republic in Ireland, this chapter will present an overview of some of the current reparative efforts relating to restorative processes in addressing historical abuse. The information given here is not exhaustive and does not include all reparative or safeguarding actions by the orders and their safeguarding offices, as the focus was on restorative processes. The approaches will be described considering the standards of good practice identified in Chapter 2. Particular attention is given to how the survivor is considered within these approaches and processes. Key areas of learnings that emerged from the interviews will then be detailed. This may prove useful in informing the development of future frameworks or implementation plans in terms of supports required or areas of further consideration.

Methodology and Approach

Ten religious orders were contacted following direction from the Scoping Inquiry Team, based on survey responses from the orders indicating that they had a process. The orders were asked to participate in an interview which would explore their response to claims of historical sexual abuse. All the religious orders contacted agreed to take part. The religious orders were all male and are listed below:

- Society of Jesus (Jesuits)
- The Brothers of the Blessed Virgin Mary of Mount Carmel (Carmelites)
- Congregation of the Holy Spirit (Spiritans)
- Irish Capuchin Franciscans
- Missionaries of the Sacred Heart
- Irish Franciscan Order (OFM)
- Salesian Society of Don Bosco
- Irish Province of the Dominican Order
- Order of the Marist Brothers
- Presentation Brothers

Semi-structured research interviews are a versatile and widely used qualitative research method that strikes a balance between structured and unstructured approaches. In these interviews, researchers develop a set of open-ended questions or topics to guide the conversation while allowing flexibility for in-depth exploration. Researchers can adapt their questions in real-time, probing deeper into responses and following unanticipated leads (See Appendices B, C and D for further information).

A date and time was arranged for an interview to take place with representatives from the religious order. Interviews were carried out by telephone or video call. Each interview was recorded, and the recording was later transcribed and then analysed. The information gathered from this process provides the evidence that this chapter is based on. Respondents in the interviews took part on the understanding that the name of the religious order would be cited, but their own personal identity would be anonymised. Each interview lasted between 30 and 45 minutes.

Presentation of Empirical Findings

How the Religious Orders Engage with Survivors

Each religious order detailed some form of direct engagement with survivors. The main method of engaging survivors took the form of a face-to-face meeting. Overall, these engagements were described as survivor-centred and focused on the promotion of survivor healing and reparation. Two approaches were identified: some religious orders followed a highly structured mediation process facilitated by an independent facilitator. Other orders held a pastoral meeting with survivors, in which the safeguarding officer from the order is tasked with the oversight of running of the meeting. Importantly, both approaches have similar outcomes and goals although the mechanism through which these are achieved differs. We have broadly divided the orders into two approaches, although there may be elements common to both. Many orders take a blended approach, tailored to individual requests and needs.

Pastoral Approach

Several of the orders explained that they engaged with survivors using a pastoral approach based on Christian values. Further exploration of this concept during interviews led to the following understanding of a pastoral approach: In the context of engaging with survivors of historical sexual abuse, a pastoral approach involves providing care, counselling, and support to the survivors, acknowledging the profound physical, spiritual, and emotional damage caused by the abuse. It also entails addressing the betrayal of trust and the sexual exploitation that will have occurred because of the contact with the religious professional.

Facilitated Approach

A facilitated approach is defined here as one where survivors meet with a neutral facilitator who is a lay person not connected with the order. It should be noted that some orders used facilitators from the Towards Healing service and this is discussed below. Where this approach is used in cases of historical sexual abuse, independent facilitators facilitate a safe dialogue to share experiences and perspectives. Primarily, the aim is to address the harm caused by members of the religious orders and promote healing. In some cases, mediation is used as a way to negotiate compensation. The process also involves applying restorative justice practices, such as account-making or storytelling, apology, forgiveness, and procedural justice, to ensure a fair and transparent process that provides a safe environment for all parties involved. Orders may also conduct elements of the pastoral approach in addition to the facilitated approach.

Categorising the Responses by Order

The approaches adopted by the religious orders can be categorised as either being pastoral or facilitated, although those following facilitated processes also offered pastoral processes.

Table 4: Processes of the religious orders

Facilitated Processes	Pastoral Processes
The Jesuits	Carmelites
The Spiritans	Irish Capuchin Franciscans
Missionaries of the Sacred Heart	Irish Franciscan Order (OFM)
Salesians of Don Bosco	Dominican Order of Ireland
	Presentation Brothers
	Marist Brothers

The Process of Engagement

All the orders followed a structured approach to responding to allegations and disclosures of child abuse in the form of policies and procedures in accordance with national legislation, such as *Children First, Safeguarding Children Policy and Standards for the Catholic Church in Ireland 2016* developed by *The National Board for Safeguarding Children in the Catholic Church in Ireland's* safeguarding children policy, and/or within internal manuals and policies.

This section will continue by detailing the facilitated mediations and pastoral meeting processes and reflect on how the best practice principles relating to the process are embodied. For reference as described in Chapter 2, these include, respect and equity, empowerment, healing (focusing on repairing the harm) and transformation, honest, open communication and transparency, flexibility, agency, and accountability. Novel examples of these best practice principles will be described in both the processes of facilitated mediation and pastoral meetings.

Facilitated Processes

Facilitated mediations were carried out by the Spiritans, the Jesuits, the Salesians of Don Bosco, and the Missionaries of the Sacred Heart. In these cases, the facilitation was carried out by neutral and independent facilitators. It is noteworthy that both the Spiritans' and the Jesuits' facilitated process came about as a result of engaging with survivors to understand and prioritise their needs. Specifically, the Spiritans are piloting a survivor-centred process as it was the survivors themselves who had advocated for a restorative justice approach. There were two main reasons for this:

- They desired a process that centred the survivor.
- The survivors sought a way of communicating the harm they experienced where there was a facilitator who could act as a first point of contact.

The facilitated process provided by the Spiritans, the Jesuits, the Salesians of Don Bosco and the Missionaries of the Sacred Heart was managed by expert facilitators who are experienced in handling sensitive issues and/or had received training in restorative justice practices. This use of expert facilitators was intended to ensure the process was conducted in a supportive and well-prepared manner. The approaches taken by the orders can be further broken down into two categories:

1. A facilitated process that takes a holistic approach to repairing the harm caused and includes answering questions, the acceptance of accountability by the order, formal apology, measures that can help repair the harm done and, in some cases, financial compensation. The Jesuits, the Spiritans and the

Missionaries of the Scared Heart adopted this approach and demonstrated a flexible approach that met survivors' needs. Pastoral responses are also offered to survivors depending on their needs.

2. A facilitated approach that is more formal in its process and focused on financial compensation. This approach was organised by lawyers and facilitated by an external mediator. In most cases, the survivor is required to take a psychological or psychiatric assessment to gauge the 'level' of harm caused by the abuse. This approach was used by Salesians Don Bosco and takes the route followed by mediation processes commonly found in the workplace or in dispute resolution, while also offering a pastoral response depending on the needs of survivors.

Once a survivor has contacted the order, the process moves swiftly, although time is taken to prepare and understand and respect the needs and wants of the survivor. This means that the pace of the process was directed by the survivor, according to the orders. For example, in collaboration with the survivor, the lead facilitator devises a plan prior to the facilitated mediation, or they may use other circles or work directly with the individual. This ensures that the process is flexible and can be adapted to meet the needs and wants of the survivor. The aim of this is that they are empowered and treated with agency in deciding on how the process will be directed. While the survivor can choose the location of the meeting, it is recommended that it is a neutral venue. The survivor's wishes and needs also have control over who is present at the meeting. For example, many survivors request that the Provincial be present as a way of providing accountability on behalf of the religious order for the historical sexual abuse they endured. The survivor can bring along a support person (for example, a counsellor, a spouse, or a family member). Other survivors may choose to only work with the facilitator without other meetings. A number of available supports are outlined to the survivor, mainly in the form of counselling, which the religious orders finance. This counselling can be accessed in three ways:

1. Through the organisation *Towards Healing*, funded by the congregations. While *Towards Healing* is an independent organisation, it is funded by the Catholic Church in Ireland¹⁰⁹. The organisation states on its website that it is impartial¹¹⁰ and offers an independent service to survivors. *Towards Healing* does not report back to the Orders on the details of their support to survivors. Safeguarding officers explore other options with survivors if a need arises.

109 <https://towardshealing.ie/funding/>

110 <https://towardshealing.ie/independence/>

2. Through the use of National Counselling Service. In some cases this pathway was working well, but there have been issues with unequal access due to geographical disparities and long waiting lists. As a result many orders are reluctant to recommend this due to delays. For example, the Missionaries of the Sacred Heart have no record of offering this service to any survivor due to long delays and waiting lists.
3. Through the use of a survivor chosen accredited counsellor which is paid for by the congregation or the survivor depending on the needs of the survivor.

The facilitated process is structured. For example, the Spiritans, as part of their restorative justice pilot, have an organised programme which consists of:

- Introductions;
- The survivor tells their story;
- Response by the Provincial;
- Discussion of the justice needs of the survivor;
- Response to the justice needs by the Provincial.

In this structured example, the interviewee from the order reported that respect, thought, and consideration is shown to the pace at which the survivors share their story. Time is allowed throughout for the survivor to open up and share their story at a rate and level of detail comfortable for them. The survivors are empowered to share their story verbally, or they may have notes, or a written piece prepared. Breaks may be taken if the process becomes upsetting for the survivor.

Having shared their story, the facilitator then asks the Provincial to respond. The Provincial is accompanied by the order's safeguarding officer to the meeting. By actively listening to and validating the survivor's experiences, the process seeks to restore the survivor's dignity and agency, key aspects of relationship restoration. Oftentimes, the survivor may ask questions of the Provincial and, the interviewees report that this constitutes an important aspect of healing to many survivors. For instance, the survivor may want to know details surrounding the widespread extent of the abuse or details of institutional facilitation of the abuse. The Provincial's main role is to be accountable for the actions of the harmer within the religious order. In this context, honest, open communication and transparency are foundational to healing and repairing the harm.

In focusing on repairing the harm and healing, the survivors were asked what they want from the process to support their healing. The justice needs recalled by the orders have varied to include:

- Seeking spaces for collective solidarity in terms of forming support groups;
- Simply wanting to have the abuse recorded/ make the order aware of the abuse;
- Seeking answers. For instance, the survivor may want to know details surrounding the widespread extent of the abuse or details of institutional facilitation of the abuse;
- An apology by the Provincial in the format (oral or written, or personal or public) desired by the survivor;
- The provision of counselling and therapy;
- Financial redress and compensation.

The response from the orders can include one, all, or a combination of the elements of the justice needs of the survivor. This speaks to the flexible and personalised response. However, sometimes the survivor has been unsure of what they want from the process and the form(s) of redress are discussed with the survivor allowed time to consider. If a written apology is desired, it is made afterwards based on the notes from the facilitator. The notes are written up in draft form and shared with the Provincial, the safeguarding officer, and the survivor, and are provided to ensure that everything was captured accurately. This is in line with normal procedures of transparency. The Provincial bases the apology on these notes and in doing so aims to provide a tailored response for each survivor. The Spiritans demonstrate a commitment to improvement and seek formal feedback from survivors who engaged in restorative justice process for the purpose of future improvement. The Jesuits also stated that they place great emphasis on consolidating knowledge and taking forward learnings from previous actions in refining their future approaches. While other religious orders, such as the Missionaries of the Sacred Heart, indicate that feedback is essential for evaluating their progress when asked there was no evidence from the interviews that a formal process was in place. (See Appendix B for the format of the semi structured interviews)

Both the Jesuits and the Spiritans have engaged with their members to gauge the impact of the allegations of abuse on them. While not directly impacted by the abuse suffered by survivors there are questions and feelings of guilt that they may have. Some question how they did not spot the abusive behaviour whilst others have wider existential questions regarding faith and beliefs. In considering the impact of the abuse and actions of their own members, both religious orders reported that they are extending the restorative process to those within the order.

In summary, the facilitated processes engage the survivor through a neutral trained facilitator who has experience of working with survivors of traumatic incidents or sexual abuse. The processes used by the orders are not all restorative in their nature, but are on a continuum ranging from fully engaged with restorative values to a limited engagement.

Pastoral Processes

The orders that do not use an external facilitator largely described their approach as pastoral, through the creation of a compassionate space in which to meet that can promote healing. The pastoral approach is favoured by these Orders as it is felt that open communication is the best route to healing. This was strongly upheld across all the religious orders using the pastoral approach but particularly by the Marist Brothers and The Irish Franciscan Order (OFM). Many orders, such as The Irish Franciscan Order (OFM) and The Irish Capuchin Franciscans would consider an externally facilitated process if requested by a survivor. The Dominican Order of Ireland expressed the view that the idea of redress has changed and has moved beyond solely compensation, and that survivors are seeking sincere apologies.

The pastoral meeting process is initiated when the survivor contacts the safeguarding officer. Although it must be noted that orders have very different experiences in terms of survivors choosing to engage with the order directly as opposed to pursuing criminal or civil justice processes. Some orders have parallel processes that can run while civil proceedings are underway. This includes The Irish Franciscan Order (OFM), The Dominican Order of Ireland, Irish Capuchin Franciscans and Carmelites. In such cases, while civil proceedings are ongoing, counselling support is still offered, and intermediary support is offered. For example, The Dominican Order of Ireland are open to engaging with the survivor in helping them understand a component of the process if they are approached to do so. Contact is made with the religious order usually through the safeguarding website or email, with particular time and attention given to building a level of trust through ongoing correspondence. The Marist Brothers' policy is also to engage fully with all survivors and to offer support and counselling, however their experience is that some survivors do not engage pastorally during civil processes. All of the religious orders acknowledged that it was important and necessary to allow the survivor to progress at their own pace. The overall level of contact by the religious orders is guided by the survivors' preferences. For example, The Irish Franciscan Order (OFM), The Irish Capuchin Franciscans and Carmelites maintain communication with survivors notifying them of the passing of the harmer and offering support.

An invitation to meet is generally offered in response to this initial contact. Preparatory meetings are held between the safeguarding officer and the survivor to explore the needs and wants of the survivor. Survivors have varying needs and wants; some may want to share their story, meet with the Provincial, or take legal action. There may also be other needs, or survivors may look for a combination of these. Taking the needs and wants into account demonstrates a commitment to empowering the survivor and promoting their agency. By respecting these choices and providing options for how the survivor wishes to proceed, the religious orders are building flexibility into the response and demonstrating a personalised and supportive approach to handling such sensitive issues. The needs of the survivors are consistent with those within facilitated mediation. Unique needs that have emerged in the pastoral meeting processes include:

- Funding for courses (for example in art, as a form of therapeutic response for dealing with abuse).
- Accompanied visits or ‘walk-throughs’ of the site of the abuse.
- Visiting the grave of the harmer.
- Facilitating family reunification and contact.

However, several orders referenced the changing nature of survivor needs over time and there may be a re-engagement with the survivor as needs change. Changing needs were identified as being linked to the healing process, which was acknowledged as being lengthy and, as a result, the response by the religious orders has to be responsive and flexible. For example, The Irish Franciscan Order (OFM) acknowledged the importance of availability to respond to or reengage with survivors when they approach at any time.

The pastoral meeting occurs in an agreed location. The survivors can bring a support person if they wish. In pastoral meetings, the religious orders’ safeguarding officers, who are professional safeguarding practitioners and not necessarily members of the congregation, play a larger role compared to the facilitated mediation, where there is an external facilitator. Their role, as described in the interviews, is to believe and support the survivor throughout the process. They are also tasked with facilitating the meeting. It is advocated by the religious orders that the meetings should be transparent. Equally as in facilitated mediation, in pastoral meetings there is respect for the survivor’s pace in sharing their story. The encounter is described by the religious orders as delicate, and great importance is placed in supporting the survivor and promoting their agency. Within the meeting, it is stated as key that the survivor is heard, believed, and they are informed about what supports are available, namely in the form of counselling through *Towards Healing*, or an alternative structure based on the survivor’s preference. Counselling may take

the form of therapeutic, spiritual, or psychotherapeutic, as was indicated by Dominican Order of Ireland. Admitting responsibility and being accountable was identified by the orders as pivotal in efforts of repairing the harm. The Provincial takes accountability on behalf of the order and demonstrates a willingness to accept responsibility for past abuses. It is standard that the Provincial offers an apology to promote healing. Further to this the survivor may have questions they want answered to which the Provincial responds.

Assessing the Processes in Terms of Restorative Values

Based on the interviews, it has been identified that there are two distinct approaches adopted by the religious orders in response to allegations of historical sexual abuse. In this next section, we will examine how restorative the two approaches to historical sexual abuse are and discuss any commonalities and divergence.

Commonalities

There were a range of commonalities across the approaches, and it was evident that all the orders taking part in this study have a stated aim of providing a means of reconciliation that was survivor-centred and responsive to their needs. What is of note is that the standards are reflected in both processes, but it appears from the interviews that advocates of each process have come from different directions in adopting them. Whilst it can be argued that restorative values and standards are not unique and reflect a humanistic attitude to conflict resolution, it is interesting to note that there is convergence between the pastoral approach and the facilitated approach. The commonality of the standards was expressed in the language used by advocates of the differing approaches in interview with those using a facilitated approach describing the approach as restorative while the pastoral process was described as humanistic, human rights based and reflecting Christian/Catholic values.

Both approaches recognise that there is a power imbalance between the survivor and the harmer (represented by the religious order) which has to be addressed. It is unlikely that this power imbalance can ever be reduced to extent that both parties are equal in the process. This is mainly due to the symbolic power that the Catholic Church holds in Ireland and stems from deeply embedded historical cultural and social values of the Catholic Church¹¹¹, However, both approaches are aimed at reducing the power gap through empowering and promoting agency in the survivor.

111 Tony Bennett, 'The Historical Universal: The Role of Cultural Value in the Historical Sociology of Pierre Bourdieu' (2005) 56 *The British Journal of Sociology* 141. Tony Fahey, 'The Catholic Church and Social Policy' (1998) 49 *The Furrow* 202; Tom Inglis, 'Catholic Identity in Contemporary Ireland: Belief and Belonging to Tradition¹' (2007) 22 *Journal of Contemporary Religion* 205.

In terms of operationalising the approaches both follow a set procedure. Following a structured procedure in handling historical sexual abuse offers advantages. It ensures consistency, fairness, and transparency in addressing cases. It also has a role in supporting the prevention of future abuse, guides clergy and staff, and promotes healing and restoration for affected parties. Importantly, it preserves the institution's integrity, fostering trust and credibility within the community; an aspect that is very important considering the context.¹¹²

Divergence

The key area of divergence in the two approaches is that the facilitated approach is conducted by independent and neutral facilitators, trained in working with survivors of abuse and trauma, while the pastoral approach relies on staff and clergy connected to the religious order. The pastoral approach may be facilitated by professional safeguarding practitioners from the safeguarding offices of the orders. While their training and expertise is extremely valuable, independence and neutrality are important aspects of restorative justice approach.

In Chapter 3, there was a discussion of how other inquiries into abuse had engaged with survivors and these highlighted the importance of collaboration and co-production in the responses to abuse. Achieving this requires engagement with the survivors on an ongoing basis and having their input on all stages of the process. Some orders interviewed had set out to do this and were still in contact with survivor representative groups, where they exist. Engaging with survivors provides opportunity for meaningful engagement and deeper understanding of the enablers and barriers that face survivors in discussing and reconciling the trauma of historical sexual abuse.

Assessing the approach in terms of restorative justice

By examining the commonalities and divergence in the two identified approaches it has been possible to further categorise them into aligning with restorative justice approaches or partially aligning with restorative justice approaches. Other jurisdictions have used restorative justice approaches to address issues of historical and other abuse to some degree of success. Using the restorative approach can facilitate healing on an individual and community level, produce a response that is collaborative and co-produced and build trust between participants. However, this is not to dismiss the pastoral approach adopted by the religious orders as it

112 Mary Raftery and Eoin O'Sullivan, *Suffer the Little Children: The Inside Story of Ireland's Industrial Schools* (New Island Books 1999); Bruce Arnold, *The Irish Gulag: How the State Betrayed Its Innocent Children* (Gill & Macmillan 2009).

encompasses the majority of the standards identified in Chapter 2. Trust and relationship building are clearly important to the process as is the empowerment and agency of the survivor in this approach. By the process remaining internal to the religious order there is a lack of external, impartial approach, core to restorative justice. The values demonstrated in the processes followed by the religious orders interviewed were consistent and largely in line with restorative values. However, this is not to say both approaches could be described as restorative justice approaches as encapsulated the restorative standards identified in Chapter 2 of this report.

There are clear deviations from the definition in Chapter 1 and the standards outlined in Chapter 2. We defined restorative justice in the first part of this report.

“Restorative justice refers to any process which enables those harmed by crime, and those responsible for that harm, if they freely consent, to participate actively in the resolution of matters arising from the offence, through the help of a trained and impartial third party.”¹¹³

While parts of their approach may be restorative, we find that key elements are missing from the pastoral approaches outlined by the orders to be wholly aligned with a restorative justice approach, such as not always using external facilitators, and not always having the sustained, ongoing engagement with survivors in designing the process. Many of the orders noted that they would offer external facilitation if it was requested by a survivor.

Noting the discussions in Chapters 1 and 2, the facilitated approach taken by the Spiritans and the Jesuits can be described as a restorative justice approach and would align with restorative conferencing and survivor-harmer mediation. Other orders have used independent mediation when it was requested but have primarily engaged in a pastoral approach. This hybrid approach has an aspect of restorative justice. However, the pastoral process could not be described as wholly in line with restorative justice as it does not use external facilitation.

113 Council of Europe, *Recommendation CM/Rec(2018)8 of the Committee of Ministers to member States concerning restorative justice in criminal matters* (2018).

Conclusion

This chapter has examined the restorative process elements of the reparative efforts of ten religious orders in Ireland to address historical sexual abuse, focusing on survivor-centred approaches and adherence to best practice principles. Two primary engagement strategies are identified: facilitated approach and pastoral approach. A facilitated approach involving external facilitators and a pastoral approach led by professional safeguarding practitioners working within the orders. Both methods aim to promote healing and reparation. In examining these approaches, the chapter highlights their structured approach and survivor-centred nature, reflecting many of the standards explored in earlier chapters.

5. Conclusions and Recommendations

Findings in relation to the responses to historical abuse

All the religious orders interviewed have engaged in reflecting on their approach to survivors, which has led to an acknowledgement that there are areas for improvement and development. This transparency reflects a commitment to address these issues. All the orders have child protection policies, safeguarding statements and carry out training in recognising and reporting abuse. This is in line with the Children First Act 2015 and the associated guidelines.¹¹⁴ At a systemic level, the Catholic Church has established the 'National Board for Safeguarding Children in the Catholic Church in Ireland' to provide advice, training, and resources to support the orders. Some of the orders have employed safeguarding officers to coordinate responses to historical sexual abuse and ensure that best practice is followed in policy and practice. Of the orders interviewed, seven had a safeguarding officer who was not a member of the congregation.

As a corollary of the activities above, there is now more formal and informal contact between the orders interviewed in relation to the challenges and responses to historical sexual abuse. There was recognition from the orders that there was more to do in relation to working with survivors in the interviews conducted with the orders. Many of the orders indicated that the pastoral process developed out of responses to individual requests from survivors, and it was described as a safe, compassionate space for survivors. They could perhaps benefit from exploring other approaches. Four of the orders had engaged external processes that were facilitated by neutral facilitators. As noted above, these are not all based fully on restorative justice values but are on a continuum of values. As noted in the description of the processes used by the orders, one approach in particular involves the use of psychological or psychiatric assessments to help assess how much compensation a survivor receives.

On balance, it is clear that the religious orders interviewed for this report have moved towards a survivor-centred approach.

114 Tusla Child and Family Agency 'Children First Guidance and Legislation'
<https://www.tusla.ie/children-first/children-first-guidance-and-legislation/>

Areas for Future Improvement and Development

There are still areas that can be improved or developed, across all organisations who engage with survivors on this issue.

Scale of survivors and preparedness

Similar to other types of abuse, it is unclear how many survivors of historical sexual abuse are in the community and have not come forward. Raising awareness of historical sexual abuse could, bring forward many more survivors. As such, an adequate response should be established.

Generating awareness of alternative processes

It was considered important to raise public awareness of redress pathways that do not include civil/criminal processes and promote direct approaches that centre on healing and reparation.

Developing pathways to reconciliation that overcome the stigma of abuse, as well as the procedural issues around lack of awareness and being believed, are crucial to allow survivors to come forward.

Awareness-raising efforts

Several religious orders highlighted the role of awareness-raising and education in helping people (particularly those in the order) recognise and understand past harm and respond to it. The impact of this harm was echoed by those within the orders the Spiritans, the Dominican Order of Ireland, and the Jesuits. All of the orders all expressed empathy with survivors. As such, the restorative approach was seen as being a way to address the harm caused in the wider community.

Promoting healing and future transformation

All the religious orders signalled their commitment to implementing the learning from past to ensure a safer environment. Being proactive in reducing the potential for abuse by focusing on implementation of safeguarding policies and procedures will foster safer environments.

Formal evaluation of processes

A formal evaluation of how well the approaches were working should be co-designed with survivors. The report team found a limited amount of research evaluating processes that focused on the experiences of survivors. Similarly, it would be useful to have formal evaluations of the survivors' experiences from the international use cases outlined in Chapter 3.

Challenges in addressing cases of deceased responsible persons

A fundamental component of restorative justice is the meeting of the survivor and the harmer. As can be the case with historical sexual abuse, and as discussed in Chapter 1, the harmer is often deceased. This presents a challenge to delivering restorative justice by strict definition. In addressing this issue, the Jesuits uphold that truth and reconciliation are the key takeaway principles in their restorative approach, while the Spiritans termed their adaptation to this fact as being a 'hybrid form of restorative justice'. If the harmer is dead, then the Provincial is assigned responsibility and accountability for the harm and abuse suffered.

Accountability in a restorative process can be complex and layered. In some cases, the harmer may be directly involved, in other cases the harmer is represented by others.

The criminal/civil justice system

Many survivors have chosen to engage in civil/criminal justice processes. Some orders do engage with the survivor but there may be complexity between the legal and restorative processes. There may be a need for the Council of Europe Recommendations on Restorative Justice and its relationship to civil or criminal proceedings to be addressed and operationalised.

Interconnectivity with other orders for purpose of learning

Learning is facilitated by the informal connections between safeguarding officers within the same order and outside of the order. In this way, safeguarding officers have valuable knowledge that they may share at training opportunities and meetings between safeguarding officers/Designated Liaison Person (DLP).

The National Board for Safeguarding Children in the Catholic Church in Ireland

The National Board is highlighted by all orders as having considerable influence for safeguarding children in the Catholic Church. They provide the primary policy and procedures surrounding safeguarding.

Forums for survivors to engage in peer support

One of the key issues in the SJORI Inquiry described in Chapter 3 was that when the work ended, survivors wished to continue meeting and sharing their experiences. There was no mechanism in place to facilitate this and therefore the transition was challenging. The use of peer support groups may provide safe spaces for survivors to share their experiences. This could be an area for consideration for the processes developing in Ireland.

Importance of skilled, independent facilitation

The role of an impartial, trained third party is core to restorative justice, and included in the definition from the Council of Europe Recommendations.¹¹⁵ Burns and Sinko emphasize that skilled facilitators create a safe and productive environment for dialogue.¹¹⁶ One in Four flag that facilitators must also have an understanding of the complexity of sexual abuse as well as restorative justice approaches. The crucial role of skilled facilitators was also flagged in the discussion around potential revictimization. In Chapter 3 we looked at the limitations around the use of restorative justice approaches in cases of sexual violence, which particularly flagged power imbalances as a significant factor. Having independent facilitators assists in addressing the imbalance of power, giving survivors a more equal footing.

Collaboration and co-design

Allowing those harmed to participate actively in the resolution is another core part of Restorative Justice. Many of the orders mentioned that their approaches emerged from the requests and needs of individual survivors. There is the potential for a more systematic engagement with survivor groups in the design and structure of these processes.

115 Council of Europe, *Recommendation CM/Rec(2018)8 of the Committee of Ministers to member States concerning restorative justice in criminal matters* (2018).

116 Courtney Julia Burns and Laura Sinko, 'Restorative Justice for Survivors of Sexual Violence Experienced in Adulthood: A Scoping Review' (2023) 24 *Trauma, Violence, & Abuse* 340.

Known unknowns

There are several gaps in our knowledge that make it difficult to see the full feasibility of taking a restorative justice approach for historical sexual abuse.

These include:

- Scale of the abuse and number of survivors.
- Whether there are enough skilled restorative justice practitioners available with appropriate training to work with historical sexual abuse survivors.
- Costs and cost effectiveness of a restorative justice approach.
- Time required to prepare each survivor for engaging with the restorative justice process.
- Evaluations of restorative inquiries covered in this report in Chapter 3, and the satisfaction and impact on the survivors who took part in them.
- Evaluation of experience of survivors who took part in restorative responses in Ireland.
- The relationship between restorative justice practices and criminal justice procedures. While included in the Council of Europe Recommendations on Restorative Justice, this has yet to be operationalised.

Recommendations

Detailed feasibility study

Conducting a feasibility study would be fundamental when deciding on an approach to addressing the issues of historical sexual abuse in Ireland. Given the complex and sensitive nature of the issue, a feasibility study would allow for a comprehensive assessment of the practicality, viability, and potential impact of different approaches, ensuring that resources are allocated effectively, and interventions are tailored to the specific needs of survivors and the community. Engaging with survivors would be paramount in this process and their insights, experiences, and perspectives would be instrumental in shaping the approach and ensuring that it is survivor-centered and trauma-informed. The steps required for a feasibility study would include conducting a thorough review of existing literature and best practices, identifying key stakeholders, assessing available resources, evaluating potential risks and challenges, and developing a detailed plan for engaging with survivors in a respectful and empowering manner. Additionally, establishing clear communication channels and mechanisms for feedback and input from survivors throughout the feasibility study is essential to ensure their voices are heard and their needs are prioritised in the decision-making process. The process of co-production and collaboration suggested here would shape the future form of any response. Considering the

evidence in this report from the establishment of other inquiries, it is recommended that the feasibility study be conducted in a restorative manner.

The service design, implementation phase and the scaling and sustainability of any centralised approach will take time. It should be conducted by implementation professionals with experience in the areas of Service Design and Implementation Science.

Implementation planning

Following the feasibility study and before any steps are taken to initiate the implementation of a response restorative justice approach to historical sexual abuse, it is recommended that a high-level implementation plan is produced.

Implementation is more likely to be successful if there is a structured plan in place to guide a new intervention. An implementation plan outlines valuable information required to achieve desired outcomes, closing the gap between theory and practice. A plan will usually map the implementation of interventions across four stages:

1. Exploring and Preparing
2. Planning and Resourcing
3. Implementing and Operationalising
4. Full Implementation

An implementation plan details the objectives of the initiative, outlines necessary tasks and activities, lays out who is responsible for delivering activities, and sets out time frames and milestones. It can also outline governance and accountability structures, articulate the inputs, outputs, and outcomes of the implementation process, consider risk and risk management strategies, and identify monitoring and reporting processes. An implementation plan is a flexible, living document and as such it should be reviewed and updated throughout the stages of implementation to reflect changing contexts and circumstances. Initially, a high-level plan should be adopted from which more detailed planning can be completed. A high-level implementation plan contains broad, macro-level guidance for implementing the strategy framework. It provides a general overview of the implementation process and does not capture more specific details.

The implementation planning process would identify the resources required to implement a response, the operation of the response, how the response would link with other aspects of the process especially where it would fit with existing policy, procedures and practice within the legal system.

A centralised response

We recommend a coordinated or collective restorative response to any survivors and their families, relatives or anyone impacted by the experience of the survivor.

As a result of the above this report recommends that the feasibility of using coordinated restorative justice as an approach should be explored further. Some practical aspects highlighted in Chapter 3 should be considered:

1. The process should adopt restorative values from the outset and survivor groups should be established to provide guidance and allow the voice of the survivor to be heard.
2. Following the models used in the Saint Joseph's and Nova Scotia inquiries those delivering the response should work and model restorative values, approaches, and processes in all aspects.
3. Leadership from the state at the highest level is required to ensure the success of any response. It may be the case that legislation is required to ensure engagement by all stakeholders although this does not necessarily mean that stakeholders would have to take part in any restorative process. Again, the inquiry approach adopted by the Nova Scotia inquiry is recommended and a group similar to the Council of Parties would fulfil this requirement.

Responses to historical sexual abuse are still evolving in Ireland and it should be noted that any response should be established with reference to the cultural and contextual factors that exist in Ireland. Hopefully this report contributes to understanding that context.

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Appendices

Appendix A: Members of the Design Team in The Nova Scotia Home for Colored Children Restorative Inquiry

Stakeholders by function

Legal Expert/Former Resident Counsel

African Nova Scotian Community Member

Nova Scotia Government

Member former Board NSHCC/AUBA

Restorative Process/Facilitation Expert

Former Resident NSHCC

African Nova Scotian Community/Legal Expert

Chief Judge Nova Scotia Provincial Court

Deputy Minister of Justice

Deputy Minister of Health and Wellness (including Senior Leadership of the Nova Scotia Health Authority and the IWK Health Centre)

Deputy Minister of Community Services

Deputy Minister of Education and Early Childhood Development

Deputy Minister of Labour and Advanced Education

Deputy Minister of Communities, Culture and Heritage

Appendix B: Semi structured interview format

Interviews with Religious Orders for the Purpose of Scoping Inquiry into Historical Sexual Abuse in Day and Boarding Schools run by Religious Orders

Please find below the topic areas that we will be discussing through the interview. For these interviews we are using a semi-structured approach. Semi-structured research interviews are a versatile and widely used qualitative research method that strikes a balance between structured and unstructured approaches. In these interviews, researchers develop a set of open-ended questions or topics to guide the conversation while allowing flexibility for in-depth exploration. Researchers can adapt their questions in real-time, probing deeper into responses and following unanticipated leads. Therefore, the questions you see below are for opening a topic area and other questions could follow.

1. **Introduction**
 - (a) Could you all please briefly introduce yourself and the religious order you are representing?

2. **Approaches, Policy, and Procedures to Responding to Historical Abuse**
 - (a) Could you provide me with information about the policies and procedures your organisation has in place for addressing historical child abuse cases?

3. **Support for Survivors**
 - (a) What is the typical path of the victim of engaging process? Can you provide any examples?

4. **Evaluations/Outcomes of the process**
 - (a) *What do you think those involved in the process take or get from the process?*

5. **Is there anything else you would like to add before we finish up?**

Appendix C: Information Sheet for interviews

Restorative Justice Approaches to Historical Sexual Abuse in Schools run by Religious Orders

Information sheet and consent form

Introduction

The Centre for Effective Services (CES) has been commissioned by the Department of Education (DoE) as part of the 'Scoping Inquiry into Historical Sexual Abuse in Day and Boarding Schools run by Religious Orders', to compile a report on restorative justice. The goal of this report is to get a sense of what is currently being done within religious orders to address historical sexual abuse. We are particularly interested in any restorative approaches and processes, but also in any other approaches taken. This will help to provide the Department with an evidence base that will shape Government's response to revelations of historical sexual abuse in schools run by religious orders.

Understanding more about current policies, programmes, and processes of addressing this harm is an important part of this report, and we are eager to gather insight from within the religious orders. Therefore, we are running a series of interviews with relevant people from/representing a number of religious orders to learn more about their response to historical sexual abuse in more depth.

Why have I been invited to take part?

You have been invited to take part because you are a Designated Liaison Person (DLP), a member of staff, or have been assigned a role that is primarily concerned with and responsible for the safeguarding of children, within a relevant religious order.

Do I have to take part? Can I change my mind later?

Taking part is completely voluntary.

If you choose to take part, you can change your mind at any point in the study, even after you participated in an interview, up until the final report is written. You don't have to give a reason for withdrawing.

About the Interview

The interviews will be one-on-one interviews with a member of the CES research team. The interviews will last approximately 30-45 minutes.

The interviews will be semi-structured, meaning there are some aspects we are keen to focus on and learn more about, but it's ok if we veer a little outside of that.

The main areas of focus include,

1. Approaches, Policy, and Procedures to Responding to Historical Abuse
2. Support for Survivors
3. Evaluations/Outcomes of the process

With your consent, the interview will be recorded for the purpose of analysis. This recording along with any other identifying personal information will be destroyed once the final report has been complete.

What will happen with the information and personal data I provide?

The information you provide is **strictly confidential** and will only be accessible by members of the CES research team. We will only collect personal data that is necessary and relevant to this report. We can guarantee **personal anonymity**, but for the purpose of the report, religious orders may be identified in any the reports, and any presentations or publications arising from this report.

The information you provide will be compiled alongside data collected from other religious orders in order to examine the approaches to address historical sexual abuse and the outcomes of these approaches. These findings will be analysed and written up into a report for DoE.

Under the General Data Protection Regulations (GDPR), you have certain rights as a data subject. These include: the right to have information about you deleted and the right to be fully informed of what's happening to your data. If at any stage you want to exercise one of your rights, just contact the research team. You can read your rights in full on the GDPR website, here: <https://gdpr-info.eu/chapter-3/>

About CES

The Centre for Effective Services is a not-for-profit organisation that works with government departments and service providers to design, develop, implement, and evaluate public policies and services.

Who should I contact for further information on this study?

Contact details.

Consent Form

If you are happy to participate, please access and sign the consent form below:

Appendix D: Consent form

The consent forms for the interviews were administered through Microsoft forms. This is the text from that form.

CES-Religious Orders Interviews for the Purpose of Scoping Inquiry

Interviews with Religious Orders

As part of CES' work for the 'Scoping Inquiry into Historical Sexual Abuse in Day and Boarding Schools run by Religious Orders', we ask kindly that you include your details, indicate that you have read and understood the information provided about this report, and consent to being interviewed by clicking 'yes' at the bottom of this form.

Personal Details

1. Full name
2. Email address
3. Name of Religious Order

Consent information

4. I understand that my role in this interview will be to share about the approaches/policies/procedures that are being taken to address historical sexual abuse within the religious order that I am speaking on behalf of.
5. I understand that the data gathered from this interview will be used in a report, commissioned by the Department of Education, as part of the Scoping Inquiry into Historical Sexual Abuse in Day and Boarding Schools run by Religious Orders.
6. I understand that there is no obligation for me to participate in this interview, and that my participation is entirely voluntary.
7. I understand that I may stop the interview, at any time, for any reason.
8. I understand that this recording will be stored securely, kept private, and only accessed by the members of the research team from CES, for the purpose of analysis.
9. I understand that this recording, along with all accompanying personal data, will be destroyed after the research has been completed.

10. I understand that I can withdraw my data, by contacting the research team, at any point, until the production of the final report.
11. I understand that I will NOT be named personally, but the religious order/institute that I am affiliated with may be named in any report, publication or presentation that is produced from this research.
12. By ticking this box, I agree to take part in an interview under the above conditions

This report should be cited as follows

Bray, A., Scott, J., O’Connell, O., and Brophy, M. (2024). *Research Report on Restorative Justice and Other Initiatives Implemented by Religious Orders in Response to Reports of Historical Sexual Abuse*. Dublin: Centre for Effective Services.

Produced by Centre for Effective Services, 2024.

27 Fitzwilliam Street Upper, Dublin 2, D02 TP23

www.effectiveservices.org

Appendix 6:

Meaning of Terms Used by the Scoping Inquiry

The Scoping Inquiry is applying the following working definitions and meanings in going about its work pursuant to its Terms of Reference. These may change or develop over time as the Scoping Inquiry progresses, and more insight is gained as to the extent of issues arising under the Terms of Reference. Where necessary, the Scoping Inquiry will advise you of any material change to the working definitions and meanings of the terms set out below:

Day or Boarding Schools Run by a Religious Order

This term refers to a day or boarding school in the Republic of Ireland (excluding industrial or reformatory schools), whether a primary or a secondary school, run by a Religious Order at the time the abuse was alleged to have taken place.

Run by a Religious Order

This term includes circumstances where the Religious Order concerned currently or previously ran a school or schools, whether day or boarding, where it is alleged abuse occurred.

Religious Order

A Religious Order includes a religious order, congregation, or missionary society.

Member of a Religious Order

For the purpose of the Scoping Inquiry, this includes any member of a Religious Order, past or present, or deceased, or “on loan to” another Religious Order or Diocese.

Member of the Clergy or Cleric

For the purpose of the Scoping Inquiry this includes any ordained individual, past or present, or deceased, other than a member of the Religious Order running the school in question. It can include, for example, a diocesan priest or a member of another Religious Order associated with the school.

Historic Sexual Abuse

This term concerns sexual abuse that is not recent, occurring when the individual was a pupil in a day or boarding school and reported when the individual concerned was a child or an adult.

Sexual Abuse

Sexual abuse refers to the use of a Pupil, by an alleged abuser associated with the school, for the sexual arousal or sexual gratification of the alleged abuser or another person. For the purposes of the Scoping Inquiry sexual abuse includes grooming.

Grooming

This term refers to the process by which a Pupil is befriended by a would-be abuser in an attempt to gain their confidence and trust, enabling them to get the Pupil to acquiesce to abusive activity.

Pupil/Complainant

For the purposes of the Scoping Inquiry, the complainant was a pupil at a school run by a Religious Order at the time the alleged historic sexual abuse took place and the alleged abuser was associated with the school. Allegations made by pupils who were 18 years or over when the alleged sexual abuse occurred are included, provided the complainant was attending the school as a pupil at that time and the alleged abuser was associated with the school.

Persons against whom allegations are made – Alleged Abusers

For the purposes of the Scoping Inquiry the category of Alleged Abusers includes persons who had a relationship with the pupil concerned by virtue of that person's position in the school where the alleged victim was a pupil. This may include:

- a lay person,
- a member of a Religious Order, or
- a cleric or member of Clergy
- other pupils of the school

where the alleged abuser was associated with the school.

Associated with the School

To properly consider historic sexual abuse in schools, the Scoping Inquiry will include incidents of alleged sexual abuse by alleged abusers (including a would-be abuser in the context of grooming) who were associated with a relevant school. Such persons include other pupils of the school, teachers, employees, and persons who regularly attended or frequented the school. It includes people external to the school, such as doctors and other professionals, casual employees, a cleric who may have been “on loan” from a Diocese or another Religious Order, a lay or clerical volunteer, and/or a lay or clerical person who was remunerated. The purposes for which the alleged abuser attended at the school includes carrying out activities such as taking pupils for outings or holidays, coaching, teaching, mentoring, providing training, extracurricular activities, supervision, or counselling to pupils or similar.

Alleged abusers, who lived in or near the school in accommodation provided by the school, which allowed them access to the pupils, whether or not the person occupied a formal position in the school Scoping Inquiry into Historical Sexual Abuse in Schools Run By Religious Orders or carried out activities on behalf of the school, also fall into the category of persons associated with a school.

Sexual Abuse in Day or Boarding Schools

Sexual abuse alleged to have occurred in any of the following circumstances is included within the meaning of sexual abuse in a day or boarding school for the purpose of the Scoping Inquiry:

- In the school premises or on the school's grounds or campus.
- At off-campus facilities used or owned by the school – for example, swimming pools, sports grounds, outbuildings or similar.
- Where the alleged sexual abuse takes place away from the environs of the school or its facilities, following the grooming of the pupil in the school by an alleged abuser.
- Where sexual abuse takes place while the pupil concerned was attending at, assisting in, or carrying out activities or events associated with the school, such as sports events, activities, competitions, retreats, school trips or similar, regardless of the location of the alleged abuse.
- Any other activity or circumstance where the relationship between the alleged abuser and the pupil concerned arose from the complainant's position as a pupil in the school concerned and where the alleged abuser was associated with the school.

Appendix 7:

Religious Order Records Schools Table

The figures presented in the table below were supplied to the Scoping Inquiry by the religious orders in response to requests for a breakdown of numbers of allegations of abuse and number of abusers by schools. Not all orders supplied a school-by-school breakdown, and in some cases did not name the affected schools. These have been highlighted in the table below.

It is possible that some schools appear on this table more than once under different names, as schools sometimes were known by both an Irish and English name, or were known under different names locally. There may also be some instances where a primary and a secondary school have the same name, and so it may appear that the same school is listed twice.

In some cases, the number of allegations listed for a particular order below may be higher than the number given for that order's overall total in the main body of the report. This is because the number presented in the main body of the report is the overall total supplied by the order in its verification form to the Scoping Inquiry, in which orders have sought to eliminate duplication at the request of the Scoping Inquiry. The figures presented below giving a school by school breakdown are as we have received them. Any differences in the figures for allegations may be due to duplication where orders have gathered information from both their own records and those of individual schools. The number of alleged abusers on a school by school breakdown may be larger than the overall number of alleged abusers for any given religious order as individual alleged abusers may have been associated with more than one school, or due to possible duplication. It has not been possible to cross-check or verify all figures and it should be noted that the Scoping Inquiry is not making findings of fact but setting out the information provided.

Religious Order	School	Total Number of Allegations	Total Number of Alleged Abusers
Augustinians	St. Augustine's College, Town Centre, Dungarvan, Waterford (Post-Primary)	2	2
Augustinians	Good Counsel College, New Ross, Co Wexford (Post- Primary)	1	1
Benedictine Nuns	Scoil Aine, Kylemore Abbey, Galway (Post-Primary)	2	2
Benedictines	Glenstal Abbey School, Murroe, Limerick (Post- Primary)	6	4
Carmelite Fathers (Ocarm)	Terenure College, Templeogue Road, Dublin 6 (Primary and Post-Primary)	89	11
Carmelite Fathers (Ocarm)	Carmelite College, Moate, Westmeath (Post-Primary)	11	3
Christian Brothers	Creagh Lane CBS amalgamated with St. Senan's CBS, Limerick (Primary)	55	5
Christian Brothers	Sexton Street CBS, Limerick (Primary)	51	7
Christian Brothers	Scoil Cholim CBS, Crumlin, Dublin (Primary)	49	23
Christian Brothers	Scoil Mhuire, Marino, Dublin (Primary)	37	15
Christian Brothers	Tralee CBS, Kerry (Primary)	27	6
Christian Brothers	Westland Row/ Baggot St CBS, Dublin (Primary)	24	11
Christian Brothers	Scoil Lorcaín CBS, St. John's Park, Waterford (Primary)	20	1
Christian Brothers	North Monastery CBS, Cork (Secondary)	19	10
Christian Brothers	Brunswick Street CBS, Dublin (Primary)	18	15
Christian Brothers	Drimnagh Castle CBS, Dublin (Primary)	18	6
Christian Brothers	Synge Street CBS, Dublin (Primary)	17	6
Christian Brothers	Waterpark College CBS, Waterford (Secondary)	17	5
Christian Brothers	Kilkenny CBS, Kilkenny (Primary)	17	4
Christian Brothers	James's Street CBS, Dublin (Primary)	16	7
Christian Brothers	Blarney Street CBS, Cork (Primary)	16	5
Christian Brothers	Drimnagh Castle CBS, Dublin (Secondary)	14	6
Christian Brothers	St. Joseph's CBS, Drogheda, Louth (Primary)	14	6
Christian Brothers	Mullingar CBS, Westmeath (Primary)	14	2
Christian Brothers	St. David's CBS, Artane, Dublin (Primary)	12	7

Religious Order	School	Total Number of Allegations	Total Number of Alleged Abusers
Christian Brothers	Synge Street CBS, Dublin (Secondary)	11	6
Christian Brothers	St. Vincent's CBS, Glasnevin, Dublin (Primary)	11	4
Christian Brothers	Colaiste Ignaid Ris, Carriglea Park, Dun Laoghaire, Dublin (Secondary Boarding)	10	7
Christian Brothers	Monkstown CBC Junior, Dublin (Primary)	10	7
Christian Brothers	Nenagh CBS, Tipperary (Primary)	10	6
Christian Brothers	Naas CBS, Kildare (Primary)	10	4
Christian Brothers	St. Canice's CBS, North Circular Road, Dublin (Primary)	9	6
Christian Brothers	Dundalk CBS, Louth (Primary)	9	5
Christian Brothers	Midleton CBS, Cork (Primary)	9	4
Christian Brothers	Tuam CBS, Galway (Primary)	9	4
Christian Brothers	Wexford CBS, Wexford (Primary)	9	4
Christian Brothers	North Monastery CBS, Cork (Primary)	8	5
Christian Brothers	Scoil Iosagain CBS, Aughavanagh Road, Dublin (Primary)	8	5
Christian Brothers	Gaeltact (Primary)	8	4
Christian Brothers	O'Connell Schools CBS, Dublin (Primary)	7	5
Christian Brothers	Youghal CBS, Cork (Primary)	7	4
Christian Brothers	Colaiste Phadraig CBS, Lucan, Dublin (Secondary)	7	2
Christian Brothers	Monkstown CBC, Dublin (Secondary)	6	6
Christian Brothers	Caherciveen CBS, Kerry (Primary)	6	5
Christian Brothers	St. Joseph's Baldoyle, Dublin (Secondary Boarding)	6	5
Christian Brothers	Colaiste Mhuire, Cearnog Pharnell, Dublin (Secondary)	6	4
Christian Brothers	Eblana Avenue CBS, Dun Laoghaire, Dublin (Primary)	6	4
Christian Brothers	Scoil Treasa CBS, Donore Avenue, Dublin (Primary)	6	4
Christian Brothers	Oatlands CBS, Mount Merrion, Dublin (Primary)	6	3
Christian Brothers	O'Connell Schools CBS, Dublin (Secondary)	6	3

Religious Order	School	Total Number of Allegations	Total Number of Alleged Abusers
Christian Brothers	St. Munchin's CBS, Hassett's Cross, Limerick (Primary)	5	5
Christian Brothers	Mount Sion CBS, Waterford (Primary)	5	4
Christian Brothers	Sullivan's Quay CBS, Cork (Primary)	5	3
Christian Brothers	Francis Street CBS, Dublin (Primary)	5	3
Christian Brothers	St. Fintan's CBS Junior, Dublin (Primary)	5	3
Christian Brothers	St. Joeseeph's CBS, Fairview, Dublin (Secondary)	5	3
Christian Brothers	Enniscorthy CBS, Wexford (Primary)	5	2
Christian Brothers	St. Kieran's CBS, Galvone, Limerick (Primary)	5	1
Christian Brothers	Gorey CBS, Wexford (Primary)	5	1
Christian Brothers	Scoil Chiarain CBS, Donnellycarney, Dublin (Primary)	4	4
Christian Brothers	St. Mary's CBS, Clonmel, Tipperary (Primary)	4	4
Christian Brothers	Dundalk CBS, Louth (Secondary)	4	3
Christian Brothers	James's Street CBS, Dublin (Secondary)	4	3
Christian Brothers	St. John the Baptist CBS, Limerick (Primary)	4	3
Christian Brothers	Mitchelstown CBS, Cork (Primary)	4	2
Christian Brothers	Colaiste Chaoimhin CBS, Parnell Road, Dublin (Secondary)	4	2
Christian Brothers	Callan CBS, Kilkenny (Primary)	4	2
Christian Brothers	St. Mary's CBS, Drogheda, Louth (Secondary)	4	2
Christian Brothers	Thurles CBS, Tipperary (Secondary)	4	2
Christian Brothers	Ardscoil Ris, North Circular Road, Limerick (Secondary)	3	3
Christian Brothers	Athy CBS, Kildare (Primary)	3	3
Christian Brothers	Carrick-on-Suir CBS, Tipperary (Primary)	3	3
Christian Brothers	Christian Brothers College, Cork (Secondary)	3	3
Christian Brothers	St. Declan's CBS, Cabra, Dublin (Secondary)	3	3
Christian Brothers	Thurles CBS, Tipperary (Primary)	3	3
Christian Brothers	Carlow CBS, Carlow (Primary)	3	2

Religious Order	School	Total Number of Allegations	Total Number of Alleged Abusers
Christian Brothers	Doneraile CBS, Cork (Primary)	3	2
Christian Brothers	St. Joseph's CBS, Fairview, Dublin (Primary)	3	2
Christian Brothers	Strand Street CBS, Dublin (Primary)	3	2
Christian Brothers	Ballinrobe CBS, Mayo (Secondary)	3	2
Christian Brothers	Wexford CBS, Wexford (Secondary)	3	2
Christian Brothers	Abbey CBS, Tipperary Town, Tipperary (Primary)	3	1
Christian Brothers	Plas Mhuire CBS, Dorset Street, Dublin (Primary)	2	3
Christian Brothers	Ballygall Road CBS, Dublin (Secondary)	2	2
Christian Brothers	Callan CBS, Kilkenny (Secondary)	2	2
Christian Brothers	Charleville CBS, Cork (Primary)	2	2
Christian Brothers	Clonkeen College, Dublin (Secondary)	2	2
Christian Brothers	Colaiste Chiarain, Bray, Wicklow (Secondary Boarding)	2	2
Christian Brothers	Dorset Street CBS, Dublin	2	2
Christian Brothers	Drogheda CBS, Louth (Primary)	2	2
Christian Brothers	Ennis CBS, Clare (Primary)	2	2
Christian Brothers	Enniscorthy CBS, Wexford (Secondary)	2	2
Christian Brothers	Kilkenny CBS, Kilkenny (Secondary)	2	2
Christian Brothers	Kells CBS, Meath (Primary)	2	2
Christian Brothers	Kilrush CBS, Clare (Primary)	2	2
Christian Brothers	Mount Sion CBS, Waterford (Secondary)	2	2
Christian Brothers	Oatlands CBS, Mount Merrion, Dublin (Secondary)	2	2
Christian Brothers	St. Laurence O'Toole, Dublin (Primary)	2	2
Christian Brothers	St. Michael's, Inchicore, Dublin (Primary)	2	2
Christian Brothers	St. Peter's & St. Paul's CBS, Clonmel Junior School, Tipperary (Primary)	2	2
Christian Brothers	St. Vincent's CBS, Dublin (Secondary)	2	2
Christian Brothers	Tuam CBS, Galway (Secondary)	2	2
Christian Brothers	Ennistymon CBS, Clare (Secondary)	2	1
Christian Brothers	Sullivan's Quay/Deerpark CBS, Cork (Secondary)	2	1
Christian Brothers	Crumlin CBS, Dublin (Secondary)	2	1

Religious Order	School	Total Number of Allegations	Total Number of Alleged Abusers
Christian Brothers	Portarlington CBS, Laois (Primary)	2	1
Christian Brothers	Dungarvan CBS, Waterford (Primary)	2	1
Christian Brothers	Tramore CBS, Waterford (Primary)	2	1
Christian Brothers	Gorey CBS, Wexford (Secondary)	2	1
Christian Brothers	Ennistymon CBS, Clare (Primary)	1	1
Christian Brothers	An Mhainistir Thuaidh, Gaelcholaiste, Cork (Meanscoil)	1	1
Christian Brothers	Charleville CBS, Cork (Secondary)	1	1
Christian Brothers	Christian Brothers College Junior School, Cork (Primary)	1	1
Christian Brothers	Doneraile CBS, Cork (Secondary)	1	1
Christian Brothers	Fermoy CBS, Cork (Secondary)	1	1
Christian Brothers	Brunswick Street CBS, Dublin (Secondary)	1	1
Christian Brothers	Donore Avenue CBS, Dublin (Primary)	1	1
Christian Brothers	St. Aidan's CBS Whitehall, Dublin (Secondary)	1	1
Christian Brothers	St. Fintan's CBS, Dublin (Secondary)	1	1
Christian Brothers	Westland Row CBS, Dublin (Secondary)	1	1
Christian Brothers	Caherciveen CBS, Kerry (Secondary)	1	1
Christian Brothers	Tralee CBS, Kerry (Secondary)	1	1
Christian Brothers	Naas CBS, Kildare (Secondary)	1	1
Christian Brothers	Portlaoise CBS, Laois (Primary)	1	1
Christian Brothers	Portlaoise CBS, Laois (Secondary)	1	1
Christian Brothers	Adare CBS, Limerick (Primary)	1	1
Christian Brothers	Doon CBS, Limerick (Primary)	1	1
Christian Brothers	Sexton Street CBS, Sexton Street, Limerick (Secondary)	1	1
Christian Brothers	St. Joseph's CBS, Drogheda, Louth (Secondary)	1	1
Christian Brothers	Westport CBS, Mayo (Secondary)	1	1
Christian Brothers	Kells CBS, Meath (Secondary)	1	1
Christian Brothers	Gaeltact (Secondary)	1	1
Christian Brothers	Tullamore CBS, Offaly (Secondary)	1	1
Christian Brothers	Tullamore CBS Junior, Offaly (Primary)	1	1
Christian Brothers	Carrick-on-Suir CBS, Tipperary (Secondary)	1	1

Religious Order	School	Total Number of Allegations	Total Number of Alleged Abusers
Christian Brothers	Templemore CBS, Tipperary (Secondary)	1	1
Christian Brothers	Dungarvan CBS, Waterford (Secondary)	1	1
Christian Brothers	St. Brendan's CBS, Bray, Wicklow (Secondary)	1	1
Cistercians Mount Melleray	Mount Melleray College (Closed 1974), Waterford (Post-Primary)	3	5
Cistercians Mount St. Joseph	Cistercian College, Roscrea, Tipperary (Post-Primary)	2	2
Congregation of Dominican Sisters Cabra	St. Dominics Secondary School, Ballyfermot, Dublin 10	4	4
Congregation of Dominican Sisters Cabra	St. Gabriels Primary School, Ballyfermot, Dublin 10	1	1
Congregation of the Presentation Sisters	Colaiste Iosagain Secondary School, Portarlinton, Laois	3	3
Congregation of the Presentation Sisters	Presentation Secondary School, Ballingarry, Tipperary	2	2
Congregation of the Presentation Sisters	Our Lady Queen of Peace, Janesboro, Limerick (Primary)	2	1
Congregation of the Presentation Sisters	Presentation Primary School, Terenure, Dublin	2	1
Congregation of the Presentation Sisters	Presentation College, Askea, Carlow (Secondary)	1	1
Congregation of the Presentation Sisters	South Presentation Primary School, Cork	1	1
Congregation of the Presentation Sisters	North Presentation Primary School, Cork	1	1
Congregation of the Sisters of Mercy	* Total for all Congregation of the Sisters of Mercy schools, as breakdown per school not provided below	44	33
Congregation of the Sisters of Mercy	Unnamed School 1	*	*
Congregation of the Sisters of Mercy	Unnamed School 2	*	*
Congregation of the Sisters of Mercy	Unnamed School 3	*	*
Congregation of the Sisters of Mercy	Unnamed School 4	*	*
Congregation of the Sisters of Mercy	Unnamed School 5	*	*

Religious Order	School	Total Number of Allegations	Total Number of Alleged Abusers
Congregation of the Sisters of Mercy	Unnamed School 6	*	*
Congregation of the Sisters of Mercy	Unnamed School 7	*	*
Congregation of the Sisters of Mercy	Unnamed School 8	*	*
Congregation of the Sisters of Mercy	Unnamed School 9	*	*
Congregation of the Sisters of Mercy	Unnamed School 10	*	*
Congregation of the Sisters of Mercy	Unnamed School 11	*	*
Congregation of the Sisters of Mercy	Unnamed School 12	*	*
Congregation of the Sisters of Mercy	Unnamed School 13	*	*
Congregation of the Sisters of Mercy	Unnamed School 14	*	*
Congregation of the Sisters of Mercy	Unnamed School 15	*	*
Congregation of the Sisters of Mercy	Unnamed School 16	*	*
Congregation of the Sisters of Mercy	Unnamed School 17	*	*
Congregation of the Sisters of Mercy	Unnamed School 18	*	*
De La Salle Brothers	Mount La Salle. Ballyfermot NS	11	8
De La Salle Brothers	De La Salle NS Wicklow	9	4
De La Salle Brothers	De La Salle NS, Kilkenny	8	3
De La Salle Brothers	St. Declan's De La Salle NS, Waterford	6	3
De La Salle Brothers	Beneavin De La Salle College, Finglas (Secondary)	6	3
De La Salle Brothers	De La Salle NS, Cavan	5	2
De La Salle Brothers	St. Nicholas Monastery School, Dundalk NS	4	3
De La Salle Brothers	De La Salle College, Ballyshannon NS (Closed in 1973)	3	3
De La Salle Brothers	De La Salle NS, Churchtown	3	2
De La Salle Brothers	De La Salle BNS, Finglas East D11	3	1
De La Salle Brothers	De La Salle College, Dundalk (Secondary)	2	2

Religious Order	School	Total Number of Allegations	Total Number of Alleged Abusers
De La Salle Brothers	De La Salle NS, Hospital. Co Limerick	2	2
De La Salle Brothers	Ardcoil La Salle, Raheny (Secondary)	2	1
De La Salle Brothers	Benildus Kilmacud NS (Prep school for St. Benildus College, Kilmacud)	2	1
De La Salle Brothers	De La Salle NS, Manorhamilton	2	1
De La Salle Brothers	Scoil Mhuire NS, Navan	2	1
De La Salle Brothers	St. Stephen's De La Salle NS, Waterford	2	1
De La Salle Brothers	St.Gerard's De La Salle, Castlebar (Secondary)	1	1
De La Salle Brothers	St. Benildus College, Kilmacud (Secondary)	1	1
De La Salle Brothers	De La Salle, Ballaghderreen (Secondary)	1	1
De La Salle Brothers	De La Salle Ramsgrange NS	1	1
De La Salle Brothers	De La Salle Mallow (Secondary)	1	1
De La Salle Brothers	St. John's De La Salle Ballyfermot (Secondary)	1	1
De La Salle Brothers	De La Salle NS, Kildare	1	1
De La Salle Brothers	De La Salle College, Newtown, Waterford (Secondary)	1	1
De La Salle Brothers	De La Salle NS, Ardee	1	1
De La Salle Brothers	De La Salle BNS, Castlebar	1	1
De La Salle Brothers	De La Salle BNS, Macroom	1	1
De La Salle Brothers	St. Brendan's BNS, Loughrea	1	1
Discalced Carmelites	St. Therese College, Castlemartyr, Cork (Post- Primary)	2	2
Dominicans	Dominican College, Newbridge, Kildare (Post- Primary)	30	9
Franciscan Brothers (OSF)	St. Anthony's College, Clara, Offaly (Post-Primary)	11	7
Franciscan Province of Ireland (Franciscan Friars)	Franciscan College, Gormanston, Meath (Post- Primary)	19	2
Jesuits	Belvedere College, Dublin (Post-Primary)	64	11
Jesuits	Clongowes Wood College, Kildare (Post-Primary)	19	12
Jesuits	Belvedere Junior School (Closed 1999), Dublin (Primary)	15	3
Jesuits	Crescent Comprehensive (previously Sacred Heart College until 1969/70), Limerick (Post-Primary)	12	6

Religious Order	School	Total Number of Allegations	Total Number of Alleged Abusers
Jesuits	Mungret (Closed 1974), Limerick (Post-Primary)	6	3
Jesuits	Gonzaga College, Dublin (Post- Primary)	5	4
Jesuits	Colaiste Iognaid, Galway (Post- Primary)	3	1
Jesuits	Scoil Iognaid, Galway (Primary)	2	2
Legionaries of Christ	Dublin Oak Academy (Post- Primary)	2	2
Legionaries of Christ	Woodlands Academy (Post- Primary)	1	1
Loreto Sisters	Loreto Abbey, Rathfarnham, Dublin 14 (Post-Primary)	1	1
Marist Brothers	St. John's NS, Temple Street, Sligo	20	10
Marist Brothers	St. Paul's NS Castlerea, Roscommon	11	1
Marist Brothers	Scoil Mhuire Buachaillí NS, Westmeath	5	1
Marist Brothers	Marian College, Ballsbridge, Dublin 4 (Secondary)	2	2
Marist Brothers	Our Lady's Hermitage, Retreat Road, Athlone, Westmeath (Boarding)	1	1
Marist Brothers	Moyle Park College, Clondalkin, Dublin 22 (Secondary)	1	1
Marist Fathers	Catholic University School, 89 Lower Leeson Street, Dublin 2 (Post-Primary)	11	6
Marist Fathers	St. Mary's College, Dundalk, Louth (Post-Primary)	9	4
Marist Fathers	Chanel College, Coolock, Dublin 5 (Post-Primary)	1	1
Mill Hill Missionaries	St. Joseph's College, Freshford, Kilkenny (Post-Primary)	7	3
Missionaries of the Sacred Heart (MSC)	Colaiste an Chroí Naofa, College Road, Carrignavar, Cork (Post-Primary)	42	4
Missionary Oblates of Mary Immaculate	Belcamp College, Malahide Road, Dublin 17 (Post-Primary)	2	2
Norbertines	St. Norbert's College, Kilnacrott Abbey, Co. Cavan (Secondary)	3	1
Order of St. Camillians	St. Camillus Juniorate, Killucan, Westmeath (Post- Primary)	1	1
Patrician Brothers	** Total for all Patrician Brothers schools, as breakdown per school not provided below	21	18
Patrician Brothers	Mount St. Joseph, Tullow, Carlow (Secondary)	**	**
Patrician Brothers	Monastery Boys NS, Tullow, Carlow	**	**

Religious Order	School	Total Number of Allegations	Total Number of Alleged Abusers
Patrician Brothers	St. Patricks NS, Mallow, Cork	**	**
Patrician Brothers	St. Patricks NS, Galway City	**	**
Patrician Brothers	Patrician Brothers School, Newbridge, Kildare (Secondary)	**	**
Patrician Brothers	Ballyfinn College, Ballyfin, Portlaoise, Laois (Secondary)	**	**
Patrician Brothers	St. Joseph's NS, Carrickmacross, Monaghan	**	**
Patrician Brothers	Patrician Brothers School, Fethard, Tipperary (Primary)	**	**
Presentation Brothers	Presentation Brothers Boarding School, Bray (No longer Exists), Wicklow	8	8
Presentation Brothers	St. Joseph's NS, Cork City	8	5
Presentation Brothers	Scoil Christ Ri (Now Bunscoil Christ Ri), Cork	5	3
Presentation Brothers	Scoil Mhuire Na Ngras NS, Greenmount, Cork	4	4
Presentation Brothers	Pres Primary School, Glasthule (No longer exists), Dublin	3	3
Presentation Brothers	Scoil Ioseaf Naofa, Cobh, Cork	3	3
Presentation Brothers	St. Brendan's NS, Birr, Offaly	3	3
Presentation Brothers	Scoil Cholmcille, Letterkenny, Donegal	3	2
Presentation Brothers	Carrick-on-Shannon Leitrim	1	1
Presentation Brothers	Colaiste Muire, Douglas (No longer exists), Cork	1	1
Presentation Brothers	Collaiste Therese, Greenmount (No longer exists), Cork	1	1
Presentation Brothers	Presentation College, Cork	1	1
Presentation Brothers	Scoil Mhuire, Milltown (Amalgamted with the girls school Nagle-Rice NS), Kerry	1	1
Presentation Brothers	Scoil Mhuire Na Mainistreach, Killarney, Kerry	1	1
Religious Sisters of Charity	Rosary College, Armagh Road, Crumlin, Dublin 12 (Post-Primary)	7	7
Religious Sisters of Charity	St. Mary's Post-Primary School, Baldoyle, Dublin 13	2	2
Religious Sisters of Charity	Scoil Mhuire na nAingeal, Mary St. Clonmel, Tipperary (Primary)	1	1

Religious Order	School	Total Number of Allegations	Total Number of Alleged Abusers
Religious Sisters of Charity	Stanhope Street Primary School, Manor Street, Dublin 7	1	1
Religious Sisters of Charity	St. Agnes' Primary School, Crumlin, Dublin	1	1
Religious Sisters of Charity	St. Anne's Primary School, Milltown, Dublin 6	1	1
Religious Sisters of Charity	St. Vincent's Primary School, St. Mary's Road, Cork	1	1
Rosminians	St. Michael's College, Omeath (Closed 1986 according to Google), Louth (Post-Primary)	5	3
Rosminians	Rosmini College, Drumcondra, Dublin (Post-Primary)	1	1
Salesians of Don Bosco	Salesian College, Ballinakill (became Heywood community school 1990), Laois (Post- Primary)	4	1
Salesians of Don Bosco	Salesian College, Pallaskenny, Limerick (Post-Primary)	2	2
Sisters of Charity of St. Paul the Apostle	Kilmallock Secondary, Limerick (Now known ad Colaiste Iosaef) Community/Comprehensive School	2	2
Sisters of St. Joseph of Cluny	Scoil Mhuire Primary School, Ferbane, Offaly	3	3
Sisters of St. Louis	St. Louis Secondary School, Balla (Sisters of St. Louise withdrew un the late 70's), Mayo	1	1
Sisters of St. Louis	St. Louis Primary School. Clones, Co Monaghan	1	1
Sisters of the Holy Faith	St. Mary's Haddington Road, Ballsbridge, Dublin 4 (1901 -2007) (Post-Primary)	1	1
Society of African Missions	Sacred Heart College, Ballinacorney, Belcarra, Mayo (Post-Primary)	1	1
Spiritans	Willow Park Junior School/ Willow Park first year, Rock Road, Blackrock, Dublin (Primary)	130	24
Spiritans	Rockwell College, Cashel, Tipperary (Post-Primary)	60	18
Spiritans	Blackrock College, Rock Road, Blackrock, Dublin (Post- Primary)	55	13
Spiritans	St. Mary's College, Rathmines, Dublin 6 (Primary and Post- Primary)	32	6
Spiritans	St. Michael's, Ailesbury Road, Dublin (Primary and Post-Primary)	10	4

Religious Order	School	Total Number of Allegations	Total Number of Alleged Abusers
Spiritans	Templeogue, Templeville Road, Templeogue, Dublin 6 (Post-Primary)	5	2
Spiritans	Additional Allegations	37	
Ursulines	Ursuline Secondary/Boarding School, Blackrock, Cork	2	3
Ursulines	Scoil Ursula, Sligo Town, Sligo (Primary)	1	1
Ursulines	St. Angela's Secondary School, Waterford	1	1
Vincentian Fathers	St. Paul's College, Raheny, Dublin (Post-Primary)	11	3
Vincentian Fathers	St. Peter's NS, Phibsborough (Boys NS), Dublin 7	8	2
Vincentian Fathers	St Vincent's Castleknock college, College Road, Castleknock, Dublin 15 (Post-Primary)	7	4
TOTAL		1889	821

Special Schools			
Religious Order	School	Total Number of Allegations	Total Number of Alleged Abusers
Brothers of Charity	Lota, Glanmire, Cork	166	50
Brothers of Charity	Holy Family School, Renmore, Galway	119	49
Brothers of Charity	St. Mary's, Rochestown, Cork	9	2
Congregation of Dominican Sisters Cabra	St. Mary's School for Deaf Girls, Cabra, Dublin 7	63	44
Congregation of Dominican Sisters Cabra	Benin Casa Special School, Blackrock, Co. Dublin	1	1
Congregation of the Daughters of the Cross of Liege	Mary Immaculate School for Deaf Children, Sillorgan (Closed 1998), Dublin	2	2
Congregation of the Sisters of Charity of Jesus and Mary	St. Mary's Southhill, Delvin, Westmeath	1	1
Jesuits	St. Declan's Special School, Dublin	16	2
Religious Sisters of Charity	St. Patrick's Special School, Kells Road, Kilkenny	1	1
Rosminians	St. Joseph's (School for visually impaired boys), Drumcondra, Dublin	6	6

Special Schools			
Religious Order	School	Total Number of Allegations	Total Number of Alleged Abusers
Saint John of God Hospitaller Ministries (SJOG HSG)	*** Total for all Saint John of God Hospitaller Ministries schools, as breakdown per school not provided below	144	36
Saint John of God Hospitaller Ministries (SJOG HSG)	St. Augustine's School, Carysfort Avenue, Dublin	***	***
Saint John of God Hospitaller Ministries (SJOG HSG)	Islandbridge Day School, Dublin	***	***
Saint John of God Hospitaller Ministries (SJOG HSG)	Dunmore House Day School, Dublin	***	***
Saint John of God Hospitaller Ministries (SJOG HSG)	St. Raphael's School, Celbridge, Kildare	***	***
Saint John of God Hospitaller Ministries (SJOG HSG)	St. Mary's School, Drumcar, Louth	***	***
Saint John of God Hospitaller Ministries (SJOG HSG)	Oliver Plunket House, Classes for Children with Epilepsy	***	***
Saint John of God Hospitaller Ministries (SJOG HSG)	Kilcronee Boarding School, Wicklow	***	***
Total		528¹	194

1 St John of God's School- by- school breakdown is set out in Appendix 13. It was provided to the Scoping Inquiry on the 6th June 2024, too late to be included in the Special Schools school-by-school Table.

Community Schools			
Religious Order	School	Total Number of Allegations	Total Number of Alleged Abusers
Brigidine Sisters (CSB)/ Patrician Brothers	Mountrath Community School	2	2
Carmelites (OCarm)	St. Tiernan's C.S	1	1
Christian Brothers (CFC)/ Religious Sisters of Charity	Pobalscoil Neasain Baldoyle	1	1
La Sainte Union Sisters (LSU)/ Vincentian Fathers	Coolmine C.S	1	1
Loreto Sisters (IBVM)	Portmarnock C.S	2	2
Loreto Sisters (IBVM)	Gorey Community School	1	1
Marist Brothers (FMS)/ Holy Faith Sisters	Tallaght Community School	1	1
Congregation of the Presentation Sisters (PBVM)	Holy Family Community School Rathcoole	2	2
Congregation of the Presentation Sisters (PBVM)	Castlecomer Community School	1	1
Congregation of the Presentation Sisters (PBVM)	Coláiste Chiaráin Leixlip	1	1
Congregation of the Sisters of Mercy	**** Total allegations in all Congregation of Sisters of Mercy Community Schools, as school breakdown not provided below	7	7
Congregation of the Sisters of Mercy	Unnamed School 1	****	****
Congregation of the Sisters of Mercy	Unnamed School 2	****	****
Congregation of the Sisters of Mercy	Unnamed School 3	****	****
Congregation of the Sisters of Mercy	Unnamed School 4	****	****
Congregation of the Sisters of Mercy	Unnamed School 5	****	****
TOTAL		20	20

Appendix 8: ERST and Christian Brothers Data

Religious Orders Questionnaire

Christian Brothers European Province

Total alleged abusers per school

(Includes up to 31st December 2013 and post 1st January 2014 figures)

Figures from schools have been added in brackets ()

There is likely to be duplication of alleged abusers between the schools' figures and the Congregation's figures.

School	Total alleged abusers in CB records	Total alleged abusers in School records
Limerick Adare CBS Primary	1	-
Limerick Ardscoil Rfs, North Circular Road, Secondary	1	(2)
Kildare Athy CBS Primary	3	-
Dublin St. Joseph's Baldoyle Secondary/Boarding	5	-
Dublin Pobalscoil Neasain, Baldoyle Secondary Community School	1	-
Mayo Ballinrobe CBS Secondary	2	-
Dublin Ballygall Road CBS Secondary	2	-
Cork Blarney Street CBS Primary	3	(2)
Wicklow Colaiste Chiarain, Bray Secondary/Boarding	2	-
Wicklow St. Brendan's CBS Bray Secondary	1	(0)
Dublin Brunswick Street CBS Primary	11	(4)
Dublin Brunswick Street CBS Secondary	1	(0)
Dublin St. Declan's CBS Cabra Secondary	2	(1)
Kerry Caherciveen CBS Primary	5	-
Kerry Caherciveen CBS Secondary	1	-
Kilkenny Callan CBS Primary	2	(0)
Kilkenny Callan CBS Secondary	2	-
Carlow Carlow CBS Primary	2	-
Tipperary Carrick-on-Suir CBS Primary	3	(0)
Tipperary Carrick-on-Suir CBS Secondary	1	(0)

School	Total alleged abusers in CB records	Total alleged abusers in School records
Dublin Colaiste Ignaid Ris Carriglea Park Dun Laoghaire Secondary/Boarding	7	-
Cork Christian Brothers College Junior School/Primary	1	-
Cork Christian Brothers College Secondary	2	(1)
Cork Charleville CBS Primary	1	(1)
Cork Charleville CBS Secondary	1	(0)
Dublin Clonkeen College Secondary	2	-
Tipperary St. Mary's CBS Clonmel Primary	4	-
Tipperary St. Peter's & St. Paul's CBS Clonmel Junior School/Primary	2	-
Dublin Colaiste Mhuire, Cearn6g Pharnell Secondary	4	(0)
Limerick Creagh Lane CBS amalgamated with St. Senan's CBS Primary	5	-
Dublin Crumlin CBS Secondary	1	-
Cork Doneraile CBS Primary	2	-
Cork Doneraile CBS Secondary	1	(0)
Dublin Scoil Chiarain CBS Donnellycarney Primary	4	(0)
Dublin Scoil Treasa CBS Donore Avenue Primary	4	(0)
Limerick Doon CBS Primary	1	(0)
Dublin Plas Mhuire CBS Dorset Street Primary	3	-
Dublin Drimnagh Castle CBS Primary	6	(School is aware that allegations have been made to Gardaf)
Dublin Drimnagh Castle CBS Secondary	5	(1)
Louth St. Joseph's CBS Drogheda Primary	6	(0)
Louth St. Mary's CBS Drogheda Secondary	2	-
Louth St. Joseph's CBS Drogheda Secondary	1	-
Louth Dundalk CBS Primary	5	-
Louth Dundalk CBS Secondary	2	(1)
Waterford Dungarvan CBS Primary	1	-
Waterford Dungarvan CBS Secondary	1	(0)
Dublin Eblana Avenue CBS Dun Laoghaire Primary	4	-
Clare Ennis CBS Primary	2	(0)
Wexford Enniscorthy CBS Primary	2	-
Wexford Enniscorthy CBS Secondary	2	(0)

School	Total alleged abusers in CB records	Total alleged abusers in School records
Clare Ennistymon CBS Primary	1	(0)
Clare Ennistymon CBS Secondary	1	(0)
Dublin St. Joseph's CBS Fairview Primary	2	-
Dublin St. Joseph's CBS Fairview Secondary	3	(0)
Cork Fermoy CBS Secondary	1	-
Dublin Francis Street CBS Primary	3	(0)
Gaeltacht Primary	4	-
Gaeltacht Secondary	1	-
Wexford Gorey CBS Primary	1	-
Wexford Gorey CBS Secondary	1	-
Dublin St. Michael's Inchicore Primary	2	-
Dublin James's Street CBS Primary	7	-
Dublin James's Street Secondary	3	(0)
Meath Kells CBS Primary	2	-
Meath Kells CBS Secondary	1	-
Kilkenny Kilkenny CBS Primary	4	(School is aware that allegations have been made to Gardaí)
Kilkenny Kilkenny CBS Secondary	2	(0)
Clare Kilrush CBS Primary	2	-
Dublin Colaiste Phadraig CBS Lucan Secondary	2	(0)
Cork Middleton CBS Primary	4	-
Cork Mitchelstown CBS Primary	2	-
Dublin Monkstown CBC Junior/Primary	7	-
Dublin Monkstown CBC Secondary	4	(2)
Waterford Mount Sion CBS Primary	4	(0)
Waterford Mount Sion CBS Secondary	2	(0)
Westmeath Mullingar CBS Primary	2	-
Kildare Naas CBS Primary	4	-
Kildare Naas CBS Secondary	0	(1)
Tipperary Nenagh CBS Primary	4	(2)
Cork North Monastery CBS Primary	4	(1) (School aware of 2 complaints where no school personnel were named)
Cork North Monastery CBS Secondary	6	(4)

School	Total alleged abusers in CB records	Total alleged abusers in School records
Corcaigh An Mhainistir Thuaidh Gaelcholaiste Meanscoil	1	(0)
Dublin Oatlands CBS Mount Merrion Primary	3	- (0)
Dublin Oatlands CBS Mount Merrion Secondary	2	(0)
Dublin O'Connell Schools CBS Primary	5	(School aware of complaints to Gardai from secondary school past pupils)
Dublin O'Connell Schools CBS Secondary	2	(1)
Dublin Colaiste Chaoimhin CBS Parnell Road Secondary	2	-
Laois Portarlinton CBS Primary	1	-
Laois Portlaoise CBS Primary	1	-
Laois Portlaoise CBS Secondary	1	-
Dublin Scoil Cholim CBS Crumlin Primary	23	(0)
Dublin Scoil Iosagain CBS Aughavanagh Road Primary	5	-
Waterford Scoil Lorcaín CBS St. John's Park Primary	1	-
Dublin Scoil Mhuire Marino Primary	14	(1)
Limerick Sexton Street CBS Primary	7	(School aware of allegations made to Gardai)
Limerick Sexton Street CBS Secondary	0	(1)
Dublin St. Aidan's CBS Whitehall Secondary	1	(0)
Dublin St. Canice's CBS North Circular Road Primary	6	-
Dublin St. David's CBS Artane Primary	7	-
Dublin St. Fintan's CBS Junior/Primary	3	-
Dublin St. Fintan's CBS Secondary	1	(0)
Limerick St. John the Baptist CBS Primary	3	-
Limerick St. Kieran's CBS Galvone Primary	1	-
Dublin St. Laurence O'Toole Primary	2	(0)
Limerick St. Munchin's CBS Hassett's Cross Primary	5	-
Dublin St. Vincent's CBS Glasnevin Primary	4	(0)
Dublin St. Vincent's CBS Secondary	1	(1)
Dublin Strand Street CBS Primary	2	-
Cork Sullivan's Quay CBS Primary	3	-
Cork Sullivan's Quay/Deerpark CBS Secondary	1	-

School	Total alleged abusers in CB records	Total alleged abusers in School records
Dublin Synge Street CBS Primary	6	(School aware that allegations have been made to Gardai)
Dublin Synge Street CBS Secondary	6	(0)
Tipperary Templemore CBS Secondary	1	(0)
Tipperary Thurles CBS Primary	1	(2)
Tipperary Thurles CBS Secondary	2	(0)
Tipperary Abbey CBS Tipperary Town Primary	1	- (0)
Kerry Tralee CBS Primary	5	(1)
Kerry Tralee CBS Secondary	1	-
Waterford Tramore CBS Primary	1	-
Galway Tuam CBS Primary	4	-
Galway Tuam CBS Secondary	3	-
Offaly Tullamore CBS Junior/Primary	1	-
Offaly Tullamore CBS Secondary	1	-
Waterford Waterpark College CBS Secondary	3	(2)
Dublin Westland Row/Baggot St CBS Primary	11	-
Dublin Westland Row CBS Secondary	1	(School is aware that allegations have been made to Gardai)
Mayo Westport CBS Secondary	1	(0)
Wexford Wexford CBS Primary	3	(1)
Wexford CBS Secondary	1	(1)
Cork Youghal CBS Primary	4	-

Appendix 9: Terms of Reference

Scoping Inquiry into Historical Sexual Abuse in Schools run by religious orders

Mary O'Toole SC is requested to provide a report to the Minister for Education in accordance with these Terms of Reference by 7 November 2023.

The purpose of the report will be to:

- set out a potential framework for a Government response into historical sexual abuse in day and boarding schools run by religious orders that could also form a template for Government responses elsewhere.
- make recommendations on the scope/breadth and sequencing of such a response or modular response that will, in so far as is possible, best meet outcomes sought by survivors of historical sexual abuse and to suggest Terms of Reference for same.
- outline findings of best practice that emerge from workstreams as relevant and appropriate to future practice in the area of child protection and potential restorative justice initiatives by religious orders.

The report will include

(i) An options review and analysis of previous inquiries to include:

- a critical analysis of previous inquiries in terms of methodology, outcomes achieved, impact on policy and practice, and impact of outcome on survivors and families, and, in particular to consider the following:
 - Ferns Report
 - Commission to Inquire into Child Abuse
 - Dublin Archdiocese Commission of Investigation (Murphy Report)
 - Dublin Archdiocese Commission of Investigation (Cloyne Report)

- an assessment of options for an appropriate Government response including different types of statutory or non-statutory options or a combination of such options, having regard to
 - Alignment with outcomes sought by survivors of historical sexual abuse in schools run by religious orders (to be informed by the survivor engagement process).
 - The potential impact of the process and its outcomes on survivors and their families, including the potential for re-traumatisation.
 - Legal issues and/or considerations that may arise, including the necessity for powers of compellability and risks to any Garda investigation running concurrently.
 - Timeframe and cost.
- an examination of international practice in the investigation of historical sexual abuse in schools (non-criminal investigations).
- engagement both at an early stage and throughout the scoping process, with the religious orders to establish the level and extent of co-operation with any proposed inquiry.

(ii) An analysis of the potential scale of historical sexual abuse in schools run by religious orders in Ireland including:

- a desk-based review of the extent of complaints or allegations of historical sexual abuse made against all religious orders , with reference, amongst other sources, to safeguarding audits commissioned by the Catholic Church;
- a consideration, in as much as is possible, of the likelihood and possible volume of further complaints or allegations emerging and the impact that this scale will have on the appropriate type, sequencing, timeframe and cost for a Government response.

In considering these issues and preparing her report, Counsel must particularly have regard to the outcome of the survivor engagement process, including the report(s) of the survivor engagement lead. Counsel will also have regard to the following reports and material as prepared by commissioned experts during the course of the scoping inquiry:

- A critical analysis of current child protection systems and frameworks within the primary and post primary school sector, including identifying any potential impediments to reporting, investigation and response to allegations and incidents of sexual abuse. A historical context, covering the decades during which these allegations were made, will also be provided.
- A critical analysis and audit of the response of religious orders to historical sexual abuse allegations by way of Restorative Justice Schemes and other initiatives / supports, to include recommendations for appropriate standards for such responses.

In carrying out this work under the Terms of Reference, Counsel shall also have regard to the potential impact of her considerations and/or her report on any criminal prosecution or ongoing Garda investigation that may be affected.

Dated 7 March 2023

Appendix 10:

List of Schools Where Survivors Reported Sexual Abuse in the Survivor Engagement Questionnaire

The names of schools where participants said they were sexually abused are listed by county in the table below. Some of these schools may have closed, moved, amalgamated or changed their names in the years since the participant attended. The names and locations of schools are set out as they were relayed by participants in their responses to the questionnaire and so it is possible that some schools may appear on this list more than once, for instance by its Irish and English name, or by a colloquial or formal name. Where a participant's school was identified as being outside the Terms of Reference for the Scoping Inquiry, that school has not been included and the information provided by the participant has been accounted for in **Section C: Other Contributions** in Chapter 3.

Some participants said they had been abused in more than one school and have named each school, and so the total number of participants on this table is greater than the number who completed questionnaires.

The Scoping Inquiry is reporting the information provided to it by the participants in the Survivor Engagement process. It is not making any conclusions or findings on what survivors have said, we are simply recording and sharing the information they provided.

Names of Schools Where Participants Said They Experienced Abuse Listed by County

County	School Where One or More Participants Said They Experienced Abuse	Total Number of Participants Who Named This School
Carlow	St Brigid's N.S, Station Road, Bagenalstown, Co. Carlow	1
Cavan	St Felim's National School, Farnham Street, Cavan, Co. Cavan	1
Cork	St Joseph's Boys National School, Bishops Street, Cobh, Co. Cork	2
Cork	Christ the King, Turner's Cross, Cork City, Co. Cork	1
Cork	Christian Brothers School, Youghal, Co. Cork	1
Cork	Scoil Mhuire Fatima, North Monastery Road, Cork	1
Cork	Christian Brothers Primary School, (Scoil Neasain Naofa) Sullivan's Quay, Cork City	1
Cork	Coláiste Chroí Naofa, Carraig na bhFear, Co. Chorcaí /Sacred Heart College, Carrignavar, Co. Cork	2

County	School Where One or More Participants Said They Experienced Abuse	Total Number of Participants Who Named This School
Cork	Christian Brothers College, McCurtain Street, Cork, Co. Cork	1
Cork	North Monastery CBS, Secondary, Co. Cork	1
Cork	St. Aloysius Girls School, Carrigtwohill, Co. Cork	1
Cork	Colaiste Iosagan, Baile Bhourne (Ballyourney)	1
Donegal	St. Louis Girls Convent NS, Station Road, Bundoran, Co. Donegal	1
Donegal	De La Salle Secondary School, Ballyshannon, Co. Donegal	1
Dublin	Willow Park School, Rock Road, Blackrock, Co. Dublin	44
Dublin	Sancta Maria/CBS Primary School, Synge Street, Dublin 8	3
Dublin	Synge St CBS, Synge Street, Dublin Secondary School	1
Dublin	Scoil Iosagain, Aughavannagh Rd, Crumlin, Dublin 12	2
Dublin	Scoil Muire, Marino, Dublin 9	1
Dublin	St Benildus College, Kilmacud Road Upper, Stillorgan, Blackrock, Co. Dublin 1	
Dublin	St. Canice's, 577 North Circular Road, Dublin 1	1
Dublin	St. Fintan's National School, Carrickbrick Road, Sutton, Dublin 13	1
Dublin	St. Mary's Primary School, at Mary's Place /Upper Dorset Street, Dublin 7	1
Dublin	St. Vincent's CBS, Glasnevin, Dublin 9	1
Dublin	The Sancta Maria Infants School, Ballyroan, Rathfarnham, Dublin 16	1
Dublin	Sancta Maria College, Ballyroan, Rathfarnham, Dublin 16	1
Dublin	St. Mary's College Junior School, Rathmines, Dublin 6	1
Dublin	St. Mary's College, Rathmines, Dublin 6	3
Dublin	Colaiste Mhuire, Parnell Square, Dublin 1	1
Dublin	Blackrock College, Rock Road, Blackrock, Co. Dublin	30
Dublin	Belvedere College Junior School SJ, 6 Great Denmark Street, Dublin 1	1
Dublin	Belvedere College SJ, 6 Great Denmark Street, Dublin 1	8
Dublin	Terenure College Junior School, Templeogue Road, Terenure, Dublin 6W	6
Dublin	Terenure College, Templeogue Road, Dublin 6W	7
Dublin	St. Michael's College, Ailesbury Road, Dublin 4	3

County	School Where One or More Participants Said They Experienced Abuse	Total Number of Participants Who Named This School
Dublin	CBS Westland Row, 2 Cumberland Street S, Dublin 2	1
Dublin	Colaiste Phadraig, Roselawn, Lucan, Co. Dublin	1
Dublin	St. Joseph's, Fairview, Dublin 3	1
Dublin	St. Vincent's College, Castleknock, Co. Dublin	1
Dublin	St. Augustine's School, Carysfort Avenue, Blackrock, Dublin	1
Dublin	St. Declan's, 35 Northumberland Road, Ballsbridge, Dublin 4	1
Dublin	St Michael's Special School, Holy Angels, Glenmaroon, Chapelizod, Dublin	1
Galway	Scoil na mBuachaillí, An Bóthar Íochtarach, An Clochán Co. na Gaillimhe	1
Galway	St. Patrick's CBS, Tuam, Co. Galway	1
Galway	Brothers of Charity Holy Family School, Renmore, Co. Galway	1
Kerry	Presentation Convent, Listowel, Co. Kerry	1
Kerry	Scoil Naomh Eoin, Balloonagh, Tralee, Co. Kerry	1
Kerry	Presentation Convent Primary School, Dingle, Co. Kerry	1
Kerry	Scoil Mhuire na mBraithre, Christian Brothers School, Tralee, Co. Kerry	2
Kerry	St. John's Secondary School, Sisters of Mercy, Balloonagh, Tralee	1
Kerry	Christian Brothers Secondary School, The Green, Tralee	1
Kildare	Clongowes Wood College, Clane, Co. Kildare	3
Kildare	Killeshee Convent, Killeshee, Co. Kildare	1
Kilkenny	Presentation Convent, Castlecomer, Co. Kilkenny	1
Kilkenny	Kilkenny CBS, Stephens Street, Lyons, Kilkenny	2
Kilkenny	De La Salle, Ballybough, Co. Kilkenny	1
Laois	Patrician College, Ballyfin, Co. Laois	2
Laois	Salesian College, Ballinakill, Co. Laois	1
Limerick	Scoil Iosagain CBS Primary School, Sexton Street, Limerick	5
Limerick	Creagh Lane/Gerald Griffin Memorial School, Christian Brothers, Bridge Street, Limerick	2
Limerick	Crescent College, Dooradoyle Road, Dooradoyle, Co. Limerick	1
Limerick	Glenstal Abbey School, Murroe, Co. Limerick	1

County	School Where One or More Participants Said They Experienced Abuse	Total Number of Participants Who Named This School
Limerick	Sexton Street CBS, Sexton Street, Limerick	1
Louth	CBS, York Street/Chapel Street, Dundalk (Scoil na mBraithre, now Colaiste Ris)	2
Louth	St. Mary's CBS School, Beamore Road, Drogheda, Co. Louth	1
Mayo	St. Patrick's National School, Chapel Street, Castlebar, Co. Mayo	1
Meath	Christian Brothers, Kells, Co. Meath	1
Meath	Franciscan College, Gormanston, Co. Meath	2
Offaly	St. Anthony's, Clara, Co. Offaly 1	
Roscommon	St. Paul's Primary School, Castlerea, Co. Roscommon	1
Roscommon	St. Mary's College, Boyle, Co. Roscommon	1
Sligo	St. John's Primary School, Temple Street, Sligo	1
Tipperary	St. Joseph's Primary School, Murgasty Road, Tipperary Town, Co. Tipperary	1
Tipperary	The Monastery Primary School St. Patrick's Avenue, Rosanna Rd	1
Tipperary	Rockwell College, Cashel, Co. Tipperary	12
Tipperary	Pallottine College, Thurles, Co. Tipperary	1
Waterford	Mount Melleray Abbey College	1
Waterford	St. Stephen's Monastery School, Patrick's Street, Waterford	1
Westmeath	St. Mary's CBS, Mullingar, Co. Westmeath	1
Westmeath	Carmelite College, Dublin Road, Moate, Co. Westmeath	2
Wexford	St. Joseph's Primary School, Mount St. Joseph, New Ross, Co. Wexford	1
Wicklow	CBS Greystones, Co. Wicklow	1
Wicklow	De la Salle Primary School, Wicklow town, Co. Wicklow	1
Wicklow	Presentation College, Putland Road, Bray, Co. Wicklow	1
Not stated	St. Stephen's De La Salle Primary	1

Appendix 11: List of 59 unrecognised schools provided by Tusla

Non-recognised/Independent Schools – Children Attending Eligible for Section 14 Registration

Non-recognised / Independent Schools – Children Attending Eligible for Section 14 Registration			
1.	Alexandra College Junior School	Primary	Dublin
2.	ALFA Steiner Secondary School	Post Primary	Clare
3.	Aquinas Classical Academy Cork	Primary	Cork
4.	Ardtona House School	Primary	Dublin
5.	Balreask School Navan	Primary	Meath
6.	Betania Church School	"Primary and PostPrimary"	Dublin
7.	Castle Park School	Primary	Dublin
8.	Children's House School	Primary	Dublin
9.	Christian Brothers College Preparatory School	Primary	Cork
10.	Comeragh Wilderness Academy	Post Primary	Waterford
11.	Cork Life Centre	Post Primary	Cork
12.	Croi Na Coille Primary School	Primary	Limerick
13.	Drumnigh Montessori Primary School	Primary	Dublin
14.	Dublin Steiner School	Primary	Dublin
15.	Dundalk Grammar Junior School	Primary	Louth
16.	Dunmore East Christian School	"Primary and PostPrimary"	Waterford
17.	Fingal FAI Transition Year Programme	Post Primary	Dublin
18.	Georgian Montessori Primary School	Primary	Dublin
19.	Headfort School	Primary	Meath
20.	Hedley Park School	Primary	Dublin
21.	International School of Dublin	Primary	Dublin
22.	iScoil	Post Primary	Dublin
23.	John Scottus Primary School Old Conna	Primary	Dublin
24.	Kildare Steiner Primary School	Primary	Kildare
25.	Kildare Steiner Secondary School	Post Primary	Kildare
26.	Kilkenny Steiner School	Primary	Kilkenny
27.	Liberty Christian School	Primary and Post Primary	Limerick
28.	Loreto College Junior School	Primary	Dublin

Non-recognised / Independent Schools – Children Attending Eligible for Section 14 Registration			
29.	Lyceé Francais International Samuel Beckett (Primary School)	Primary	Dublin
30.	Lyceé Francais International Samuel Beckett (Secondary School)	Post Primary	Dublin
31.	Mater Dei Academy Secondary School	Post Primary	Cork
32.	Monkstown Park Junior School	Primary	Dublin
33.	Mount Anville Montessori Junior School	Primary	Dublin
34.	Nord Anglia International School	"Primary and PostPrimary"	Dublin
35.	Rathdown Junior School	Primary	Dublin
36.	Rathgar Junior School	Primary	Dublin
37.	SAOL Christian School	Primary	Louth
38.	Scoil Mhuire Junior School	Primary	Cork
39.	Shaheeda Zainab Independent Muslim Primary School	Primary	Dublin
40.	Sharavogue School	Primary	Dublin
41.	Sligo Sudbury School	"Primary and Post Primary"	Sligo
42.	St. Andrew's College Junior School	Primary	Dublin
43.	St. Anthony's School	"PostPrimary"	Westmeath
44.	St. Conleth's College Junior School	Primary	Dublin
45.	St. Gerard's Junior School	Primary	Wicklow
46.	St. Kilian's German School	Primary	Dublin
47.	St. Mary's College Junior School	Primary	Dublin
48.	St. Michael's College Junior School	Primary	Dublin
49.	St. Nicholas Montessori School	Primary	Dublin
50.	Stella Maris School	Primary	Limerick
51.	Sutton Park Junior School	Primary	Dublin
52.	TFA Elite (Prev Cork Elite Football)	Post Primary	Limerick
53.	The Teresian School	Primary	Dublin
54.	West Cork Sudbury School	Primary and Post Primary	Cork
55.	Weston Primary Montessori School	Primary	Kildare
56.	Wicklow Democratic School (Sudbury)	"Primary and PostPrimary"	Wicklow
57.	Wicklow Montessori School	Primary	Wicklow
58.	Willow Park Junior School	Primary	Dublin
59.	Woodlands Academy	Post Primary	Wicklow

Appendix 12: Extracts from NBSCCCI Review Reports: Quality of Records Held

Table 1 – 2008 Standards

Order	Date of Report	Size	Criteria 2.4 ¹ and 7.5 ²	Relevant extracts re quality of records
The Augustinians	December 2014	98	2.4 – met fully 7.5 – met fully	<p>“There are several problematic aspects to the performance of the Order prior to 2013, including poor maintenance of case records and case management, an inconsistent record of reporting to the statutory agencies, and very little recorded emphasis on the preventative agenda.”</p> <p>“The structure and content of the files post 2013 is of a good standard and it is evident that considerable work has been done recently to make them accessible. There are however gaps in record maintenance over the wider time frame of the review.”</p> <p>“The history of case management prior to 2013 in the Augustinian Order is quite poor, with incomplete files, gaps in reporting to the statutory agencies, minimal evidence of safety planning and inconsistent application of canonical process. As stated in the introduction the reviewers acknowledge evidence of a proactive approach in the early 2000s to drafting a child safeguarding policy and to training and selection of safeguarding representatives for the communities. Whilst the 2009 policy confirmed that some progress was made, any momentum appeared to be lost in subsequent years, and child safeguarding is some distance short of the expected milestones for 2014.</p>

1 Standard 2.5 states – “There is a process for recording incidents, allegations and suspicions and referrals. These will be stored securely, so that confidential information is protected and complies with relevant legislation.”

2 Standard 7.5 states: “All incidents, allegations/ suspicions of abuse are recorded and stored securely.”

Order	Date of Report	Size	Criteria 2.4 ¹ and 7.5 ²	Relevant extracts re quality of records
The Augustinians	December 2014	98	2.4 – met fully 7.5 – met fully	<p>The safeguarding agenda has been prioritised by the incoming Prior Provincial since July 2013. There is a lot of work to be done, the appropriate structure still needs to be created and a work programme implemented.”</p> <p>“As described under the section on Standard 2, the Order of St Augustine established its own internal case management process in 2013, which includes the identification of Care and Safety Management Plan supervisors responsible for working with individual men. These supervisors are drawn at present from the membership of the Order. Reviews of work in individual cases have been undertaken since 2013 via the Case Management and Safeguarding Advisory Panel (CMSAP) (in the majority of cases) and are recorded. One case has been referred to the National Case Management Reference Group (NCMRG). Prior to 2013 there is no evidence that there was any system for monitoring work on each case and as already noted, the reviewers were told that this was done informally. The reviewers interviewed two supervisors who stated that they felt comfortable and supported in their roles, but also expressed a lack of clarity about the role of the Panel. The reviewers did not see any evidence on file, of recording of individual contacts between supervisors and supervisees.”</p>
Benedictine Community, Glenstal Abbey	January 2014	39	2.4 – met fully 7.5 – met fully	<p>“The file record system for case management purposes is very well structured and files are easily followed and the files are properly and securely stored. The 2013 Safeguarding Children Policies & Procedures, Appendix 6 sets out very clearly the Recording Policy and the Data Protection position and the statutory requirements in relation to the generation of written records are being met. However, the reviewers are aware that these files were only completed in their current format in September 2012.”</p>

Order	Date of Report	Size	Criteria 2.4 ¹ and 7.5 ²	Relevant extracts re quality of records
The Benedictine Nuns of Kylemore Abbey	7 April 2015	12	n/a	n/a
The Congregation of the Blessed Sacrament	December 2015	5	2.4 – met partially 7.5 – met fully	<p>“In practice terms the management of allegations lacks structure. The case records are poor and do not in any way reflect the responses made by the Congregation. While there is evidence of risk assessments and treatment/counselling, there is limited evidence of other important aspects of case management as will be referenced below. There has been limited cause for notification to the civil authorities, as in one case the allegation was made directly to the Police and in the other case, none of the concerns give sufficient detail to establish if they were allegations of abuse and therefore notifiable. Further comment will also be made in relation to this.”</p> <p>“As already stated the records were not well documented, though they were in chronological date order. The written records do not reflect significant correspondence and action taken by the Congregation. As a result it was challenging for the reviewer to assess the pastoral response as well as the management of those accused. The reviewer has offered detailed guidance to the Provincial on the management of the concerns against living members. The details recorded below provide a brief summary of the three cases examined during the review.”</p>
The Sisters of Saint Brigid (The Brigidine Sisters)	May 2015	52	n/a	n/a

Order	Date of Report	Size	Criteria 2.4 ¹ and 7.5 ²	Relevant extracts re quality of records
The Brothers of Charity	December 2015	12	2.4 – met fully 7.5 – met fully	“The filing system used by the Congregation is based on complainant/survivor files, making access to information about safeguarding management of individual Brothers (particularly those subject of allegations from multiple complainants) difficult, and needs to be re-organized. It involves three separate sources held separately (complainant file, respondent personnel file and respondent safeguarding file). The amount of data is considerable because of the complex safeguarding history of this Congregation. The reviewers recommend that immediate steps are taken to redesign the filing system to create a more integrated and accessible archive, not just for the purposes of contemporary safeguarding management but also for reasons of historical accuracy. This action will have a resource implication for the Congregation, as the reviewers consider that it would be well beyond the capacity of the current safeguarding staff.
The Capuchin Franciscans (OFM Cap)	April 2015	73 (in Ireland; 93 worldwide)	2.4 – met fully 7.5 – met fully	“There are clear arrangements in place to monitor compliance with child protection policies and procedures and the reviewers note that allegations or expressions of concern are recorded and kept securely in a fireproof safe.”
Irish Province of the Order of Carmelites (O.Carm)	April 2015	57 (+27 in Zimbabwe)	2.4 – met fully 7.5 – met fully	“The files are well structured and recorded under the name of the respondent friar with reference to the complainant. The reviewers were impressed with the level of detail and organisation of the case files.”

Order	Date of Report	Size	Criteria 2.4 ¹ and 7.5 ²	Relevant extracts re quality of records
Christian Brothers	September 2013	267	2.4 – met fully 7.5 – met fully	<p>“Contact with complainant and the alleged perpetrator, as well as the Christian Brothers’ overall approach in dealing with the allegation were often not recorded sufficiently well on file. This led to difficulty for the reviewers in understanding the files. In the opinion of the reviewers, the files were structured in a more legal and pastoral manner rather than safeguarding and therefore do not record the safeguarding process from start to finish in each case. The recording therefore does not fairly represent the extent of the often positive engagement between the Designated Person and the complainant. In interview, the Designated Person gave detailed accounts of his contact with both complainants and perpetrators.”</p> <p>“The reviewers strongly urge the Christian Brothers to develop separate child safeguarding files, which can exist alongside the existing legal / litigation files. Structuring new files into a safeguarding format would allow for greater clarity around the chronology of cases, contacts made, the supports offered, the procedures followed, assessments undertaken and how decisions were reached. The files are indexed by complainants, which makes it quite difficult to find all of allegations made against a specific Brother. Matters became quite confused to the reviewers when they needed to cross reference information where a complainant had named a number of Brothers as the perpetrators of their abuse, but where a file was created concerning the one man against whom they had initiated legal proceedings.”</p>

Order	Date of Report	Size	Criteria 2.4 ¹ and 7.5 ²	Relevant extracts re quality of records
Order of Cistercians of the Strict Observance in Ireland	June 2015	65	2.4 – met fully 7.5 – met fully	<p>“Written information on all 6 Cistercian monks/former monks who are living was reviewed, as was a sample of information relating to 5 deceased men, including one who was convicted and whose record of allegations was particularly serious. Individual files were kept on most of these men and are well structured and accessible, with the exception of one monastery which kept files on the victims, but not on the safeguarding management of individual monks who were implicated.”</p> <p>“All 5 monasteries have appropriate processes for recording and storing allegations.”</p> <p>“The reviewers consider that 2 of the criteria, relating to physical provision (of finance 7.2, and secure storage of records 7.5) can be assessed as fully met.”</p>
The Sisters of the Cross and Passion	February 2015	55	n/a	n/a
The Daughters of Charity of St. Vincent de Paul	February 2015	183	n/a	n/a
Society of The Daughters of the Heart of Mary	July 2014	8	n/a	n/a
Institute of the Brothers of the Christian Schools [More commonly known as the De La Salle Brothers]	January 2017	77	2.4 – met partially 7.5 – met partially	<p>“The reviewers have reservations about the quality and completeness of case records in the De La Salle Brothers. It is noted that these were in the main created by the previous DLP, who is deceased. The NBSCCCI has made available to Church Authorities a comprehensive guide on record keeping in which it is specified what needs to be contained in case records and how case files can best be structured. The previous DLP may have understood that the case files that he maintained were for his use only, rather than in fact being the official record of the</p>

Order	Date of Report	Size	Criteria 2.4 ¹ and 7.5 ²	Relevant extracts re quality of records
Institute of the Brothers of the Christian Schools [More commonly known as the De La Salle Brothers]	January 2017	77	2.4 – met partially 7.5 – met partially	<p>congregation’s actions in relation to keeping children safe and responding appropriately to complaints. They should also have been of a standard to become part of the historical archive of the congregation’s fulfilment of its legal child safeguarding responsibilities. The absence of copies of written notifications to statutory child protection services and police, the lack of clear contemporaneous records and of an accessible narrative about what had been done, as well as the non-existence of any record of canonical processes are all evidence of substandard case recording. However, it is deemed that Criterion 2.4 is met partially, because there are written records that are stored safely.”</p> <p>“Each Case File had a number; but each Case File contained individual case material that was also numbered. For example, one numbered Case File on sexual abuse allegations in one jurisdiction contained case material on 17 cases, each with their own Case Number. It became impossible to cross- reference information between files created in such a manner; for instance, information on one named Brother alleged of sexually abusing four boys was contained in four different Case Files. The reviewers accept that the current DLP had an impossible task trying to rationalise the filing system, while avoiding taking information out of existing files in order to create more accessible ones. The files are as they are, and the reviewers simply proceeded to read them as presented.”</p> <p>“In essence, the case files maintained by the De La Salle Brothers are not Child Protection files, and they do not constitute records of good safeguarding practice.”</p>

Order	Date of Report	Size	Criteria 2.4 ¹ and 7.5 ²	Relevant extracts re quality of records
Discalced Carmelite Friars (OCD)	October 2014	31	2.4 – met fully 7.5 – met partially	<p>“The safeguarding files held by the OCD are well organised. The files are structured under the name of the respondent priest with reference to the alleged victim.”</p> <p>“The reviewers read the files relating to the two living priests. These files are comprehensive and provide a structured and chronological narrative of the safeguarding practices completed by the OCD in both cases.”</p>
Dominican Sisters	November 2014	198	2.4 – met fully 7.5 – met fully	<p>“The safeguarding files held by the Dominican Sisters are well structured. They are referenced by the respondent name, with details of the allegation and the alleged victim contained within the file. The file contents follow a chronological sequence and are not divided into relevant sections. It is worth noting that the Dominican Sisters have a small number of allegations against its members. The reviewers expressed some concern that should further allegations be made against Dominican Sisters, the recording of information will need to be comprehensive and structured in a manner that places emphasis on the accessibility of pertinent information.”</p>
Religious Congregation of The Faithful Companions of Jesus	July 2014	26	n/a	n/a
Third Order of St. Francis of Assisi (The Franciscan Brothers)	November 2015	24	2.4 – met partially 7.5 – met fully	<p>“All case files are stored securely in the Generalate under the control of the Minister General.”</p>

Order	Date of Report	Size	Criteria 2.4 ¹ and 7.5 ²	Relevant extracts re quality of records
Irish Province of the Order of Friars Minor (The Franciscan Friars)	November 2014	142 (98 based in Ireland)	2.4 – met fully 7.5 – met fully	“Criterion 7.5 is met fully. In reviewing case files, particularly relating to 2009 onwards, it is clear that all allegations/suspensions of abuse are being recorded as per Criterion 7.5. These files are well-structured and now most of the files are typed making the written material easily readable. All case files are kept in a secure location within the Province headquarters in Dublin and there is a clear protocol in place in terms of accessing this sensitive material.”
The Franciscan Missionaries of the Divine Motherhood	April 2015	55	n/a	n/a
The Handmaids of the Sacred Heart of Jesus	January 2016	9	n/a	n/a
The Sisters of the Holy Faith	December 2014	123	n/a	n/a
The Holy Family of Bordeaux	December 2014	43/46 (report inconsistent)	n/a	n/a
Hospitaller Order of Saint John of God West European Province (Ireland)	December 2015	37	2.4 – met fully 7.5 – met fully	“In the review of the case files it was evident that all available information in respect of allegations of abuse was now being recorded and was on file. All case files are kept centrally in a secure location with restricted access. This location was examined by the reviewers.”

Order	Date of Report	Size	Criteria 2.4 ¹ and 7.5 ²	Relevant extracts re quality of records
Hospitaller Order of Saint John of God West European Province (Ireland)	December 2015	37	2.4 – met fully 7.5 – met fully	<p>“‘Stage 3; Recording of information’ in the Policy and Procedures document provides initial guidance on recording details in respect of an allegation within the section of this document that covers ‘Procedures for responding to and managing an allegation/safeguarding concern’ the following statement is also made ‘4.3.9. Documentation of all the above actions, correspondence, contacts and meetings will be maintained in accordance with the secure filing system.’</p> <p>Appendix 4 in the safeguarding policy documents also outlines a case file structure and that such information will be held in a central secure location with restricted access to key personnel.</p> <p>The reviewers were shown the location for the storage of the case files and were satisfied that they are stored securely.”</p>
Irish Province of Dominican Friars	April 2012	Not stated	2.4 – met fully 7.5 – met fully	<p>“The report will note large gaps in records. The Dominican Friars carried out a comprehensive search and believe that early information relating to safeguarding and allegations of abuse was not recorded.”</p> <p>“Reading the case files presents some difficulties, as there is an absence of narrative accounts of actions. The files have all been reconstructed using the NBSCCCI case file template and the NBSCCCI commend this action by the Dominican Friars. However in restructuring files, there are significant gaps of records where written records information was not available to the designated person. It is clear from the files, for example that allegations have been notified to the civil authorities, as there have been An Garda Síochána investigations and in some cases criminal prosecutions however, the letter of notification is not on the file. All new cases should be supported by a narrative account, which sets out the processes followed by the order. The absence of such an account in old files fails to do justice to both previous and the current provincial who did take appropriate corrective actions.</p>

Order	Date of Report	Size	Criteria 2.4 ¹ and 7.5 ²	Relevant extracts re quality of records
Irish Province of the Congregation of the Holy Spirit	July 2012	290 (95 on mission abroad)	2.4 – met fully 7.5 – met fully	<p>“The NBSCCCI believes that all relevant documentation held by the congregation for these cases was passed to the reviewers. Considerable preparation clearly took place in anticipation of the review. The case management records were restructured in line with the Church’s national guidance on recording and storage of information. We would like to acknowledge and thank those responsible for structuring the records in such an accessible way, making the job of reading the records a much easier task.”</p> <p>“The case records are in excellent condition. They follow the template of the NBSCCCI and are accessible. The files set out very clearly the action and inaction of the congregation to allegations of abuse, notification and whether men were removed from ministry. There was no attempt by the congregation to hide any information. There is however an absence of detailed narrative accounts of recent contact with survivors. There is considerable electronic correspondence between the designated person and survivors which should be filed within the case records. These were not within the files when they were examined. This is an omission which undermines any recent positive engagement with survivors. Not all of this contact has been positive, as survivors who contacted NBSCCCI in recent months have expressed their complete dissatisfaction with the response of the Spiritan Congregation to their disclosure of abuse and their continuing pain. Nonetheless all contacts should be recorded.”</p>

Order	Date of Report	Size	Criteria 2.4 ¹ and 7.5 ²	Relevant extracts re quality of records
The Society of Jesus (Jesuits)	April 2015	145	2.4 – met partially 7.5 – met fully	<p>“In relation to criterion 2.4 there is guidance about recording keeping, however, the case files did not demonstrate good and full record keeping. The information relating to allegations was not all held in the case file, for example, the important advice offered by the advisory panel was stored separately with the advisory panel minutes. In addition the records were brief and the author was not identifiable. This meant that at times the reviewer was unable to follow the flow of actions. The files could be significantly be improved by following the National Board’s template for recording, having detailed narrative accounts of all actions taken, having separate third party sections for complainant information and support offered, and by having the author clearly identified through placing the name at the end of each page and having the records signed.</p> <p>The reviewers noted that the Jesuits had the case files audited in 2010, when issues of better recording should have been raised. The Provincial reviews the case files and meets the designated person when new allegations emerge, and liaises on a regular ninety day basis to be briefed on all developments. Some of the older files appear to stop in 2012. These relate to members who are out of ministry and where the reviewers expected to read notes of monitoring visits.”</p>
La Sainte Union	August 2015	47	n/a	n/a
Legion of Christ (Ireland)	July 2015	12	2.4 – met fully 7.5 – met fully	n/a
The Institute of the Blessed Virgin Mary (Loreto Sisters)	May 2015	211		“The child safeguarding files are well structured, and reflect the commitment of the Loreto Sisters to a caring approach to child safeguarding.”

Order	Date of Report	Size	Criteria 2.4 ¹ and 7.5 ²	Relevant extracts re quality of records
The Marist Brothers	January 2016	14	2.4 – met partially 7.5 – met fully	<p>“In relation to Standard 2.4, the files are structured around allegations that generate from particular schools. The absence of a consistent structure and the lack of clear narrative accounts often made the assessment of current situations difficult. It is important that the file reflects the high level of work that has been accomplished. The reviewer had access to an accompanying file that details every allegation within a recording structure that has been devised by the Marist Brothers. This is a four page historical review form which includes all key pieces of information. This is an excellent and progressive tool and the reviewer suggests that a copy of each is kept in the corresponding case file. The files could be significantly improved by following the NBSCCCI’s template for recording, having detailed narrative accounts of all actions taken, having separate third party sections for Complainants’ information and support offered, and by having the author clearly identified through the placing of names at the end of each page and having the records signed.”</p> <p>“The reviewer is satisfied that the files detailing all incidents, allegations and suspicions of abuse are recorded and stored securely.”</p>
The Marist Fathers – Society of Mary	September 2014	43 (6 resident outside of Ireland)	2.4 – met fully 7.5 – met fully	<p>“The Marist Fathers record keeping and filing systems are of a good quality and meet the requirements of Criterion 7.5.”</p> <p>“The case files that are kept by the Marist Fathers are of good quality and are securely stored. Access to these files is restricted and a protocol is in place to ensure that confidentiality of information is protected. The order engaged a legal secretary to assist it in bringing the case files up to a professional standard, and this initiative is commended. Criterion 2.4 is met fully.”</p>
The Marist Sisters	May 2015	61	n/a	n/a

Order	Date of Report	Size	Criteria 2.4 ¹ and 7.5 ²	Relevant extracts re quality of records
Sisters of Mercy	August 2015	Not stated. Apparently 1869, but this figure includes those on mission abroad	2.4 – met fully	<p>Order divided into four Irish provinces.</p> <p>Western province: “The files read by the reviewer were well constructed and adhered to guidance by the NBSCCCI. The reviewer witnessed that they are securely and confidentially stored and access to them is strictly limited to those who need to have access to this personal sensitive data, in line with data protection legislation and Church guidance on record keeping and storage of data.”</p> <p>Northern province: “The reviewer has read the files of Sisters in respect of whom child sexual abuse allegations have been made within the terms of reference of the NBSCCCI process. The files are well organised and appropriately structured, with good safeguarding narratives and summaries, and separate sections for legal and administrative documentation.”</p> <p>Southern province: “All safeguarding files are secured safely and confidentially. They are kept current and relevant. The Provincial indicated that a task recently completed by the Safeguarding Manager in collaboration with the Deputy Designated Liaison Officer, a member of the Congregation who previously held the post of Designated Liaison Officer was to ensure that all relevant safeguarding information was collated and placed in relevant files. In order to do this, safeguarding files and other files, for example older personnel files were checked to ensure that all relevant safeguarding data was extracted and placed in the correct file and dealt with accordingly. This was a mammoth task which took place over the course of a number of months. The Provincial informed the reviewer that she requested that this exercise took place as she wanted to ensure that no stone was left unturned in the quest for complete transparency in relation to child safeguarding issues.”</p> <p>(No comment re South Central province)</p>

Order	Date of Report	Size	Criteria 2.4 ¹ and 7.5 ²	Relevant extracts re quality of records
Missionaries of the Sacred Heart, Irish Province	August 2012	56 (62 living abroad)	2.4 – met fully 7.5 – met fully	<p>“On Monday 15th August the review began on site at the Province’s administrative headquarters at 65 Terenure Road West, Dublin. The case files were made available for reading along with other summaries and notes that had been recently produced by the administrative staff within the Society. In a very short period of time, it became clear that the files contained records of admissions by priests to alleged abuse with no indication that these admissions had been passed on to the appropriate authorities of the Garda Síochána or the HSE. It was also clear that important gaps existed in the case records. Documentation that related to important meetings was not in the files. This made it impossible to understand why decisions had been taken.</p> <p>After consultation with the new Provincial, it was agreed that the NBSCCCI would suspend the review for a period of a week to allow the Society to undertake a search for the missing records. Letters were sent to past Provincials asking if they could assist in securing any of the missing documentation. Also a comprehensive search of all existing records within the Society’s administrative centre was undertaken. Both these initiatives proved to be unsuccessful in turning up any additional records. After this period, it would review all of the files as quickly as possible and report its findings to the Society, and to the state authorities who had already been put on notice of the developing situation by the NBSCCCI. After the week no new records were found and it was decided that an investigation would be undertaken, putting the review on hold until it had been completed.”</p> <p>“Gaps are present within the files that make it difficult to understand why an alleged perpetrator, who was taken out of ministry at one time, was then allowed back into ministry at a later date. These deficits are all the more remarkable when you consider the diligence with which other matters are recorded both in the files and elsewhere in the records.”</p>

Order	Date of Report	Size	Criteria 2.4 ¹ and 7.5 ²	Relevant extracts re quality of records
The Missionary Sisters of the Holy Rosary	December 2014	157	n/a	n/a
Order of Canons Regular of Prémontré [Norbertines]	October 2016	9	2.4 – not met 7.5 – met partially	<p>“Case recording responsibilities do not seem to be allocated to anyone, although the Prior keeps some case records in a filing cabinet in an upstairs room. The bulk of the case management files are held by the Canonry’s solicitors in their Dublin office, and the Canonry records are lodged in the archives of the Abbey at Tongerlo in Belgium.”</p> <p>“In relation to Criterion 2.4, the files at Holy Trinity House were structured around three individual respondent priests. The files stored at the congregation’s solicitor’s office relate almost entirely to the one priest member of the Norbertines who was convicted of child sexual abuse. This second group of files were produced by and remain the property of the Norbertines and so have not been re-constructed by the solicitors in any particular rational order.</p> <p>The reviewers are unable to clearly state that they have had access to and examined all allegations in relation to sexual abuse against Norbertine priests. There is a lack of clear recording in relation to all aspects of allegations; and therefore it is not possible to state with any confidence that all allegations have been reported to An Garda Siochana/PSNI or Social Services in the appropriate jurisdiction.</p> <p>The files at Holy Trinity House lacked a consistent structure, clear narrative accounts and details in relation to the allegations that were made, the complainants, and the response of the Canonry. Information in relation to the individual priest respondents, such as date of birth, education history and religious career were present in these files. The archive with information from Kilnacrott Abbey is reported to be held in Tongerlo Abbey in Belgium.”</p>

Order	Date of Report	Size	Criteria 2.4 ¹ and 7.5 ²	Relevant extracts re quality of records
				<p>“In summary, the reviewers are not satisfied that allegations of child safeguarding have been adequately addressed, either in the past or at present. There is an absence of records to demonstrate what action has been taken in terms of reporting to the civil authorities, to offering pastoral support, or to managing risk. There is a serious lack of clarity by the role holders about their responsibilities.”</p> <p>Overall, the management of Norbertine priests about whom there have been very serious concerns has been very poor. In fact, it would not be unfair to label it as careless.”</p> <p>“In relation to Criterion 7.5 the reviewers were informed that the case management files are stored securely within the grounds of Holy Trinity House. The Prelate Administrator, Prior and Secretary appear to have access to these files. Other files are securely stored with the Canonry’s legal representatives in Dublin. However, it is difficult to ascertain who has primary responsibility for the files.”</p>
Notre Dame des Missions (Our Lady of the Missions)	July 2014	35	n/a	n/s
The Order of St Camillus	May 2015	10	n/a	n/a
The Sisters of Our Lady of Apostles	March 2015	84 (including 15 abroad)	n/a	n/a
Patrician Brothers	25 March 2014	Not stated	2.4 – met fully 7.5 – met fully	<p>“The files are well structured and organised. A number of the files record lengthy correspondence of a legal nature (where the Congregation was sued by the victim). In some files, the record of outcome of investigations by civil authorities is not well documented and as noted above, risk management has not always been evidenced.”</p>

Order	Date of Report	Size	Criteria 2.4 ¹ and 7.5 ²	Relevant extracts re quality of records
Poor Servants of the Mother of God	March 2015	65	n/a	n/a
Presentation Brothers Anglo-Irish Province	January 2014	45 (In the Anglo-Irish Province)	2.4 – met fully 7.5 – met fully	<p>“Criterion 2.4 is met fully. The case files, when created, are kept in a secure cabinet. There is a clear process in place for recording incidents and for the management of allegations. Standard forms are appropriately used. However, in practice the case files when reviewed, do not always contain full information. This is because the province leader, who can also receive information relating to concerns, is not on the same site as the management files. This, therefore, presents logistical challenges in terms of ensuring that the case file contains all information at any one point in time. It is essential for the management of cases that one set of records relating to case management is maintained on each accused Brother. It should be the responsibility of the designated person to create and maintain the case file and ensure that records from any other person are placed in the file. The reviewers were advised that an Interim Protocol, ‘Access to safeguarding files’ is in draft format. The reviewers would suggest that this protocol provides absolute clarity around the creation, management and storage of, and access to, records; the reviewers further advise that there should be a quarterly review of the master files to ensure that all key information is on file.”</p> <p>“Unfortunately the records in all cases of former Brothers do not contain up to date information relating to their current circumstances, this is because the congregation has no right to information held by the HSC in Northern Ireland, or the former HSE, now TUSLA, the Child and Family agency in ROI.</p>

Order	Date of Report	Size	Criteria 2.4 ¹ and 7.5 ²	Relevant extracts re quality of records
Poor Servants of the Mother of God	March 2015	65	n/a	n/a
Presentation Brothers Anglo-Irish Province	January 2014	45 (In the Anglo-Irish Province)	2.4 – met fully 7.5 – met fully	<p>However the reviewers would encourage the Province Leader to write to those agencies if he is concerned about safeguarding of children and to seek to ascertain if the civil authorities have carried out risk assessments in respect of any former Brothers and on any current risk they may present to children.”</p> <p>“Significant work has taken place to standardise the file formats and they are generally legible and well structured. The files could be enhanced further, as already noted, if there was greater detail in relation to the work of the advisor on file and details of contacts with complainants and any support they have been offered.”</p>
Redemptorist Congregation	September 2014	107	2.4 – met fully 7.5 – met fully	<p>“As described at the beginning of this report, the reviewers had access to all case file records in the Redemptorist Congregation. These files are well structured and maintained and are comprehensive in nature. They are properly stored in locked cabinets in a locked room in a section of the building that is alarmed and access to them is restricted and supervised. Therefore Criterion 2.4 is met fully.”</p>
The Religious of Christian Education	May 2015	15	n/a	n/a
The Religious of Jesus and Mary	July 2015	43	n/a	n/a
The Religious of the Sacred Heart of Mary	April 2015	49	n/a	n/a
The Religious Sisters of Charity	17 February 2015	213	n/a	n/a

Order	Date of Report	Size	Criteria 2.4 ¹ and 7.5 ²	Relevant extracts re quality of records
Rosminians (Institute of Charity)	25 June 2015	26	2.4 – met fully 7.5 – met fully	“In relation to Criterion 2.4 (Recording) the reviewers read a total of 20 files. Whilst it is clear that work has been done to structure the files, it is still difficult to track the safeguarding narrative in many of them. Some of the files consist mainly of sections devoted to each victim – often containing legal and educational documentation – without a clear summary or time-line to enable readers to easily follow the wider safeguarding management of each case. It is recommended that the existing active files be improved by ensuring that they contain a section which provides a chronological overview of the management of the case, highlighting key milestones such as dates of reporting to statutory agencies, action taken by the Institute pending investigation, precepts and safety plans, risk assessments, canonical actions, and outcomes.”
Sacred Hearts of Jesus and Mary (SSCC)	November 2014	18 (Ireland and England)	2.4 – met fully 7.5 – met fully	“Files are generally well structured and arranged in chronological order which can sometimes give rise to duplication, with some overlap of some sections. The reviewers examined all files in relation to all three priests and are confident that current practice adheres to good procedural process.”
Sisters of the Sacred Hearts of Jesus and Mary	July 2014	36	2.4 – met fully 7.5 – met fully	n/a
The Salesians of Don Bosco in Ireland	February 2015	58	2.4 – met fully 7.5 – met fully	“The reviewers read all of the case management files, on both the living and deceased respondents. These were well constructed and easy to follow, and they are stored confidentially and securely. Criterion 2.4 is met fully.”
The Salesian Sisters of St. John Bosco	November 2015	69	n/a	n/a

Order	Date of Report	Size	Criteria 2.4 ¹ and 7.5 ²	Relevant extracts re quality of records
Irish Region of the Sisters of St. Louis	September 2014	195	2.4 – met partially 7.5 – met fully	<p>“In the majority of these instances the allegations relating to physical or sexual abuse refer to events which are several decades old and generally lack detail. In 3 (of the total of 7 cases seen in the 5 files) the allegations were referred to the Irish Region of the Sisters of St Louis by the PSNI or An Garda Siochana (with the consequence that there was no need for the sisters to report to them). In one of the more detailed sexual abuse allegations, the sisters did not refer to An Garda Siochana for 3 months and after protracted internal discussion. In the remaining 3 cases there is no record of reporting to An Garda Siochana. There is a very limited record of reporting to the civil child protection agencies (Social Services). This is recorded in just one case, after a time lapse of 7 years. The safeguarding files are not well structured, nor do they contain all of the relevant safeguarding information. There is evidence on some files of victim outreach, whilst in others, litigation processes have taken precedence. None of the allegations have resulted in criminal conviction. The files do not contain reference to any internal process to risk assess cases or to determine the need for restrictions or other canonical measures.”</p> <p>“Part of the challenge faced by the reviewers was the quality of the recording in so far as it was minimalist and confused as the allegations were a mixture of harsh treatment with references to physical and sexual abuse but without specific allegations. It is clear that the sisters were distressed by the information in the files and the possibility that their confreres may have harmed children.”</p>
Sisters of St. Clare	June 2015	112	n/a	n/a

Order	Date of Report	Size	Criteria 2.4 ¹ and 7.5 ²	Relevant extracts re quality of records
The Sisters of St. Joseph of Cluny	April 2015	74	n/a	n/a
The Sisters of the Christian Retreat	April 2015	4	n/a	n/a
Sisters of the Infant Jesus (Nicolas Barré)	December 2014	49	n/a	n/a
The Sisters of St. John of God	May 2015	123	n/a	n/a
Society Of African Missions (SMA) Irish Province	March 2013	193	2.4 – met fully 7.5 – met fully	<p>“The reviewers examined 15 case files on SMA priests about who a child protection concern had arisen. The files have been organised in a logical manner and are easy to read and follow.”</p> <p>“Cases files are well structured and maintained and are securely stored to protect their confidentiality.”</p>
Irish British Province of the Society of the Divine Word (Divine Word Missionaries)	August 2013	48 (Britain and Ireland)	2.4 – met partially 7.5 – met partially	<p>“The fact that no child safeguarding case management files existed in SVD IBP prior to 2013 is of great concern and indicates a lack of any focus on child protection within the society over the last 20 years. Case files were constructed by the society in advance of the review taking place. An experienced administrator was employed in January 2013 who examined all personnel files in the society’s archives for any material that related to potential clerical child sexual abuse. This material was then brought together to construct the seven case files that the reviewers examined. These files are well constructed and very accessible, with good chronologies and narrative. Criterion 2.4 is only met partially because not all of these files are complete, as further information is required from other provinces and from assessment services in some of these cases.”</p>

Order	Date of Report	Size	Criteria 2.4 ¹ and 7.5 ²	Relevant extracts re quality of records
				<p>“The existence of child safeguarding case management files within SVD IBP can only be traced back to the beginning of 2013. While the administrator has done excellent work in creating the files that the reviewers examined, from her reading of the whole archive of society members’ personnel files, she could only import documents that she found. A lot of documentation was either never generated, or was removed or destroyed by parties unknown, or was kept in some file or files the existence of which has not yet been discovered. There is evidence that the provincial has been seeking missing reports and information and the reviewers encourage him to continue to do so. SVD IBP is starting from a very low base in relation to the keeping of comprehensive case management files. The reviewers are satisfied that the new files are properly assembled and stored.”</p>
The Society of the Holy Child Jesus	November 2014	14	n/a	n/a
The Society of the Sacred Heart	March 2015	44	n/a	n/a
The Sisters of Charity of Saint Paul the Apostle	30 April 2015	15	n/a	n/a
St Joseph’s Society for Foreign Missions, a Missionary Society of Apostolic Life	October 2014	40	2.4 – met fully 7.5 – met fully	<p>“The safeguarding files held by the society are well structured and the material is ordered and accessible.”</p>

Order	Date of Report	Size	Criteria 2.4 ¹ and 7.5 ²	Relevant extracts re quality of records
Union of Sisters of the Presentation of the Blessed Virgin Mary (Ireland)	July 2014	600	2.4 – met fully 7.5 – met fully	<p>“Criteria 2.4 and 2.6 relate to the proper recording, storage and sharing of information about child safeguarding concerns. The reviewers visited all three Provincial offices and have verified that proper case records have been compiled on all reports made to the Presentation Sisters in Ireland regarding the possible abuse of a child or young person. The reviewers have also established that these case records are securely and confidentially stored and that access to them is strictly limited.”</p> <p>“The reviewers have had access to all case files stored in each of the three Provincial offices, and they are of the view that these contain all the requisite information, are well maintained and properly stored.”</p>
The Ursulines of the Irish Union	July 2015	97 (including an unspecified number resident abroad)	n/a	n/a
The Vincentian Congregation	May 2014	50	2.4 – met fully 7.5 – met fully	<p>“The case files examined by the reviewers indicate that good narrative records have been kept by the Vincentian Congregation, particularly in the period post the Murphy Commission Report. Prior to that report there were gaps in the narrative contained in some case files, which do not allow the reader to gain an easy and full understanding of the progress of those cases. The more recent files, from 2010 especially, contain all relevant information, are transparent and document clearly the actions taken. In particular pastoral outreach to and support of complainants is well documented, which was not always clear in earlier files.”</p>

Table 2 – 2016 Standards

Order	Date of Report	Relevant extracts re quality of records
Order of Saint Augustine	October 2022	<p>“The 2014 Review Report was critical of the OSAs in relation to case management, especially as it was conducted prior to 2013. It is clear from the current Review, both through the examination of annual Case Management Reports by the DLP to the Provincial, and through a close reading of case management files, that very significant improvements have been made, and this is commended. During 2015, all cases were reported to the Gardai and to Tusla, and if appropriate, to the National Board. This was to address the fact that some cases had historically not been reported. This matter was already commented on in the first Review Report, so lessons were learnt. The new Provincial, who was appointed in June 2013 and the current DLP who was employed in the same year can be credited with the clear and steady improvements in case management since the previous Review.”</p>
Benedictine Abbey, Glenstal	August 2018	n/a
Benedictine Community of Nuns of Kylemore Abbey	July 2022	n/a
Discalced Carmelite Friars (OCD)	February 2024	<p>“The case files audited were well organised, and the information was up to date. All files were securely stored and retained in compliance with GDPR requirements.”</p>
Order of Carmelites (O.Carm)	January 2024	n/a
Society of Mary – The Marist Fathers	August 2023	<p>“The case management files are well ordered and are kept up to date. They are stored in a fireproof safe in a locked room, and there is a strict protocol in place about who can have permission to access them.”</p>
Presentation Brothers Anglo-Irish Province	May 2023	<p>“All case management files that deal with members of the Order who were discussed in the previous Review Report are being prepared for placing in the Order’s Archives. The files that have been opened since that Review are maintained by the DLP and are stored in the Province Leader’s office. All members about whom allegations or concerns have been reported since the first Review are deceased.”</p>

Order	Date of Report	Relevant extracts re quality of records
Presentation Sisters South West Province	August 2020	n/a
Redemptorist Congregation	March 2022	“The reviewers suggested that the same outer file cover be used for all case management files, with dividers in place for specific information, as outlined in an index page. The files were otherwise well managed, with good chronological narrative facilitating ease of understanding of circumstances and of actions taken in all cases.”
Irish British Province of the Society of the Divine Word (Divine Word Missionaries)	December 2021	“The case management files which were very poor when examined in 2013 have now been completely restructured, and are comprehensive in their coverage of decisions and actions taken since the first Review. The previous lay DLP has been very instrumental in advising on case management, while the Provincial Secretary has done very effective work in bringing the case files up to the required level of quality.”

Appendix 13: Hospitaller Order of St John of God Schools

Figures provided on 6 June 2024

Religious Order	School	Total Number of Allegations	Total Number of Alleged Abusers
Hospitaller Order of Saint John of God	St. Augustine's School, Carysfort Avenue, Dublin	112	29
Hospitaller Order of Saint John of God	Islandbridge Day School, Dublin	2	2
Hospitaller Order of Saint John of God	Dunmore House Day School, Dublin	1	1
Hospitaller Order of Saint John of God	St. Raphael's School, Celbridge, Kildare	2*	2
Hospitaller Order of Saint John of God	St. Mary's School, Drumcar, Louth	1*	1
Hospitaller Order of Saint John of God	Oliver Plunket House, Classes for Children with Epilepsy	3	3
Hospitaller Order of Saint John of God	Kilcrouney Boarding School, Wicklow	1	1

* There are 3 allegations for which the school has not been identified. These have not been included in the above figures.

There are 16 allegations against unidentified Religious members. These are included in the total number of allegations above.

There are 12 allegations where it is not specified whether religious or lay. These are included in the total number of allegations above.

There are 5 allegations against unidentified lay persons. These are included in the total number of allegations above.

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