

CHILD SEXUAL ABUSE AND ABUSERS

This chapter considers the nature and treatment of child sexual abuse. It has been informed by a review of literature on the subject which led to a two-day consultation with an Expert Group comprising therapists with specific experience of working with priests who have sexually abused children (hereinafter referred to as the Expert Group).⁴

What is Child Sexual Abuse?

While definitions of child sexual abuse vary according to context, probably the most useful definition and broadest for the purposes of this Report was that which was adopted by the Law Reform Commission in 1990⁵ and later developed in Children First, National Guidelines for the Protection and Welfare of Children (Department of Health and Children, 1999) which state that “*child sexual abuse occurs when a child is used by another person for his or her gratification or sexual arousal or that of others*”. Examples of child sexual abuse include the following:

- (i) exposure of the sexual organs or any sexual act intentionally performed in the presence of the child;
- (ii) intentional touching or molesting of the body of a child whether by a person or object for the purpose of sexual arousal or gratification;
- (iii) masturbation in the presence of the child or the involvement of the child in an act of masturbation;
- (iv) sexual intercourse with the child whether oral, vaginal or anal;
- (v) sexual exploitation of a child which includes inciting, encouraging, propositioning, requiring or permitting a child to solicit for, or to engage in prostitution or other sexual acts. Sexual exploitation also occurs when a child is involved in the exhibition, modelling or posing for the purpose of sexual arousal, gratification or sexual act, including its recording (on film, video tape or other media) or the manipulation for those purposes of the image by computer or other means. It may also include showing sexually explicit material to children which is often a feature of the “grooming” process by perpetrators of abuse.

⁴ Mr. Donald Findlater, deputy director, the Lucy Faithful Foundation
Mr. Steven Lowe, senior therapist, the Lucy Faithful Foundation
Dr Patrick Randles, principal clinical psychologist, the Granada Institute, Shankill, Co Dublin
Mr. Joseph Sullivan formerly principal therapist for the Lucy Faithful Foundation
Dr Patrick Walsh, Director, the Granada Institute, St. John of Gods, Shankill, Co. Dublin
Mr. Ray Wyre, Ray Wyre Associates, a company that provides independent assessment of sexual crime and abuse.

⁵ This definition was originally proposed by the Western Australia Task Force on Child Sexual Abuse, 1987 and is adopted by the Law Reform Commission (1990) Report on Child Sexual Abuse, p. 8.

Although this definition has been adopted by many State and private organisations, it has not been formally enacted into law by the Legislature. For the purposes of Irish criminal law therefore, child sexual abuse is not statutorily defined but rather consists of many specific offences of which the principal ones are set out in Chapter 3.3 of this Report.

A central characteristic of any such abuse is the dominant position of an adult that allows him or her to coerce a child into engaging in sexual activity.

It is important that child sexual abuse is not reduced to a single theory or categorisation, but is seen for what it is, a complex phenomenon, the nature and impact of which depend on a number of circumstances. While formal definitions are useful in terms of classifying it and separating it from other forms of child maltreatment, caution needs to be exercised in the application of a technical description, as the dynamics and contextual factors surrounding abusive situations can make it difficult to explain in a rational fashion. It also has to be remembered that the impact of sexual abuse upon a child or young person will be determined by a number of factors concerning the child, the relationship that the abuser has with the child, the child's previous experiences, resilience and vulnerability, and the circumstances in which the abuse takes place and the response to any complaint made.

Historical Perspective on Child Sexual Abuse

In assessing whether a particular response to an allegation of child sexual abuse was adequate or appropriate, the Ferns Inquiry believed it important to establish the extent of awareness of this problem that was or should have been present in the authority dealing with it.

Public consciousness of the problem of child abuse (and in particular child sexual abuse) was a gradual development from the early 1960s. In the earlier half of the twentieth century, although child abuse and cruelty was known to exist, it was generally identified with neglect and poverty. In the United States, mandatory reporting of non-accidental injury to children became a requirement in a number of states between 1960 and 1965. Through this reporting, it became clear that child abuse within families was a major problem in the community and this, together with the development of a strong feminist movement, led to a greater awareness of this problem and the problem of sexual abuse of children among the population as a whole. Over the next decade, the extent of sexual abuse of children both within and outside of families was recognised as a world-wide problem.

In May 1975 an expert group was brought together by the Department of Health to establish the extent of the problem of non-accidental injuries to children.⁶ The group unanimously agreed that a significant problem of child abuse existed in Ireland at the time and that coordinated efforts should be made to remedy the situation. In March 1976, the expert group published a report on non-accidental injury to children and this led to the 1977 Memorandum on Non-Accidental Injury to Children issued by the Department of Health. This memorandum, and the report leading up to it, made no reference to the sexual abuse of children. Further guidelines published in 1983

⁶ See p 52 *et seq.*

mentioned sexual abuse of children in passing but it was not until 1987 that the Department of Health child abuse guidelines set out procedures for the identification, investigation and management of child sexual abuse. All of these guidelines dealt with child abuse perpetrated by a member of the family or the carer of the child and did not advert in any detail to the situation of the child being abused by third parties. These guidelines did not address the issue of allegations of child sexual abuse which were not reported until the victim had become an adult. This was the position in all but five of the episodes of abuse identified by this Inquiry. It was not until after the Framework Document⁷ that the position was clarified and an obligation was assumed by all dioceses to report all allegations of child sexual abuse against priests of the Diocese, irrespective of whether the complainant was an adult or a child at the time of making the complaint.

It is generally accepted that awareness of the nature of child sexual abuse in Ireland coincided with high profile cases such as the Kilkenny Incest Investigation in 1993 and The West of Ireland Farmer case in 1995. These cases demonstrated that child sexual abuse was a crime perpetrated by apparently upright and decent members of the community. Both these cases however, dealt with sexual abuse of children within families. It was not until after Fr Brendan Smyth's arrest in Belfast and the publicity that surrounded the seeking of an extradition warrant by the Northern Ireland authorities in 1994, that Irish society was fully exposed to the phenomenon of the systematic abuse of children by third parties who were in a position of trust and authority over those children. This "third-party" abuse represents only a small fraction of the abuse occurring in Irish society⁹ but is a major problem for any organisation entrusted with the care of children in which it becomes manifest.

In response to the growing public awareness of child sexual abuse within the Church, the Irish Catholic Bishops' Conference and CORI¹⁰ established an Advisory Committee in 1994 to set down guidelines for the proper handling of allegations that came to the attention of Church authorities here. The Framework Document was adopted by all dioceses in this country although implementation of these guidelines was left to the individual bishop in his diocese. In the Diocese of Ferns, the guidelines were adopted before their official publication, in December 1995.

The convening of the Advisory Committee and the terms of its Report were a clear acknowledgement of the seriousness of the problem of clerical child sexual abuse and the need for guidance on how the problem should be handled. The Report only came

⁷ The Report of the Advisory Committee of the Irish Catholic Bishops Conference. This Committee was established in May 1994 and published its report in 1996. This report, which set down guidelines for the handling of child sexual abuse allegations against clergy by Church authorities is referred to as "The Framework Document" throughout The Ferns Report. For further discussion see p40 below.

⁹ Sexual Abuse and Violence in Ireland: A National Study of Irish Experiences, Beliefs and Attitudes Concerning Sexual Violence. Hannah McGee, Rebecca Garavan, Mairead de Barra, Joanne Byrne, Ronan Conroy. The Royal College of Surgeons in Ireland. (The SAVI Report 2002). The Liffey Press 2002

¹⁰ Conference of Religious of Ireland

into effect after 1995 but it did, nevertheless, provide an objective standard by which to judge whether a particular response was deemed appropriate.

After a number of allegations were received by authorities regarding the behaviour of two swimming coaches in the Leinster region, an Inquiry was conducted by Mr Roderick Murphy SC (now a judge of the High Court) in 1998 into how these allegations were handled by the Swimming Authorities. The Roderick Murphy Inquiry is the only other Inquiry that dealt with the issue of child sexual abuse outside of the familial context.

The Ferns Inquiry, in the course of its oral hearings and research, encountered a widely held view among commentators, journalists and victims themselves, that the Catholic Church had an awareness of the problem of child sexual abuse by priests before it entered the public domain. The Inquiry sought to establish the development of this awareness both in the Catholic Church in Ireland and in the wider Church.

Early Church law ranked sexual sins as the most serious offences along with homicide and idolatry. The three most serious of these were fornication, adultery and sexual corruption of young boys.¹¹

The first Code of Canon law, published in 1917, contained specific canons condemning solicitation, false denunciation and the failure to denounce. This only became relevant to the issue of child sexual abuse by clergy when, in 1962 Pope John XXIII issued a special procedural law for the processing of solicitation cases. The document was sent to a number of Bishops throughout the world who were directed to keep it in secret archives and not to publish or comment upon it. This document related specifically to solicitation in the course of hearing Confession. It is of interest to the Inquiry as it also specifically dealt with how priests who abused children were to be handled and imposed a high degree of secrecy on all Church officials involved in such cases. The penalty for breach of this secrecy was automatic excommunication. Even witnesses and complainants could be excommunicated if they broke the oath of secrecy. The Inquiry has seen no evidence of the existence of this document in the files of the Diocese of Ferns that it has examined. It has been informed that the Diocese never received such a communication from Rome and was not aware of its existence until it was publicly discussed by commentators in 2001.

This is the first document from the Vatican of which the Inquiry is aware which directs bishops on the handling of child abuse allegations. The code of secrecy which was emphasised in the document has been perceived by the media and members of the general public as informing the Church authorities on how allegations of child sexual abuse should be dealt with. This 1962 document was referred to in a document issued by the Vatican in 2001 outlining new norms for handling certain grave offences. The document which was entitled, "*Sacramentorum Sanctitatis Tutela*"¹² (Protection of the Holiness of the Sacraments), was issued "*motu proprio*"¹³ by Pope John Paul II. The norms were not themselves published and the understanding appears to have been

¹¹ Brundage, Law, Sex and Christian Society in Medieval Europe, (Chicago, University of Chicago Press, 1987, Page 71).

¹² See below p41

¹³ *Motu proprio* is the commonplace format for a document from the Pope in a disciplinary matter. It translates as "on his own initiative".

that local bishops would receive them on a case by case basis. However, on 19 May 2001, the norms were discussed and explained in a letter to the world's bishops and heads of religious orders from the Congregation for the Doctrine of the Faith and signed by Cardinal Joseph Ratzinger, Prefect. It outlined how the Congregation was to continue to have "exclusive competence" regarding certain grave offences including sexual offences with a minor under the age of 18.

One commentator who worked closely with the Church during the early 1960s and 1970s was the American, A.W. Richard Sipe¹⁴. He pointed out that, up until the 1950s, sexual activity in a priest was seen as a moral/spiritual problem. Where that sexual activity involved behaviour which was perceived as deviant, that is, sexual interest in men or children, there developed recognition that such behaviour had a psychological dimension. This opened up the problem to lay psychiatric and psychological intervention and increased awareness, in the medical community at least, of the presence of this problem in the priesthood. This Inquiry has observed that Bishop Donal Herlihy (Bishop of Ferns 1964-1983), began to engage psychological experts to assess priests accused of child sexual abuse in the late 1970s.

Dr Sipe observes that from the early 1950s, Fr Bier, a Jesuit from Fordham University, advocated psychological testing of candidates for the priesthood to eliminate problem priests including those who were sexually active. Fr Bier's writings and advocacy of the use of screening tests reflected a growing awareness within the Catholic Church that deviant sexual behaviour by men professing celibacy was not merely a spiritual problem but also contained psychological components.

In his book entitled "The Sipe Report", Dr Sipe observed:

"In 1976 the Servants of the Paraclete opened what was perhaps the first programme in the world with a treatment regime designed to treat psychosexual disorders, including disorders involving the sexual abuse of minors. The ability of the Catholic community to design and implement such a programme is both a reflection of the need for such a programme and the degree of knowledge of the scope of the problem of sexual misconduct with children by Catholic priests and religious. The fact that preparations for the opening of this programme were years in the making, demonstrates widespread knowledge of existing sexual misconduct with minors by Catholic clergy by the late 1960s and early 1970s.

I conclude that the bishops of the United States, individually and collectively, were by the 1970s, well aware of certain psychological problems of priests, including sexual involvement with minors, and were also aware of alternative modes of addressing psychosexual problems, other than spiritual renewal and geographic transfers.

As early as the 1960s, Catholic bishops and religious superiors attempted to handle some of the more severe cases of sexual misconduct through the use of

¹⁴Dr AW Richard Sipe. A former Roman Catholic priest and current psychotherapist and psychiatrist, he is the author of "The Sipe Report" and has written extensively on this subject, including his 1995 book "Sex, Priests and Power".

psychiatry and psychology. This effort grew in size, scope and sophistication until by the late 1970s Catholic treatment centres were on the cutting edge of psychiatry and psychology in the use of sophisticated treatment techniques for the treatment of Catholic priests and religious who had acted out sexually with minors. It is reasonable to ask; what care was given to known child victims of priest sexual involvement? What steps were taken to protect Catholic children and their families from the known risk of future abuse?"

Even before the Servants of the Paracletes had developed its programme for the treatment of priests who had sexually abused children in 1976, they had in 1959, founded an assessment and treatment centre for priests with behavioural problems including child sexual abuse in Stroud in Gloucester, England which was used by the Diocese of Ferns from the mid 1980s in dealing with priests accused of child sexual abuse. The Diocese also used American assessment and treatment centres from that date.

By the end of 1984, the case of Fr Gilbert Gauthé of Lafayette, Louisiana, was receiving worldwide publicity. Fr Gauthé was charged on multiple counts for abusing children in his parish. Not only was this the first time that such a criminal case had this level of publicity, but it was also the first time that a civil suit was initiated against a diocese anywhere in the world for failing to protect children from the activities of a known clerical abuser.

In May 1985 a document was prepared by clergy and a civil lawyer involved in this case entitled, "The Problem of Sexual Molestation by Roman Catholic Clergy: Meeting the Problem in a Comprehensive and Responsible Manner".¹⁵ This document, which became known as "The Manual" set out to inform the Church hierarchy in the United States of America about the growing problem of sexual abuse of children and adolescents by clerics. It represented the first in-depth analysis of this problem in the United States. It posed a number of legal and medical questions and suggested, among other things, that bishops should ensure that their insurance policies protect them from claims of child sexual abuse. The Report predicted that the Catholic Church could be found liable for millions of dollars in damages in cases arising out of the sexual abuse of children by clergy who were subsequently protected by their Bishop.¹⁶ The Diocese of Ferns has stated that it was not aware of the existence of this "Manual" until informed about it by this Inquiry.

What is clear, however, is that Irish bishops were alerted to a potential liability for child sexual abuse by clergy, from the cases that had emerged in the 1980s in the United States. According to a press statement issued by the Irish Catholic Communications Office on 4 February 2003, most dioceses obtained insurance policies between 1987 and 1990 against the eventuality of legal liability accruing to a diocese from acts of child sexual abuse by priests. The Inquiry is aware that Bishop Comiskey entered in to such an insurance policy in 1989¹⁷.

¹⁵ Fr. Thomas Doyle, Secretary Canonist to the Papal Nunciature in Washington, Fr. Michael Peterson, Director of the St. Luke's Institute in Hartford, Connecticut and Mr. Raymond Mouton, a civil lawyer.

¹⁶ Time to Listen; Confronting Child Sexual Abuse by Catholic Clergy in Ireland. Goode McGee and O'Boyle. The Liffey Press 2003 p 127 *et seq*.

¹⁷ See pp 46 *et seq*

“Time to Listen” was commissioned in late 2000 by The Irish Bishops’ Committee on Child Abuse (now known as the Bishops’ Committee on Child Protection) and published in 2003. It states:

“Child sexual abuse by clergy has occurred over an extended period. Therefore some awareness of the problem must have existed among clergy, most likely senior members of the Church, for some time. However the way in which inappropriate sexual behaviour was interpreted by senior Church personnel varied. Anecdotally, sexual contact with male children was sometimes understood as homosexual behaviour rather than child sexual abuse per se. The emphasis was on the moral implications for the offending cleric and a confessional approach was used.”

This Study went on to say that most clergy it had spoken to, particularly “front-line” priests and religious, reported becoming aware of the problem of priests abusing children quite recently, just as the general public did, through media reports, in particular media reports from America. Church personnel interviewed in the study recalled first hearing of child sexual abuse by clergy in the late 1980s or early 1990s. This would accord with the testimony of priests from the Diocese of Ferns who spoke with this Inquiry.

Where an organisation is aware of a serious problem within its structure with criminal and child protection implications, it has a duty to alert and inform its personnel of this and to ensure that every step is taken to eliminate it as soon as possible. From the documentation furnished to this Inquiry by the Diocese of Ferns there is no evidence that the growing awareness of this problem was communicated to the Church Authorities in the Diocese. The knowledge which is now in the public domain and therefore in the possession of priests generally, did not come from Church authorities, but from the media and from victims speaking out about their experiences. Once this problem entered the public domain, a high-level education programme was embarked upon by the Diocese of Ferns and by 1996, priests were well informed of the damage that sexual abuse can do to children and were encouraged by the present administration within the Diocese to communicate any concerns they had around this issue.

The Inquiry recognises that most of the developing awareness of child sexual abuse by priests occurred in the United States and it is not possible to impute any particular knowledge of this on the part of priests or Church authorities in the Diocese of Ferns. When Bishop Comiskey became aware of a problem with child sexual abuse among his clergy, he did, nevertheless, have available to him a reasonably sophisticated treatment centre established by the Servants of the Paracletes in Stroud in England. This treatment centre offered assessment and residential care to priests who had a wide range of behavioural problems including alcoholism, depression and sexually inappropriate behaviour. By 1980, the practice of referring priests with sexual problems to reputable psychiatrists for analysis and treatment had been established in the Diocese of Ferns.

Individual priests who attended this Inquiry spoke of their lack of any awareness of the problem of sexual abuse of children in society in general or among their numbers. The Inquiry believes that this lack of awareness was, in most cases, genuine, but is

concerned that the Church Authorities either in this country or in Rome did not properly alert their priests to the danger of child sexual abuse at a time when they did or should have known of this danger which had been clearly identified by Church authorities elsewhere.

Common Perceptions about Child Sexual Abuse¹⁸

Perceptions about child sexual abuse are linked to the way the subject is understood and categorised and often reflect society's reluctance to believe that it is something committed by people seen as being "normal". The use of certain terminology in describing child sexual abuse can also be misleading. For example, describing it as an addictive or pathological illness can be disingenuous and give the impression that sexual attraction to children is beyond the control of the majority of people who commit it. The belief that sexual abuse is most frequently committed by the sinister and deviant stranger belies the information which we now have that the majority of children are abused by persons known to them¹⁹, many of whom present as benign and admirable people.

One of the most striking aspects of the profiles of the clerical abusers that emerged from the Ferns Inquiry and from the Expert Group was that, in certain respects, many of these men were successful, spiritual and even caring human beings. Some were known to be excellent teachers who elicited high academic standards from the young people they taught; most were considered pious and holy; some were outstanding managers and fund raisers while others were described as gentle and inoffensive. Many of these priests were readily accepted in their communities and befriended the families of their victims with ease. The verbal or pictorial portrayal of the perpetrator as a man of unmitigated evil is frequently inaccurate and often misleading, resulting in parents failing to appreciate that the child abuser may be someone with a kind and pleasant appearance, capable of warmth, affection and generosity and of intellectual and professional worth. This benign and unthreatening image can be applied to many men who abuse, not just clergy, and is a key factor in abuse being allowed to continue undetected for long periods of time.

People who abuse children sexually are often assumed to be suffering from a classified psychiatric condition known as 'paedophilia'. This condition is categorised by the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, 4th Ed. (DSM-IV), as involving fantasies about sexual activity by an adult with a prepubescent child. There are, however, some variations within this categorisation. Some individuals prefer females, usually 8 to 10 years old. Those attracted to males usually prefer slightly older children. People attracted to post-pubescent children are known as ephebophiles, although this distinction is not generally made in Europe. Some perpetrators are attracted to both sexes. While some are sexually attracted only to children, others are sometimes also attracted to adults. One of the outstanding characteristics of paedophiles or ephebophiles is their capacity to rationalise and normalise their sexual fantasies and activities; another is their propensity to form associations which facilitate contact with like-minded people and

¹⁸ As already stated at p.6 of this Report, the Inquiry has not used gender neutral language in the discussion that follows.

¹⁹ SAVI Report, 2002.

promote paedophilic literature. The Inquiry has been informed that the distinction between paedophiles and ephebophiles is not useful, nor is the sexual orientation of the priests concerned particularly relevant. The main point for consideration must be the abusive behaviour and the fact that the perpetrators prioritised their desires over their doubts or inhibitions and over the safety and welfare of children.

Overall, the literature searches and consultations carried out by and on behalf of the Inquiry would lead it away from associating child sexual abuse solely with issues such as sexual orientation, celibacy, sexual dysfunction, relationship problems, traumatic childhood experiences, previous victimization, loneliness, isolation, problem drinking, immaturity or other social or psychological factors. Any of the above features could be associated with most of the incidents reported; however, focusing on single causes fails to acknowledge that many people, including priests, who experience these factors in their lives, do not abuse children.

The Process of Child Sexual Abuse

It is generally agreed that child sexual abuse rarely consists of a once-off incident or a chance occurrence, but is ordinarily the result of a lengthy and well-planned grooming process on the part of the offender. It can be argued that the process starts well before the incident of abuse and consists of a combination of factors and circumstances that the abuser creates. The abuser may contrive to place himself in situations where he will have frequent contact with children. Two examples are: joining a profession or becoming involved in an activity, e.g. youth work or sporting activities, that will bring him into contact with or place him in positions of responsibility over children; or, joining or befriending a family with children. The abuser will often target particularly vulnerable children with interests that he, the abuser, can satisfy which will draw the victim into a close relationship with him. This can lead to a form of emotional blackmail whereby the victims may be confused into thinking that they themselves are responsible for the abuse.

Finkelhor,²⁰ an acknowledged international expert in child sexual abuse, has proposed four pre-conditions that facilitate this gradual initiation. These are (i) motivation to abuse, (ii) overcoming internal inhibitions, (iii) overcoming external obstacles, and (iv) overcoming the child's resistance.

A slightly different conceptual framework called "The Spiral of Sexual Abuse"²¹ has provided a useful clinical tool for working with sex offenders. According to this model, the behavior begins when a perpetrator develops, or becomes aware of, a sexual interest in children. It describes how perpetrators, when confronted, will deny, rationalise and minimise their actions, so that the normal moral inhibition that prevents people from acting on their arousal is overcome. Fantasising about sexual contact with children further reinforces their arousal and their cognitive-distortion through a type of behavioral conditioning.

²⁰ Finkelhor D (1984) *Child Sexual Abuse: New Theory and Research*

²¹ Sullivan J. (2002). *The Spiral of Sexual Abuse: A conceptual Framework for Understanding and Illustrating the Evolution of Sexually Abusive Behaviour*. *NOTAnews*, 41:17-21

The next step is realising the fantasy by preparing or 'grooming' a child by, for example, giving him sweets or special attention but also by intimidating him. This process can also include building up, for other people, an image or reputation of the child as an attention seeker or troublemaker, who is subsequently less likely to be believed should he allege abuse. The gains which perpetrators experience from abuse will vary from sexual excitement and satisfaction to enjoying a sense of power and control.

The term "cognitive distortion" is commonly used to describe the type of rationalisation which allows someone to go beyond barriers set by guilt or fear in this type of situation. Thus the spiral continues.

In many instances, the only people who know about the abuse are the child and the abuser, and this situation may continue for a prolonged period. Evidence shown to the Inquiry illustrated how cognitive distortions operated by priests are particularly strong, given the conflict that exists between their abusive behaviour and their spiritual aspirations. Rationalisations used by some of them are particularly extreme, for example, that God, in calling them to the vocation of priesthood, had done so in the knowledge that they suffered from certain human weaknesses. This device served as a pardon for their abusive behaviour. They tended to see the abuse on a scale which when weighed against all the good they did in their ministry, could be excused and forgiven.

Impact of Child Sexual Abuse

Child sexual abuse is, according to studies, linked with depression and post-traumatic stress disorder, emotional and behavioural problems, interpersonal relationship difficulties and suicidal behaviour in both childhood and adult life, which places children at further health and emotional risk.²² It is recognised that where child sexual abuse is perpetrated by a clergyman, its impact on the victim can have additional consequences such as a loss of faith and an alienation from religion. Many victims have spoken of the profound sense of loss this has caused. Research on clerical sexual abuse carried out in Ireland indicates that when victims reported their abuse and received an inadequate response from church authorities, they experienced re-traumatisation.²³

Many members of the diocesan clergy in Ferns have indicated to the Inquiry that they had no appreciation of the impact of child sexual abuse on the victims. This was also a view expressed by individual clergymen in "Time to Listen". It has been a very strong feature of recent educational initiatives undertaken by the Diocese of Ferns to emphasise the horrific impact such abuse has on victims.

The question is asked why children, who were being abused by priests in Ferns, did not confide in their parents or other trusted adults who would have been in a position to protect them and prevent such abuse from recurring. We know from research

²² Jones, D. P. H. & Ramchandani, P. (1999) *Child Sexual Abuse: Informing Practice from Research*. Abingdon: Radcliffe

²³ Time to Listen: Goode et al, (2003).

evidence²⁴ and from the evidence to this Inquiry that only a minority of children who are abused will tell a protective adult, and the unpalatable reality is that reported and treated cases are the exception rather than the norm. The reasons for this are numerous but include: intimidation generated by blackmail or threats, fear of being disbelieved and guilt or dread of official intervention both for themselves and for the abuser. This reluctance to speak about sexual abuse is not confined to the victims of clerical abuse but is a recognized factor in all sexual abuse situations. Studies show that people abused a long time ago are more likely never to have revealed that abuse to anybody (over 82% of men aged 70+ reducing to over 55% for men aged 18 – 29; women have a higher rate of disclosure through all age groups).²⁵

What are termed ‘corruption’ and ‘entrapment’ can inhibit a child from disclosing child sexual abuse.²⁶ Drawing children into secrets, colluding with them about what stories to tell and excuses to make, can force a child to assume some responsibility and culpability for the sexual relationship. The Inquiry was told how, in Ferns, some young boys were seduced with alcohol and pornographic material by priests, which they were then reluctant to report to their parents for fear of getting into trouble.

From speaking with victims of child sexual abuse, it appears to the Inquiry that children abused by priests, particularly during the decades prior to the increased awareness of child sexual abuse and the development of a child protection system within the Church, were notably less likely to disclose their abuse to their parents. The very powerful position of the priest in the community and the reverence with which families held him militated against the child speaking about what had happened. The dearth of guidelines and awareness programmes left these children without information or knowledge on how to get help.

The pattern of disclosure in the Diocese of Ferns shows that only a handful of cases were reported to the Diocese prior to 1990 after which the numbers increased considerably. The lack of any proper diocesan reporting system prior to 1995 and the growing public awareness of this problem must be seen as factors that led to an increase in this reporting.

Assessment and Treatment of Alleged Abusers

Professional assessment of a person’s sexual maturity, which is initially conducted over a two or three hour session by an experienced therapist, may identify unresolved sexual issues. Assessment will not identify whether a particular person has committed a particular offence but it will indicate whether further assessment or treatment is advisable. If a person admits to having a problem, assessment can help establish the extent of that problem. Difficulties arise when a person denies the activity complained of and denies the existence of a problem. A properly conducted preliminary assessment however, can significantly aid the diagnosis of sexual problems in such a person, indicating a need for more intensive assessment which may take up to a month to complete.

²⁴ SAVI Report, 2002

²⁵ SAVI Report 2002 p121 et seq

²⁶ Wyre in Itzen 2000.

Whilst the Inquiry has not conducted an in-depth analysis of Assessment and Treatment programmes, it is clear from the material made available to it that medical and psychological thinking has changed radically over the past twenty years. At one time it was believed that men who abused children were suffering from a medical disorder which was capable of being cured. From the mid-1990s onwards it was recognised that a sexual propensity for children was not something that could be cured but it was believed that it could be controlled through medication and therapy.

The overall goal of sexual abuse treatment programmes is to prevent re-offending. Important elements of treatment include establishing the pattern of behaviour that led to the abuse, the degree of acknowledgement by the perpetrator, the fantasies held and operated by him and the level of empathy for his victims displayed by him at the beginning of and during therapy. Treatment programmes also focus on the assertiveness and self-sufficiency of the abuser and can include social skills training. Work is done in one to one and group settings. A battery of psychometric tests administered at the beginning and end of the treatment seeks to establish whether there is any significant change during the process.

Treatment will typically involve a twelve-month period of intensive therapy followed by a number of years of counselling and support. No time limit is placed on the ongoing care that may be involved as it will vary from person to person.

Returning Alleged Abusers to Ministry

A propensity to abuse children is not necessarily established by a single act of abuse. This is particularly true where the abuse occurred many years previously during the youth of a perpetrator who subsequently followed a lifetime of normal behaviour. The Expert Group advised, that with his co-operation, any person with such a propensity could be treated with a reasonable prospect that after the treatment he would not repeat the abuse. Unfortunately, that measure of success could not be guaranteed. Moreover, even successful treatment did not eradicate the underlying propensity to abuse.

This pessimistic view represented a radical departure from opinions expressed by other experts up until the late 1990s when psychiatrists were prepared to recommend that priests be returned to ministry. Such recommendations were sometimes accompanied by the caveat that the priest be subject to certain restrictions on their contact with children and to monitoring, but this was not always the case.

The Expert Group could not give definitive statistics on the number of offenders who re-offend after treatment but the view was unanimous that a properly constituted treatment programme did offer the best chance of preventing further abuse. These treatment programmes have been and continue to be, widely availed of by the Diocese of Ferns for the past twenty years. They are costly both in terms of time and of money but represent the best prospect of preventing further abuse of children.

It does appear that the treatment programmes made available by the Diocese of Ferns to priests acting under its aegis are not available to the community generally because of the high cost involved. It is recognised by the Inquiry that sex abusers may be

returned to society after serving a prison sentence without receiving proper or continuing treatment.

The question has been raised as to whether Roman Catholic clergy display a greater propensity to sexually abuse children than the population as a whole. It would be impossible to give any estimate of the percentage of priests who may be abusing children, any more than it would be possible to assess the number of other professionals who may be child abusers. However, the high incidence of clerical sexual abuse of boys reported to this Inquiry and in other surveys of clerical child sexual abuse is striking.

The Expert Group was unanimous in its view that homosexuality is not a factor in increasing the risk to children. It would be seen as a factor in increasing the risk to adolescent boys but no more than a heterosexual priest would be a risk to adolescent girls. They advised that it was better to see child abuse for what it was and not focus on issues of sexual orientation or victim profile. In terms of treatment and recidivism, the sexual orientation of the child abuser makes no material difference. Mr Joseph Sullivan stated to the Inquiry: *"It's easy to make the link between someone abusing boys and being homosexual but would we call someone who sexually abuses 12 and 13 year old girls heterosexual? No we wouldn't; we'd call them a child abuser."*

The reported prevalence of child sexual abuse by religious in Ireland according to the research undertaken by SAVI²⁷ is 3.2% of all cases of child sexual abuse reported to them. It is higher for abused boys (5.8%) than abused girls (1.4%). In absolute numbers, four times as many boys as girls were reportedly abused by religious.

The number of priests that have come to the attention of this Inquiry operating under the aegis of the Diocese of Ferns and against whom allegations of child sexual abuse were made in accordance with the interpretation of the Terms of Reference of this Inquiry is 21²⁸. The Inquiry did not consider allegations received against members of religious orders or seminarians who did not proceed to ordination in the Diocese of Ferns or, against priests who, although in ministry in the Diocese of Ferns were ordained for another Diocese²⁹. A very high number of allegations of abuse referred to the period 1975 – 1985.

Mandatory Reporting

Mandatory reporting would place a legal requirement on professionals involved with the welfare of children, such as doctors or health workers, to inform Health Boards and the Gardai if they know or suspect that a child is being abused. The Law Reform Commission in 1990 argued that the obligation to report should arise when the mandated reporter *knows* or has *good reason to believe* that child abuse has occurred.

Mandatory reporting emerged as a major issue in Irish child care management in the 1990s. The Law Reform Commission Consultation Paper and the subsequent Law

²⁷ SAVI (2002)

²⁸ This figure does not include those priests outlined in the Appendix to this Report

²⁹ 248 priests were ordained in the Diocese of Ferns since 1932, the ordination date of the first priest against whom an allegation was made. There were 130 ordained priests in the diocese in 1932.

Reform Commission Report on Child Sexual Abuse 1990³⁰ favoured the enactment of legislation requiring doctors, psychiatrists, psychologists, health workers, probation officers, social workers and teachers to report to the Director of Community Care and Medical Officer of Health within the relevant Health Board, cases of suspected child sexual abuse. It must be recognised that this was a controversial recommendation and not a unanimous one on the part of the commissioners. The recommendations of the Law Reform Commission were not extended to any church or religious organisation. In any event, the recommendations of the Commission in this regard have not been given legal effect by the Oireachtas.

Following the publication of the Report of the Kilkenny Incest Investigation in 1993, the Department of Health issued a policy document in 1996 entitled "Putting Children First: A Discussion Document on Mandatory Reporting" which summarised the advantages and disadvantages of mandatory reporting and invited submissions on the subject from all interested parties. Following the consultation process, and in response to the majority view opposed to mandatory reporting, the government decided against introducing it. Instead, it proposed a revised template for the delivery of child protection services, including the appointment of an Ombudsman for Children, the appointment of child care managers, revision of the child protection guidelines, compulsory child protection polices in government funded children's services and the appointment of area child protection committees.

In 1998, the Irish government was challenged by the UN Committee on the Rights of the Child in relation to their commitment to mandatory reporting, and undertook to re-consider the matter. No further developments have occurred.

One of the concerns which arose from the recommendations for mandatory reporting was the vulnerability of reporting persons to accusations of defamation. In order to address this difficulty and make it easier for members of the public and professionals to refer their concerns to the appropriate agencies, the Oireachtas passed The Protections for Persons Reporting Child Abuse Act 1998. It gives protection from civil liability to persons who have reported child abuse unless it is *'proved that he or she has not acted reasonably and in good faith in forming that opinion and communicating it to the appropriate person.'* False reporting could result in fines up to £15,000 or a term of imprisonment up to 3 years.

The most significant feature in relation to reporting clerical child sexual abuse was the obligation voluntarily assumed by every bishop in the State who adopted the 1996 Framework Document, to report all known or suspected cases of child sexual abuse to An Garda Síochána and the Health Board. Under this document no guarantee of confidentiality can be given to a complainant. However, in the Diocese of Ferns, the diocesan delegate who is charged with the function of reporting, will respect where possible the confidentiality of a complainant and not disclose his or her identity when reporting to the State authorities where that complainant has expressed such a desire.

It is the view of the Inquiry that the maximum confidentiality should be extended to the victim consistent with achieving protection for other children at risk.

³⁰ Report on Child Sexual Abuse. LRC 32 – 1990.

The Health Boards and An Garda Síochána also have formal arrangements with regard to sharing information on child sexual abuse suspicions or complaints of which they are aware.³¹

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LEGAL AND MANAGERIAL STRUCTURES

The Ferns Inquiry examined the organisation of the Roman Catholic Church, the South Eastern Health Board and An Garda Síochána in terms of both their management structure and their legal framework. This was necessary in order to properly assess the adequacy and appropriateness of the organisational response to child sexual abuse allegations.

3.1 THE CATHOLIC CHURCH

The Church as an Organisation

The Inquiry has examined the organisation of the Catholic Church to ascertain the extent to which it is possible for the Catholic Church in general, and the Diocese of Ferns in particular, to respond to allegations, rumour or suspicion of child sexual abuse against members of the diocesan clergy.

Hierarchical Structure

The structures and organisation of the Catholic Church are governed by the Code of Canon law.

The Pope³² is the Supreme Legislator for the Catholic Church and all of its members; only he can create and change law on a universal (or worldwide) level. Many of these laws are found in legal codes or in papal decrees.³³

³¹ These arrangements and the circumstances in which each organisation will share such information with an employer or diocesan authority are discussed in further detail at Chapter 3 under the sections dealing with the structure of the South Eastern Health Board and An Garda Síochána.

³² Canon 331: The office uniquely committed by the Lord to Peter, the first of the Apostles, and to be transmitted to his successors, abides in the Bishop of the Church of Rome. He is the head of the College of Bishops, the Vicar of Christ and the Pastor of the universal Church here on earth. Consequently, by virtue of his office, he has supreme, full, immediate and universal ordinary power in the Church, and he can always freely exercise this power.

³³ Canon 333.1: By virtue of his office, the Roman Pontiff not only has power over the universal Church, but also has pre-eminent ordinary power over all particular Churches and their groupings. This reinforces and defends the proper, ordinary and immediate power that the Bishops have in the particular Churches entrusted to their care.