



INDEPENDENT INQUIRY CHILD SEXUAL ABUSE

DETERMINATION FOLLOWING THE PRELIMINARY HEARING IN THE ROMAN CATHOLIC CHURCH INVESTIGATION HELD ON 23 MAY 2018

Introduction

1. The Investigation into the extent of any institutional failures by the Roman Catholic Church to protect children from sexual abuse is one of 14 investigations being conducted by the Inquiry. As part of this Investigation, the Inquiry has held three public hearings in respect of its case studies into the English Benedictine Congregation (EBC) and the Archdiocese of Birmingham. In August 2018, the Inquiry published its report into child sexual abuse at Ampleforth and Downside Schools which formed one part of the EBC case study. The report into the Archdiocese of Birmingham is to be published on 20 June and the report into Ealing Abbey is due for publication in the autumn.
2. The evidence gathered in respect of both case studies forms a useful background to the Inquiry's two-week hearing which is due to commence on 28 October 2019. The focus of this hearing is for consideration of wider topics relevant to the Roman Catholic Church's response and in particular to examine the contemporaneous safeguarding regime and a consideration of any ways in which safeguarding may need to be improved.
3. In preparation for the October/November hearing, the Inquiry held a preliminary hearing on 23 May 2019. In advance of the preliminary hearing, Counsel to the Inquiry (CTI) set out a number of proposals as to the topics of evidence that should form the focus of the hearing. In advance of the preliminary hearing, a number of the core participants provided written submissions. I have carefully considered those submissions along with all the oral submissions advanced during the hearing itself.



4. Representation at the preliminary hearing was as follows:
 - a. Old Priorian Survivors Association and complainants A43, A44, A45, A46, A47, A48, A49, A51, A52, A53, A54, A55, A56, A58, A59, A60, A61, A62, A63, A64, A65, A66, A69, A70, A72, A75, A80 and A666 represented by Richard Scorer of Slater Gordon;
 - b. Complainants C14, C15, C16, C17, C18, C19, C20 by William Chapman, instructed by Switalskis solicitors;
 - c. Complainant D2 by Angela Patrick, instructed by Bhatia Best solicitors;
 - d. Complainant G3, G4, G6 and J4 by Alan Collins of Hugh James solicitors;
 - e. White Flowers Alba and G1 by Robbie Brodie of Livingstone Brown solicitors
 - f. Complainants F1, F2, F3, F4, F5, F6, F7, F8, F9, F10, F11, F12, F13, F44, F48, F49, F51, F53, F56 and F59 and Peter Murray by Chris Jacobs, instructed by Howe and Co solicitors;
 - g. Complainant G2 by Imran Khan QC of Imran Khan and Partners;
 - h. Catholic Council for IICSA (CCIICSA) - by Kate Gallafent QC, instructed by Kingsley Napley solicitors;
 - i. Secretary of State for Education, represented by Nick Chapman instructed by the Government Legal Department.
 - j. On behalf of Eileen Shearer and Adrian Child, Julian King, instructed by Brabners solicitors.

Scope of the wider hearing

5. CTI submitted that the focus of the wider hearing should be to examine the current safeguarding regime within the Roman Catholic Church in England and Wales and to consider any ways in which safeguarding may need to be improved. In particular, it was submitted that the wider hearing should include:
 - a. Examining current safeguarding structures including:
 - i. National Catholic Safeguarding Commission (NCSC);
 - ii. Catholic Safeguarding Advisory Service (CSAS);



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- iii. Diocesan safeguarding commissions inc those Religious Orders who are not aligned;
 - iv. The role of the safeguarding coordinator.
 - b. Compliance with CSAS policies and audits;
 - c. Consideration of ongoing developments in the wider catholic church including the developments post the February 2019 Conference in Rome;
 - d. Culture of the RC Church;
 - e. Role of the Holy See;
 - f. Future safeguarding arrangements within the Catholic Church.
6. None of the core participants submitted that the wider hearing should not consider these areas of evidence and I agree that evidence on these topics should be considered as part of that hearing.
7. Some core participants in their written submissions contended that additional topics should be included. As a result of those submissions, CTI confirmed that the wider hearing would include some evidence being called on the following areas:
 - Lessons that can be learnt from the way in which victims and complainants have been treated, particularly where the complaint relates to an historic allegation. This will include arrangements for funding for care and support of survivors and barriers to redress and support and is likely to include some evidence relating to apologies that have been tendered;
 - The use made of limitation periods in defending civil claims;
 - The role of the Charity Commission in so far as it relates to the Roman Catholic Church and oversight of the Church's safeguarding responsibilities and funding for victims/complainants;
 - The current structure of the Catholic Church, including evidence from the President of the Conference of Bishops and the President of the Conference of Religious on topics including accountability and how the Presidents ensure that safeguarding procedures and the 'One Church' policy are followed;



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- Mandatory reporting and in particular whether the seal of the confessional presents an obstacle to child protection.
8. In addition to the above matters, Mr Scorer submitted that the wider hearing should examine the performance of the inspection bodies, ISI, Ofsted and the Department for Education (DfE). He referred to the evidence heard within the EBC case study into St Benedict's school, specifically the evidence obtained from the DfE, and submitted that the Inquiry should consider the adequacy of the legal framework within which the inspections take place.
 9. It may be of assistance if those organisations are asked, as part of this Investigation, whether they are aware of any general problems/concerns specific to inspections of schools run by the Catholic Church. However, the Inquiry's investigation into child sexual abuse and exploitation within residential schools will consider the adequacy of inspection regimes such that I do not consider it necessary for there to be a detailed examination of those inspection bodies/regimes within this Investigation.
 10. On behalf of D2, Ms Patrick submitted that the Inquiry should consider evidence relating to what she termed "*a gap where it seems to be that the Church has no systems in place for the handling of complaints where there are no prospects of for criminal prosecution and where there are limited capacities for the pursuit of civil litigation.*" I consider that the Inquiry should hear some evidence as to what policies and procedures the Roman Catholic Church in England and Wales has in place to deal with the circumstances she describes.
 11. Mr Jacobs, on behalf of those complainant core participants represented by Howe & Co, made a number of submissions. For ease of reference I shall deal with each in turn:
 - i. **Structure of the Catholic Church.** Mr Jacobs submitted that the Catholic Church is incapable of protecting children because of the way it is structured. I note that included in the topics for the wider hearing is evidence relating to the current safeguarding structures and a



consideration of future safeguarding arrangements. I consider that this evidence, together with evidence heard during the case studies and covered in the Inquiry's reports will enable the Panel to consider how the structure of the Catholic Church in England and Wales impacts upon its response to safeguarding. It would be premature for the Inquiry to come to any conclusion now as to whether the Church is structurally incapable of protecting children. The Panel will reach any conclusions on this topic upon consideration of all the evidence at the end of the wider hearing.

- ii. **Examination of Religious Orders.** In his submissions, Mr Jacobs stated that *"the examination of religious orders, specifically, has been absent in this investigation."* I do not accept this submission. In addition to the case study in respect of the EBC (a religious order), the case study into the Archdiocese of Birmingham heard evidence about the relationship between the Archdiocese and those religious orders operating within it. Furthermore, a statement is to be requested from President of the Conference of Religious in respect of a number of topics and, as referred to above, one of the areas for consideration relates to religious orders who are not aligned to a Diocesan Safeguarding Commission.
- iii. **Comboni witnesses.** I agree with CTI's submissions that consistent with my determination dated 27 July 2017, some evidence should be heard in relation to the Comboni Missionary Order. I consider that evidence should be heard from two or three of the complainant core participants whose experiences relate to the Comboni Missionary Order. In coming to this decision, I agree with Mr Scorer's submissions that it is important to hear a range of evidence from the victims and complainants and I anticipate that this will be reflected in the provisional list of witnesses in due course.

12. In written submissions on behalf of G2, Imran Khan QC submits that the wider hearing should examine the Government's reaction to the Catholic Church's



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response to reports of Child Sexual Abuse. CTI submitted, and I agree, that this topic falls outside the remit of this investigation as set out in paragraph two of the scope of the Investigation.

Core Participants

13. As part of the Roman Catholic Investigation, I have designated 103 individuals and organisations as core participants. Not all of those core participants will have a specific interest in the wider hearing. For example, the Archdiocese of Birmingham and Ampleforth Abbey and School clearly had a specific interest in the respective case studies but I do not consider that they have a specific interest in the future hearing.

14. CTI submitted that the following core participants do not have a specific interest in this phase of the investigation such that it is necessary for them to attend any future hearings:

- The Police forces - Metropolitan Police Service, West Midlands Police and North Yorkshire Police
- The English Benedictine Congregation
- Ampleforth Abbey and School
- The Archdiocese of Birmingham
- Benedictine Community of Ealing Abbey and St Benedicts School
- The Monastic Community of Ealing
- Adrian Child and Eileen Shearer
- Jane Jones
- Jonathan West
- Independent Schools Inspectorate (ISI)
- Ofsted



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15. As was made plain by CTI, irrespective of their attendance or not at the public hearing in October, all core participants will receive disclosure in relation to the wider hearing.

16. On behalf of Adrian Child and Eileen Shearer, Mr King submitted that, notwithstanding the written submissions made at the conclusion of the Ealing Abbey public hearing which included submissions entitled 'The Way Forward', both core participants should attend the wider hearing as they may be able to assist the Inquiry in considering ways to improve safeguarding in the future. As I have already indicated above, the focus of the October hearing is to consider evidence about the current safeguarding regime and I note that both individuals left their positions as director of COPCA and CSAS respectively some years ago. Their written submissions as to any future proposals will be of assistance when the Inquiry comes to consider any final recommendations such that I do not think it necessary that they attend or are represented at the wider hearing. If the Inquiry considers that it would be assisted by receiving further evidence from them then we will make such requests.

Rule 9 requests

17. In her written and oral submissions, CTI set out the topics of evidence that were the subject of Rule 9 requests. She also outlined the names of those witnesses who had, as at the date of the preliminary hearing, provided witness statements along with the names of those from whom such requests had already been made.

18. Mr Jacobs submitted that the Inquiry should request statements from the following two witnesses:
 - a. Father David Glenday and other potential Comboni witnesses. Mr Jacobs submitted that the Inquiry should request statements from, and call as a witness Father Glenday and other individuals connected with the Comboni Missionary Order. It is said that Father Glenday held senior positions within the Comboni Order such that he, along with Father Devenish, Father Hicks



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and Father Fraser, can provide the Inquiry with evidence relating to the institutional responses of the Comboni Order. Whilst I do not doubt the ability of those potential witnesses to attest to such matters, I do not accede to Mr Jacobs submissions. At an earlier stage in this Investigation, I declined to make the Comboni Order one of the designated case studies. Given that the focus of the wider hearing will consider some evidence relating to the Religious Orders, including evidence from three Comboni core participants, I do not think it necessary or proportionate to request evidence from these witnesses.

- b. Archbishop Scicluna. Mr Jacobs submitted that the Inquiry should call Archbishop Scicluna. Archbishop Scicluna is the Archbishop of Malta. He was recently appointed by the Pope to the position of 'secretary adjunct' to the Congregation of the Doctrine of the Faith (CDF) with specific role in the Church's response in cases of child sexual abuse. The CDF has responsibility for promoting and safeguarding the doctrine on faith and morals throughout the entire Catholic Church and in particular, the CDF is responsible for the discipline within the clergy. The Archbishop played an important role in the recent conference in Rome on the Protection of Minors in the Church. Mr Jacobs submits that the Archbishop is best placed to assist the Inquiry in understanding how Papal edicts are enforced. I agree that this evidence is important but am less convinced as to the identity of the witness who can provide such evidence. As CTI confirmed in the preliminary hearing, the Inquiry will be requesting evidence from Cardinal Vincent Nichols as to the background and outcome of the conference in Rome and so it is likely that Cardinal Nichols will be able to assist the Inquiry with evidence relating to enforcement of edicts. The Inquiry is also requesting evidence from the Holy See which may cover this topic.

19. CTI provided the Inquiry with an update as to the Inquiry's request for evidence from the Apostolic Nuncio. The diplomatic nature of the Nuncio's role means that, firstly the Inquiry's request for evidence is a voluntary request and secondly, the request has to be made of the Holy See via the Foreign and Commonwealth Office (FCO). I



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am aware that the Inquiry continues to liaise with FCO to try and ensure that the Inquiry receives the evidence it has requested and, at this stage of the Investigation, I ask that these efforts continue.

Disclosure

20. Counsel to the Inquiry indicated that disclosure made to those core participants involved in the specific case studies was being reviewed to ensure that material of wider relevance is disclosed within this phase of the Investigation. She further submitted that it was not the Inquiry's intention to disclose all the material gathered in each case study to those core participants involved in the October hearing. No core participant argued against this proposal and I agree with this approach.

Length of the hearing

21. Mr Jacobs, submitted that the length of the hearing should be extended from two weeks to three weeks. He referred to the fact that there have been examples in the Investigation where an extra sitting day has been required to either conclude a witness's evidence or complete closing submissions. Those additional sitting days arose from very particular circumstances and I do not consider that this sets any kind of precedent requiring an extension to the October hearing. In my view, the current two week timetable provides sufficient time for the necessary evidence to be heard and, in any event, the Inquiry's other commitments means that it is not possible to extend the length of the forthcoming hearing.

Further Preliminary Hearing

22. 25 September 2019 has been identified as a provisional date for a further preliminary hearing. The need for this preliminary hearing will be kept under review and Investigation team will notify all core participants if such a hearing is necessary.



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Professor Alexis Jay, OBE

7 June 2019

Chair, Independent Inquiry into Child Sexual Abuse