

CONCLUSIONS AND RECOMMENDATIONS

This chapter of the Report sets out an overview of the findings of the Ferns Inquiry in accordance with its Terms of Reference.

“A. To identify what complaints or allegations have been made against clergy operating under the aegis of the Diocese of Ferns in relation to alleged events that transpired prior to 10 April 2002, and to report on the nature of the response to the identified complaints or allegations on the part of the Church authorities and any public authorities to which complaints or allegations were reported”

(i) Complaints or Allegations Notified to the Inquiry.

The Inquiry has identified approximately 100 complaints against priests operating under the aegis of the Diocese of Ferns. These allegations were made in respect of 21 priests.⁵⁶ Ten of these priests are now deceased and in respect of six of them, the allegations were not notified to the Diocese, or to any authority, until after their death. Of the other four deceased priests, two died subsequent to a complaint being made. A third did not have charges brought against him and the fourth priest, Fr Sean Fortune, committed suicide days before his criminal trial was due to commence in Wexford Circuit Court.

Of the eleven priests who are alive and against whom allegations have been made, three have been excluded from the priesthood by the direction of The Holy See and seven of the remaining eight have stood aside temporarily from active ministry at the request of Bishop Eamonn Walsh, Apostolic Administrator of the Diocese of Ferns pending investigations of the allegations against them. The eighth priest is advanced in years and is in retirement.

An Garda Síochána investigated complaints of child sexual abuse by eight priests of the Diocese and proceedings were instituted by the DPP in three of those cases.

Chapter Four of this report is a summary of all the allegations which have come to the attention of this Inquiry. The complainants have been given pseudonyms to protect their identity. Where practicable, the identity of the alleged perpetrators has similarly been protected.

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

⁵⁶ This figure does not include those priests included in the Appendix annexed hereto.

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.

(ii) The Nature of the Responses of the Church Authorities

The nature of the Church response evolved over a forty year period and may be summarised as follows:

1. The response of Bishop Donal Herlihy (Bishop of Ferns 1964 – 1983) to an allegation of child sex abuse by a member of the diocesan clergy which was brought to his attention in 1966 was to remove the priest immediately from his post and send him to the Diocese of Westminster. Two years later the Bishop returned the priest to his position as a teacher in St Peter's College in the Diocese of Ferns. The priest was not treated or assessed. The alleged victims do not appear to have been contacted by or on behalf of the Bishop. It appears that the Diocese of Westminster was not alerted to the reasons for the priest's transfer. No written record of the complaint was created by the Diocese, or if created, preserved. Virtually no restriction was placed on the priest after his return to St Peter's. The fact that no records were kept of these matters meant that no impediment to the appointment of this priest as principal of St. Peters in 1988 was apparent.
2. In 1973, Bishop Herlihy became aware of a complaint against another priest of the Diocese who had allegedly sexually abused a young girl. His response was to send the priest in question to the Diocese of Westminster although on this occasion the Church Authorities there were informed, to a limited extent, of the circumstances that led to his removal. This priest received no assessment or treatment and was subsequently appointed to curacy positions in the Diocese and to chaplaincy and managerial roles in local schools before being transferred abroad. The Bishop did not meet with the victim although financial assistance may have been offered.
3. When allegations of sexual misconduct were made against two priests in the Diocese of Ferns in the early 1980s, Bishop Herlihy's response was to send the alleged perpetrators for assessment to the Reverend Professor Feichin O' Doherty, who was then the Professor of Logic and Psychology at University College Dublin. Notwithstanding the extremely unfavourable reports provided by the Professor, both priests were appointed to curacies in the Diocese of Ferns and continued in those positions without any effective monitoring or control.
4. During his episcopacy from April 1984 to April 2002, Bishop Comiskey received allegations in respect of ten priests who were living at the time of the allegations. In addition, he received allegations against four further priests who were deceased.

5. Bishop Comiskey agreed that the proper response to an allegation of child sexual abuse against a priest was to remove him from active ministry pending the determination of the allegation. Notwithstanding this belief, no priest was stood aside from active ministry during the episcopacy of Bishop Comiskey and no precept was issued preventing any priest from saying Mass and partaking in religious ceremonies. Priests were moved out of the diocese in some cases but no child protection measures were put in place to ensure that children in the diocese to which the accused priest was sent were not placed in danger.
6. Where an allegation of child sexual abuse was made against a priest of the diocese and denied by him, as happened in the majority of cases, the Bishop attempted to institute or conduct some form of enquiry to satisfy himself of the guilt or innocence of the accused. For the greater part, these enquiries and investigations were protracted and inconclusive and in all cases failed to meet the standard of proof required by the Bishop.
7. Complaints were made to Bishop Comiskey alleging child sexual abuse by priests who had died before the complaint was made. Where the complainant in those cases sought financial assistance from the Bishop to pay for counselling to redress the problems caused by the alleged abuse, such assistance was provided.
8. Bishop Eamonn Walsh became Apostolic Administrator of the Diocese of Ferns in May 2002. His response to allegations of child sexual abuse was to require the priest against whom the allegation was made to step aside from ministry pending a determination of the matter. He takes this action where he is of the opinion that a "reasonable suspicion" exists against a priest and after consulting the Advisory Panel. Bishop Walsh reviewed all of the allegations of child sexual abuse against priests which had been made prior to his, Bishop Walsh's, appointment and requested six priests to stand aside; each of them did so without any proof or admission of guilt.
9. Bishop Walsh invited two priests who had been convicted of child abuse to apply for laicisation but they declined. Therefore, Bishop Walsh applied for and obtained an order from The Holy See excluding them from the priesthood. A third priest against whom an allegation was made but who was not convicted of child sexual abuse has likewise been excluded from the priesthood by direction of the Pope.

(iii) The Nature of the Response of the South Eastern Health Board

The responses by the South Eastern Health Board to allegations of abuse are identified by the Inquiry in Chapter Six of this Report. Those responses were not consistent in all cases but included the following:

1. In relation to the allegations of child sexual abuse made by ten school children against the then parish priest of Monageer, the Health Board arranged that

seven of the children should be interviewed and assessed at the Community Child Centre in Waterford. The Health Board informed the Gardai and the Church Authorities about the allegations.

2. The Health Board did not provide counselling or support to the girls or their families after these allegations were made known in 1988. Counselling was offered through a public statement in 1995, some seven years after the alleged incident.
3. When the Eastern Health Board was informed of allegations of child sexual abuse (then and now unproven) by a former President of Maynooth College, the Health Board, as directed by the Department of Education, wrote to the then Presidents of the Pontifical and Lay Universities at Maynooth informing them of those allegations.
4. When notified of an allegation of child sexual abuse against a priest of the Diocese by a victim who was still a child, the South Eastern Health Board offered a degree of support to the family and the child throughout the criminal trial. This support was not continued after the trial.
5. The South Eastern Health Board conducted a risk assessment when furnished with evidence of a possible danger to particular children posed by one priest who was at that time the subject of a Garda investigation. It also informed the Diocese of Ferns about the allegation without first informing the priest in question of its intention to do so.

(iv) The Nature of the Response by An Garda Síochána

Responses to complaints or allegations on the part of the Gardai are set out in Chapter Seven of the Report:

1. The Inquiry is aware that some complaints of child sexual abuse were made to individual members of the Gardai on an informal basis between the 1970s and the 1980s. There is no record of such complaints on the Garda files or elsewhere.
2. The first incident of child sexual abuse recorded by the Gardai arose when a number of school children made a complaint against the parish priest of Monageer. A member of the Gardai was directed to take a written statement from each of the girls concerned. Another member spoke with the accused priest. It does not appear that any further investigation took place. Such statements or files as were prepared were not forwarded to the Director of Public Prosecutions. Subsequently those files and documents disappeared.
3. Between 1990 and 1995, complaints were made to the Gardai in Wexford by victims alleging offences of child sexual abuse perpetrated by three individual priests. The complaints were carefully investigated and successful

prosecutions ensued in two cases. A third was pre-empted by the suicide of the accused.

4. Between 1990 and September 2005, the Gardai have investigated a further four cases of child sexual abuse against priests of the Diocese of Ferns recommending prosecution in all but one of these cases. The DPP has not instituted criminal proceedings in any of these cases.

“B. To consider whether the response was adequate or appropriate, judged in the context of the time when the complaint or allegation was made, and if the response to the complaint or allegation appears inadequate or inappropriate when judged by those standards, to identify if possible, the reason or reasons for this, and report thereon.”

The Adequacy of Responses of the Church Authorities

A. Bishop Donal Herlihy (Bishop of Ferns 1964 – 1983)

1. Before 1980, Bishop Donal Herlihy had evidence that two priests of the Diocese had abused children sexually a further two priests came to his attention in the late 1970s. In the case of the first two priests, his response was to remove the priest concerned from the Diocese without taking any steps to protect other children from the dangers which the priest presented. In the context of the time, the danger that a person who had abused children once could do so again was clearly understood, even if the compulsion to do so was not as apparent as it is today. Bishop Herlihy’s failure to take even basic precautions to protect children from men known to have abused in the past must be seen as inadequate and inappropriate.
2. Clearly Bishop Herlihy regarded priests who abused children as guilty of moral misconduct. He does not appear to have recognised that the wrongdoing was a serious criminal offence. Neither he nor the medical and health care community appreciated the grave damage which child sexual abuse can cause to its victims.
3. Bishop Herlihy’s decision to restore the two offending priests to their former positions after a two-year period of “penance” in the Diocese of Westminster was ill-advised and to do so without any supervision or monitoring was neither adequate nor appropriate.
4. The Inquiry is satisfied that the Diocese of Ferns knew or ought to have known that allegations of child sexual abuse were made against two seminarians in St Peter’s in the mid 1970s. Notwithstanding this information, these men were ordained for the Diocese.
5. The decision of Bishop Herlihy in 1980 to refer these two men who went on to abuse again after ordination to Professor Feichin O’Doherty for assessment was entirely appropriate and reflected the developing understanding of the nature of child sexual abuse. The failure of Bishop Herlihy to act on the reports received from the Professor and the appointment of those two priests to

curacies is inexplicable. It represented a wholly inappropriate and inadequate response to the allegations of child sexual abuse.

6. The Inquiry believes that the Bishop felt bound to appoint any priest ordained for his Diocese to a curacy notwithstanding his manifest unsuitability for the position.

B. Bishop Brendan Comiskey (Bishop of Ferns 1984 – 2002)

1. Where Bishop Comiskey had a suspicion about the propensities of a particular priest either arising from the Bishop's own unease or from specific information reported to him, he requested the priest to attend a psychiatrist or psychologist for assessment and, if necessary, to undergo the treatment then considered appropriate. It was intended that the priest would be re-appointed to an appropriate position in the Diocese if a certificate was obtained from the medical consultant certifying his fitness for the position. That programme would have been an appropriate and adequate response to any suspicion of sexual abuse. However, even when such medical intervention had been availed of, Bishop Comiskey was unable or unwilling to implement the medical advice which he received. In addition, the Inquiry has seen some evidence that Bishop Comiskey did not fully inform these medical experts of the full history of priests against whom previous allegations had been made.
2. By the late 1980s, Bishop Comiskey accepted that the appropriate response to an allegation of child sexual abuse was to have the accused priest to step aside from active ministry pending a determination of the allegation made against him. Bishop Comiskey consistently failed to achieve this objective. In the majority of cases the failure to achieve the desired result was due to the conviction of the Bishop that it would be unjust, if it were possible, to remove even temporarily a priest on the basis of an allegation which was not corroborated or substantiated by what he considered to be convincing evidence. In the nature of the alleged criminal activity, evidence of that nature was unlikely to be obtained. Indeed Bishop Comiskey recognised that he did not have the resources or the expertise to carry out investigations into what were serious criminal offences. The particular and inconclusive investigations conducted by Bishop Comiskey were an inappropriate and inadequate response to serious allegations. The bishop was rightly conscious of the need to protect the good name and reputation of his clergy but he failed to recognise the paramount need to protect children as a matter of urgency, from potential abusers.

C. Bishop Eamonn Walsh (Apostolic Administrator of Ferns, 2002 – present)

1. Bishop Eamonn Walsh has told the Inquiry that he would be prepared to require a priest to step aside from active ministry where he had a "reasonable suspicion" that the offence of child sexual abuse had been committed. He said that a rumour or suspicion emanating from a single source might not in itself be sufficient grounds for acting against a priest, but that he would note it and if he received any further information of untoward behaviour on the part of that priest, he would act immediately.
2. In practice Bishop Walsh has not invoked his powers under Canon law to stand aside from active ministry any priest of the Diocese. Seven out of the eight priests whom Bishop Walsh asked to stand aside agreed to do so. One further priest so requested has been the subject of a dismissal from Rome following an application by Bishop Walsh. This approach and the response to it may reflect a more efficient management of the Diocese in combination with a clearer understanding on the part of members of the clergy of the need to respond promptly and effectively to allegations of child sexual abuse. Notwithstanding the hardship and embarrassment which this must cause to innocent members of the clergy, the responses made by the Diocese since the appointment of the Apostolic Administrator have been adequate and appropriate.

The Adequacy of Responses of the South Eastern Health Board

1. The legislative framework within which all Health Boards operated is described in full in Chapter 3 of this Report. The powers conferred on the Health Board are designed to protect a child from an abusive family situation. Where children are abused by third parties, the persons with responsibility for dealing with the matter are the parents or guardians of the child. In the absence of express statutory power to intervene in the manner in which they did in the Monageer case in 1988, the South Eastern Health Board would appear to have acted ultra vires. Although their intervention was well intended and undertaken with commendable expedition it could not be classified as appropriate.
2. The only power of the Health Board to inform interested parties that allegations of child sexual abuse have been made against a particular person, is one inferred from the wide ranging objective of child protection imposed on Health Boards by the Child Care Act 1991. There is difficulty therefore in determining whether, and in what circumstances, such notification should be given.
3. The Inquiry would question whether the circumstances in which notice was given to the authorities in Maynooth in relation to Monsignor Ledwith, or to the diocesan authorities in relation to Fr Alpha, conformed to the conditions prescribed in the judgement of Mr Justice Barr in MQ –v- Gleeson.⁵⁷

⁵⁷ 1997 1 IEHC 26

4. The provision by the Health Board of counselling and other support to alleged child victims and their families was appropriate where this occurred. Failure to provide such services, as happened in the Monageer case, must be regarded as both inadequate and inappropriate.

The Adequacy of Responses of An Garda Síochána

1. Before 1990 there appears to have been reluctance on the part of individual Gardai to investigate properly some cases of child sexual abuse that came to their attention. This is dealt with in Chapter Seven of this Report. Such reluctance was neither appropriate nor adequate.
2. The institution of criminal proceedings against three priests from 1990 is confirmation of the evidence given by Gardai of all ranks to the Inquiry that they are not now deterred or hampered in the performance of their duties by the status of the accused or the respect accorded to the Catholic Church in Ireland generally, or in the Diocese of Ferns in particular. These prosecutions were conducted in an efficient manner and were an appropriate and adequate response.
3. An Garda Síochána has informed the Inquiry that they are not in a position generally to conduct an investigation on the basis of rumour or suspicion. They did monitor Fr Doyle for some time after the 1980 allegations were made and in relation to another allegation, the Gardai mounted surveillance on the alleged perpetrator's home even though no complaint was made by the victim to the Gardai. Generally however, the Gardai would not make such a response on the basis of an allegation or rumour unsubstantiated by a formal complaint.
4. The Inquiry concurs with the findings of the internal Garda investigation into the Monageer affair which criticised the handling of the complaints by the Gardai in 1988 and which found the Garda response to be neither appropriate nor adequate.

“C To consider the response of Diocesan and other Church authorities and the State authorities to cases where they had knowledge or strong and clear suspicion of sexual abuse involving priests of the Diocese of Ferns, and to consider whether that response was adequate or appropriate judged in the context of the time when the knowledge was acquired or the suspicion formed.”

1. Unless an allegation of child sexual abuse was admitted in full by the perpetrator or was successfully prosecuted by the Gardai, the church or civil authorities could not be said to have had “knowledge” of sexual abuse involving priests. No unqualified admissions of sexual abuse were made to the church or state authorities during the period investigated by this Inquiry.
2. Two priests were found guilty in court of child sexual abuse and the response of the church authorities was to obtain medical intervention for these priests and to remove them from active ministry. In the past year, Bishop Eamonn

Walsh has applied for and obtained an order dismissing these convicted priests from the priesthood.

3. In all other cases therefore, the Church and State response must be seen as a response to a strong or clear allegation or suspicion of child sexual abuse and, as already indicated at “B” above, the response to such information developed over the period of time considered by this Inquiry.

“D. Insofar as responses are seen to be inadequate or inappropriate, and insofar as it may be possible to identify explanations for that inadequate or inappropriate response, to consider whether those factors remain applicable and to what extent they have been subsequently addressed.”

Church Authorities

1. The inappropriateness and inadequacy of responses by Bishop Donal Herlihy are, in the opinion of the Inquiry, explained by the failure of the Bishop to appreciate the very serious psychological damage which could be and was caused by the sexual abuse of children by adults, particularly adults in positions of authority and respect. An additional factor was the failure to anticipate the likelihood that an adult having once abused a child was likely to repeat the offence. It is the view of the Inquiry that Bishop Herlihy focussed on the moral aspects of the allegations made to him to the exclusion of criminal and social aspects of the conduct alleged.
2. The Inquiry believes that in failing to follow the compelling advice given by Rev Prof Feichin O’Doherty and others, both Bishop Herlihy and Bishop Comiskey placed the interests of individual priests ahead of those of the community in which they served.
3. The Inquiry identified a serious difficulty for both these Bishops in dealing with a priest such as Sean Fortune who refused to comply with the direction of his Bishop. Using Canon law to force a priest to step aside from active ministry was difficult in circumstances where that law was unclear and untried. Experience has solved some of these problems although the success achieved by Bishop Walsh in removing priests against whom allegations or suspicions arose was in all cases due to the voluntary actions of those priests and not because of any successful application of Canon law.
4. Bishop Comiskey correctly identified the objectives to be achieved in responding to allegations of child sexual abuse against priests operating under the aegis of the Diocese of Ferns. A variety of explanations were offered to the Inquiry for this failure to achieve these. Some complainants who gave evidence to the Inquiry suspected that the actions or inactions of Bishop Comiskey admitted of a sinister explanation. However, on the evidence available to it, the Inquiry believes that Bishop Comiskey failed to remove from active ministry priests against whom allegations of abuse were made, primarily because of his belief that he could not and should not take an action which would necessarily damage the reputation of one of his priests without

convincing evidence of their guilt. He did not prioritise child protection in his response.

5. There is, in the view of the Inquiry, no adequate explanation for the failure of Bishop Comiskey to deal rigorously and effectively with Fr Fortune having regard to the information which was available to the Bishop from the outset in the reports from Professor O'Doherty and from information that was made known to the Bishop subsequently.
6. The Inquiry has identified some priests against whom complaints, allegations or suspicion of child sexual abuse existed who were transferred to other parishes and dioceses without proper notification of the potential dangers surrounding them. Failure to protect children from priests who were suspected of child sexual abuse wherever that priest served, was a failure to prioritise children over individual priests and the Church in general.
7. Factors which militated against an adequate or appropriate response by Church authorities to allegations of child sexual abuse included the following:
 - a. The failure to properly monitor and assess men during seminary admission and training and the admission of some clearly unsuitable men to the priesthood with the respect and esteem that such a position afforded them, had extremely serious repercussions for the children subsequently exposed to these priests.
 - b. Once ordained, there was a failure of the management system within which priests operated. Bishops in the Diocese of Ferns failed to deal expeditiously or decisively once a problem of child sexual abuse was identified and failed to acknowledge and address the serious and systematic nature of the problem.
 - c. The failure of successive Bishops to create and preserve proper records of allegations in relation to child sexual abuse, militated against a Bishop being able to access important information about priests in the Diocese and militated against proper management.
 - d. The absence of proper records together with the acknowledged reluctance of priests in the Diocese to report inappropriate behaviour to the Bishop meant that Bishops were often presented with an allegation on one hand and a denial on the other and no other information that might have helped him come to a decision.
 - e. The failure to operate a transparent complaints procedure whereby members of the public and individual priests could have confidence that any concerns expressed about child protection would be dealt with sensitively and confidentially.
 - f. The majority of priests who attended the Ferns Inquiry stated that they had no awareness or understanding of child sexual abuse until they read about it in the media in the early 1990s. This would appear to

point to a failure of church authorities in Rome to educate bishops and priests about the growing awareness of child sexual abuse within the Roman Catholic priesthood which had developed throughout the 1970s and 1980s. Such a failure left individual priests unable to deal with this situation when they confronted it and has left many good priests feeling guilty and inadequate. The Inquiry believes that such priests need understanding and support from their community and from their Church in helping them come to terms with what was occurring in their Diocese.

- g. The failure in some cases of the church authorities or those acting on their behalf, to listen sensitively and sympathetically to allegations of misconduct by their colleagues, prevented complainants from disclosing the full horror of the abuse they had suffered and prevented the urgency of the problem in Ferns from being recognised.
 - h. A culture of secrecy and a fear of causing scandal informed at least some of the responses that have been identified by this Inquiry. By failing to properly identify the problem of child abuse even to colleagues and professionals, Bishops placed the interests of the Church ahead of children whose protection and safety should at all times have been a priority.
8. Bishop Walsh has taken steps to overcome most, if not all, of the factors militating against an appropriate response to allegations or suspicions of abuse. He extended and improved the diocesan filing system, which had been updated under the direction of Bishop Comiskey. He promulgated Norms of Conduct to govern the relationship between priests of the Diocese and children. He encouraged the clergy and faithful to notify the church authorities in the event of any departure from those norms or of any case of child sexual abuse whether current or historical. He informed the priests of the Diocese as to the seriousness of the problem and the actions that would have to be taken.
 9. Most significantly Bishop Walsh satisfied himself that he had power under Canon law immediately to remove from active ministry any priest acting under the aegis of the Diocese in respect of whom he had a "reasonable suspicion" that the priest was guilty of child sexual abuse. It has so far been unnecessary for the Bishop to invoke the canonical power aforesaid as the priests whom he requested to step aside agreed to do so.
 10. Bishop Walsh asserts that there is now no priest under the aegis of the Diocese of Ferns in active ministry against whom an allegation of child sexual abuse has been made or a reasonable suspicion exists.
 11. The Inquiry is satisfied that the procedures adopted and applied by Bishop Walsh in response to allegations of child sexual abuse are appropriate and adequate and afford protection to children in the Diocese. The Inquiry believes that this response should be incorporated into the organisation and

management of the Diocese in order to ensure that it continues into future episcopacies.

12. A concern of the Inquiry is to ensure that the rights of innocent priests are safeguarded to as much an extent as possible given the priority that must be afforded to child protection. If that objective was not achieved the procedures would be unjust to the priests and in the long term unsustainable as a protection to children.

The South Eastern Health Board

1. The adequacy of any response by the South Eastern Health Board to allegations of child sexual abuse coming to its attention must be considered in the light of the legislative framework within which it operates. As already pointed out in this Chapter and in Chapter 3 of this Report, the Health Board has no power of intervention except in cases where sexual abuse is occurring in the family situation. As far as the Inquiry is aware the South Eastern Health Board has not attempted to repeat the intervention which it made in the Monageer case and which in the view of the Inquiry was, although well-intentioned, *ultra vires*.
2. The conduct of the South Eastern Health Board in conveying information to interested parties in its possession concerning allegations made against a particular person is regulated in accordance with advice obtained by the Health Board from the office of the Attorney General. It is the view of the Inquiry that the powers and duties of the Health Services Executive in this connection should be regulated by the express terms of primary or secondary legislation and not by inferences drawn from general obligations imposed on those bodies.

An Garda Síochána

1. The Inquiry noted that inadequate records appear to have been kept of complaints or allegations perhaps made informally of child sexual abuse prior to the early 1990s. That defect has been remedied in the manner set out in the body of the report.
2. There were grounds for suspecting that prior to 1990, some members of An Garda Síochána may have been reluctant to pursue investigations involving members of the clergy of the Diocese. However, the internal Garda inquiry conducted in 1996 into the Monageer case concluded that there was no evidence of any intervention by members of the clergy or the hierarchy with the investigation at that time.
3. As already pointed out, the investigations and subsequent criminal proceedings between 1990 and 1995 established and confirmed the independence and integrity of the Garda Síochána in dealing with complaints of child sexual abuse. There are cases during that period where Gardai had

information about possible child sexual abuse by clergy but in the absence of a formal complaint did not take any action.

“E. To examine and report on the levels of communication that prevailed between Diocesan and State authorities, to consider whether more appropriate norms or improved communication between the Diocesan authorities and the State authorities are now desirable or practical.”

1. Bishop Comiskey has told the Inquiry that prior 1990 he would never have considered reporting an allegation of child sexual abuse against a priest to the civil authorities. It is improbable that his predecessors did so either. In 1990, Bishop Comiskey having seen the 1987 Department of Health Guidelines, brought about the reporting of an allegation of sexual assault by a priest of the Diocese to the authorities. The complainant was still a child at the time of making the allegation. The communication of this complaint eventually led to the successful prosecution of the perpetrator.
2. The Inquiry noted that Bishop Comiskey did not report other allegations of child sexual abuse which came to his attention between 1990 and 1995. The Bishop made the distinction between allegations made by children and allegations which were made by adults. He said it was his belief that as adults were in a position to report allegations to the civil authorities themselves it was not a matter for him to do so. In all other cases where the allegation was made by a victim who was still a child, the alleged perpetrator had died before the complaint had been communicated to the Diocese and therefore no child protection issue arose.
3. From December 1995 onwards, Bishop Comiskey adopted the policy laid down in the Framework Document that all new allegations of child sexual abuse would be reported to the Gardai. Bishop Comiskey said that he would do this whether the victim wished him to do so or not. He believed it was not an appropriate response of the Diocese to afford confidentiality to victims of child sexual abuse and generally he did not do so.
4. Bishop Comiskey did not report incidents or allegations of child sexual abuse to the civil authorities which had come to his attention before the implementation in December 1995 of The Framework Document.
5. Bishop Eamonn Walsh has continued the practice established in 1995 pursuant to the Framework Document and he informs the Gardai and the Health Services Executive of all allegations of child sexual abuse against priests of the Diocese which come to his attention. Bishop Walsh has informed the Inquiry that all historical as well as current allegations have been so reported.
6. In 1995 a protocol was agreed between the Health Board and the Gardai entitled, “Notification of Suspected Cases of Child Abuse Between the Health Board and An Garda Síochána.” Under this protocol, the Gardai and Health Services Executive share information relating to any incident of suspected child abuse that comes to their attention. The Inquiry is aware that Gardai

must consider the impact of any notification on an on-going investigation but understands that in the Wexford area at least, the Gardai are now increasingly aware of the child protection dimension to investigations of child sexual abuse and will communicate any concerns in this regard with the Health Services Executive. The Inquiry believes that arrangements for joint investigation of suspected child abuse cases should be more firmly established between An Garda Síochána and the Health Services Executive in order to ensure efficiency in outcome and sensitivity to victims.

7. The Health Services Executive has informed the Inquiry that where a complainant has requested that their complaint or allegation should not be passed on to the Diocese, they did not do so. Health Boards have always extended a high degree of confidentiality to their clients and are reluctant to undermine that confidence. Nevertheless, there has been a growing recognition in the Diocese of Ferns that proper child protection demands that the Diocese be informed of any priest who appears to present a risk to children.
8. A particular difficulty for all of the authorities is the manner in which rumours or suspicions of sexual abuse should be dealt with. It has not been the practice of the Diocese of Ferns to communicate to either the Gardai or the SEHB suspicions or rumours of child sexual abuse concerning a member of the clergy unless the Bishop is satisfied that the suspicion is a reasonable one. The Inquiry believes that it would be more helpful if the Diocese, the Gardai and the Health Services Executive exchanged information in relation to all suspicions or rumours coming to their attention so that their different sources could confirm if there was any substance to the suspicion or rumour. Periodic meetings between designated representatives of the Diocese, the Gardai and the Health Services Executive (which this Report has described as “the Inter Agency Review Group”) at which the Diocese informs the other authorities of the status and circumstances of priests who have stood aside from active ministry, already take place in the Diocese at the instigation of Bishop Eamonn Walsh. This group provides a helpful means of maintaining an appropriate level of communication between the three authorities. The Inquiry believes that this agency would be an appropriate forum for discussing rumour or innuendo in order to establish whether a reasonable suspicion could be established against any priest.

“F. To identify and report on any lessons which might usefully be learnt from how complaints or allegations were handled in the past, which will result in improved child protection.”

1. The Inquiry wishes to record its revulsion at the extent, severity and duration of the child sexual abuse allegedly perpetrated on children by priests acting under the aegis of the Diocese of Ferns.
2. The Inquiry heard evidence from complainants of the severe damage which they suffered as a result of alleged abuse. The victims complained, and medical experts confirmed, that the impact of such abuse can have far-

reaching consequences not only for the victim but also for their relatives and friends and that this damage can continue over a period of many years and into subsequent generations.

3. It is universally recognised that child sexual abuse is morally reprehensible but it is important that the public, and in particular those exercising authority, should appreciate that in addition to the grave psychological damage which such abuse may cause, the criminal offences involved are of the utmost gravity. They attract a maximum penalty under the criminal law of life imprisonment.
4. The Inquiry recognises that the perpetration of the offence of child sexual abuse – and more particularly its ultimate disclosure – is a cause of hurt and embarrassment to the wider community including the family, friends and colleagues of the abuser as well as those who supported and respected the institution – in this case the Catholic Church – which the abuser purported to represent.
5. The Church Authority must have proper management systems and processes to ensure that their priests are performing effectively and safely and are supported in their development and work within the community. The Inquiry is satisfied that steps are being taken in the Diocese of Ferns to address such shortcomings as may have existed in the past in this area and would hope that such steps would be continued into the future as normal diocesan practice.
6. The Inquiry believes that the appointment as Chairman of the Board of Management of national schools which is at the discretion of the Bishop and which is usually, the local curate or parish priest, should be made with utmost care and diligence. As will be obvious from the allegations set out in this Report, some priests appear to have abused their position as Managers of national schools in order to access children. The powerlessness of children in such a situation was particularly acute and the Inquiry would urge all concerned to ensure that such situations as are described in this Report are prevented as far as possible. .
7. All organisations including the Catholic Church, whose operations bring their employees into unsupervised contact with children must ensure that proper systems are in place to protect children from abuse from such employees. The Gardai will generally only act if the victim makes a formal complaint and therefore, the onus is on employers to ensure that they do not have among their employees any person who may have a propensity to abuse children. This will not be achieved by waiting for victims to come forward but must be part of an on-going system of management, monitoring and control which can prevent abuse from occurring in the first place.
8. There is some evidence that persons with a propensity to sexually abuse children will be attracted to careers which will give them easy access to children, particularly vulnerable children. Organisations engaged in working with children at any level must be alert to that possibility and have systems in

place which will allow them deal with any problems immediately and decisively once they arise.

9. Organisations and employers who work with children should be aware that setting out clear norms of behaviour regulating the way in which interaction with children should occur, is in the interests of both employees and children.
10. The community can cooperate in tackling this heinous crime by reporting any relevant information to An Garda Síochána and to those exercising authority or control over the alleged or suspected abuser, that is to say, the Bishop of the Diocese in relation to any member of the clergy acting under his aegis.
11. The Inquiry has identified the failure of authorities and individuals to keep adequate records of relevant information furnished to them as a significant factor in the failure to deal effectively with the problem of abuse which has existed in the Diocese of Ferns. Information must be maintained and transmitted to those who have authority to take action in relation to it.
12. Ideally, the most effective response to child sexual abuse from a general child protection perspective is a formal complaint to An Garda Síochána by the victim so that they may investigate the allegation and initiate criminal proceedings leading to the conviction of the abuser. The Inquiry appreciates the formidable obstacles to the adoption of this course by any victim. The successful prosecutions undertaken and the publicity given to them have overcome many such obstacles. There will, however, always remain an understandable reluctance on the part of the victims of any crime, but in particular victims of sexual offences, to come forward and submit themselves to the embarrassment and anxiety which such proceedings must entail. Every effort should be made to encourage victims of child sexual abuse to come forward and invoke the legal process which is the procedure designed by society to punish the particular wrongdoer and deter others from engaging in the same crime. It is noteworthy that only two of the cases that have come to the attention of this Inquiry have resulted in a criminal conviction.
13. One of the principal lessons to be learnt from an exploration of the complaints and allegations made in relation to the Diocese of Ferns and the responses to them is the understanding that child sexual abuse may be perpetrated by persons in any occupation, profession or vocation. Child sexual abuse is not confined to those who are obviously depraved or dissolute. The crime may be committed by people of apparent charm, intelligence and high repute. Frequently it is the respect in which the abuser is held which affords the opportunity of perpetrating the crime and protects him from subsequent detection.
14. The Inquiry accepts that there is difficulty in proving or being satisfied that a wrong-doing, which is secretive of its nature, was committed. It is salutary to recall that a priest could abuse boys in a boarding school environment over a twenty year period without arousing any suspicion in the minds of his colleagues and friends. It is the view of the Inquiry that this problem has been addressed to some extent by introducing and promulgating a code of conduct

regulating the circumstances in which the relationship between priests and young people should be conducted. As already pointed out, such a code can offer a measure of protection to both the child and the adult.

15. The Inquiry is convinced that the Diocese of Ferns and every organisation exercising control over persons having unsupervised access to children must educate their priests and members to understand their personal responsibility to ensure the protection of children. In particular it should be emphasised that vigilant child protection involves reporting any concerns or suspicions which they have in relation to abuse or any information concerning departures from the code governing their conduct. The authorities must never criticise or penalise any of their members who, in good faith, seek to act for the protection of children. The Inquiry believes that the unhappy chapter of events in the Diocese of Ferns provided a painful step in the education of the community to their responsibility for the protection of children; a responsibility which outweighs considerations of fraternity or loyalty to any organisation whether lay or religious.
16. Crucially, parents and guardians must listen to children when they express reservations about being in the company of a particular adult and must encourage children to speak of activities in which they are encouraged to join and with which they feel uncomfortable.
17. Children must be taught that they are never responsible for sexual encounters with adults and must never be made to feel guilty or complicit in that activity.

“G. To identify and report on any difficulties or shortcomings in current laws and regulations and make recommendations as to legislative or regulatory change that would remedy these.”

The Inquiry would make the following legal, regulatory and general recommendations:

1. 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. Such campaigns would assist parents in performing their constitutional rights and duties to safeguard their children. The content and style of such a campaign would be determined by the officers of the Health Services Executive or their successors and the experts available to them but the Inquiry believes that attention should be focussed on the following matters:
 - (i) That children must never regard themselves as responsible for acts of sexual abuse perpetrated on them by adults.
 - (ii) That abuse is perpetrated by persons in every walk of life including respected men and women in distinguished professions and vocations
 - (iii) That abuse may cause serious and lasting psychological damage.

- (iv) That child sexual abuse of any kind is a serious criminal offence which should be reported to the Gardai.
 - (v) Children should be informed of and assured of support and care by State authorities when they make a complaint.
2. The Inquiry recommends that every effort should be made by legislation and publicity to preserve and strengthen the more open environment of reporting which is one of the few redeeming features of the appalling scandals of sexual abuse that has besmirched the Diocese of Ferns. Criminal wrongdoing will not cease but the extent of the misery created by unchecked child abuse of children by adults in a position of power or privilege will be greatly reduced by the creation of an open and informed environment that will encourage a willingness to report promptly inappropriate sexual behaviour towards children. The Inquiry would like to state its admiration for the courage of victims of clerical abuse in the Diocese of Ferns in coming forward, the nobility of parents who understood and believed their children who did complain and the efficiency and professionalism of a significant number of men and women involved in the relevant civil and religious organisations to whom reports were made.
 3. The Diocese of Ferns and every other organisation which employs, qualifies or appoints persons to positions where they have a significant measure of unsupervised access to children should prepare, publish and revise from time to time a code of conduct dealing with the manner in which priests, or other employees or appointees, would interact with young people. The purpose of such a code is to ensure that the environment in which the priest (or other employee or appointee) meets a child is one in which the child is safe from abuse. The priest (or other employee or appointee) will also be afforded protection from unfounded allegations of such abuse. The code would also set an observable standard of conduct so that parents and priests (or other employees or appointees) would recognise any departure from the code. Nobody, least of all priests of the Diocese, or co-employees or appointees, should tolerate breaches of the code by any other person. Such a breach should be brought to the attention of the Bishop or relevant employer. The Inquiry is satisfied that Bishop Eamonn Walsh as Apostolic Administrator of the Diocese of Ferns implemented shortly after his appointment to that position, a code of conduct. The effectiveness of such a code obviously depends upon the ability and willingness of all persons in a community, including fellow priests being attentive to other person's interaction with children and reporting any transgressions on the part of any other person with regard to that code. It is crucial that this code be publicised by the Diocese in order to ensure its effectiveness.
 4. Every person to whom a complaint of child sexual abuse is made should immediately create a written record of the complaint. In the case of An Garda Síochána and officials of the Health Services Executive the creation of such

records is dealt with by regulation or established practise. In the case of a priest of the Diocese he should inform the intended complainant that the Bishop's delegate is a more appropriate person to whom the complaint might be made but this should not be a reason for discouraging the complainant if he prefers to speak directly with the priest selected by him. It should be made clear to the complainant that receipt of his complaint will be in any event acknowledged by the Bishop's delegate within 14 days of the making of it. Procedures for such an acknowledgement should be put in place. While it is essential for each organisation to have formal channels for reporting complaints, no complainant should be deterred from making a complaint and having same communicated to the relevant authority by a complainant's reluctance to adhere to an organisation's formal reporting procedures.

5. The Inquiry has not examined in detail the arguments in favour of and against a mandatory system of reporting as this has effectively been adopted voluntarily by the Catholic Church in the Framework Document 1996. The Inquiry would favour a continuance of the system adopted by the Diocese of Ferns in that regard pursuant to the Framework Document. Although the Document speaks of full disclosure with no guarantee of confidentiality, the practice as seen from the diocesan files has been to protect the identity of the complainant as far as possible. The non-disclosure of the identity of the victim or complainant does reduce the value of the information to the Gardai but not significantly. If the complainant is unwilling to go to the Gardai or continue to cooperate during the course of criminal proceedings, then information as to his identity is of little value to them. The preservation of anonymity in relation to the victim may be a valuable factor in persuading the victim to provide information to the person selected by him. The Inquiry has been told by An Garda Síochána that as a general rule, it would not approach a victim who has reported a complaint of child sexual abuse to a party other than the Gardai unless it was satisfied that the victim consented to such an approach being made by them. Nevertheless, the Inquiry appreciates that no meaningful investigation can be carried out by An Garda Síochána without the identity of the complainant being made known to them.
6. The Inquiry has observed the key role of the Bishop in the Diocese as the manager and leader of the priests within that diocese. It is the view of the Inquiry that Bishops should be supported by management training in order to fulfil that role.
7. The Inquiry has noted the reluctance of victims, whether children or adults, to report abuse to statutory authorities. Bearing these matters in mind, it therefore recommends that efforts be made to reduce this reluctance by enhancing public confidence in the reporting and investigative system. As is the case in many other jurisdictions, investigating Garda officers must be trained in how to interview children appropriately and be able to provide a child friendly and secure environment for this to take place in order to reduce trauma. Specialist child protection units in Northern Ireland are highly regarded and considered essential by police and social services, and could provide a useful model for implementation in the Republic.

8. The procedure of holding regular high level meetings between the Diocese, An Garda Síochána and the Health Services Executive which evolved in the Diocese of Ferns is seen by the Inquiry as having considerable merits. It is a procedure which should and could be adopted in any case in which continuing problems or a series of problems arises in relation to child sexual abuse. The immediate purpose of the procedure – referred to in the report as “The Inter Agency Review Committee” – was for the Diocese to advise the other agencies as to the circumstances and whereabouts of a priest who had been required to step aside from active ministry pending investigations of allegations or suspicions of child sexual abuse. It seems to the Inquiry that the functions of the Inter Agency Review Committee could be extended in the circumstances which exist in the Diocese of Ferns to enable An Garda Síochána to advise the other authorities of the status of any criminal investigation being undertaken by them into child sexual abuse and the Health Services Executive to express an opinion as to the suitability of the procedures taken by the Diocese to ensure the safety of children from priests in respect of whom allegations have been made or suspicions have arisen.
9. The Inquiry would also urge that the authorities should raise at meetings of the Inter Agency Review Committee, suspicions, rumour or innuendo which are known to them in relation to misconduct of any member of the clergy. The Inquiry would be anxious to eradicate the problem which so often arose in the past, namely, that after a disclosure of abuse, people in the community claimed to have known for a long time of rumours of wrongdoing or abuse by particular priests. If there are rumours it should be possible between the three authorities to establish whether there is any basis for them.
10. In relation to allegations, the Inquiry would suggest that it is in the interest of all of the authorities and of the people whom they serve that every allegation of child sexual abuse should be brought to the attention of the Inter Agency Review Committee. Even complaints which are demonstrably untrue or written by people known to be not credible or unbalanced should be noted by the Inter Agency Review Committee so as to ensure that each of these authorities have a full appreciation of all of the allegations made. In that way, each authority would know the totality of the problem and the manner in which it is being dealt with.
11. The Inquiry would recommend that the convening of meetings of the Inter Agency Review Group and the recording and maintaining of its records should be the responsibility of the Health Services Executive.
12. The Inquiry appreciates that the emphasis placed on the recording of complaints and the minutes of highly sensitive meetings does involve dangers of disclosure. The Inquiry would strongly recommend that all documents in relation to allegations, rumour, suspicion or innuendo of child sexual abuse created or maintained by the Diocese, An Garda Síochána or the Health Services Executive 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”. It is the understanding of the Inquiry, that in that event,

no document would be produced for inspection pursuant to an Order for Discovery unless the Court was satisfied, having considered the relevant documents, that the need of the applicant for inspection to enable him to exercise his right of access to the courts outweighs the need to preserve the confidentiality of the documents.

13. The Minister for Health and Children should review the desirability of introducing legislation empowering the High Court on the application of the Health Services Executive, or other 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. If the problem in removing or suspending individual priests was as intractable as Bishop Comiskey believed, the Inquiry would feel that a legislative solution might well be necessary, and in accordance with the advice received by the Inquiry, would not conflict with any provision of the Constitution.
14. The Inquiry believes that consideration should be given by the Legislature to the introduction of a new criminal offence which would apply to situations 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.” [General Laws of Massachusetts Part IV Title 1 Chapter 265]. The Inquiry believes that the implications of such a law on teachers, childcare workers and professionals whose work brings them into contact with children would have to be fully explored and the parameters of any such legislation would have to be clearly outlined.
15. It is clear that Bishop Walsh and his advisors have interpreted Canon law and the procedures identified in the Framework Document of 1996 as requiring him to place the needs of child protection above the rights of individual priests to the protection of their good name. The Inquiry believes that Bishop Walsh is correct in this approach.
16. The Inquiry recognises that every effort must be made to avoid unnecessary damage to the reputation of the priest and to afford him an opportunity to establish his innocence at the earliest practical date. It is in the public interest that an issue between a complainant and the priest as to whether abuse was perpetrated should be resolved in the only forum capable of adjudicating thereon, namely the Courts of Law established under the Constitution. Because of the need to safeguard children, a priest may be required to step aside from active ministry with all of the embarrassment that that entails before his guilt is investigated, less still established. The Inquiry is of the opinion that a 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. Similarly, the public interest would be served by establishing the truth, if such is the case, of the allegation made by the complainant. Accordingly, the complainant should also

have civil legal aid irrespective of his means in order to establish his claim against the alleged abuser.

17. The Inquiry has identified at Chapter Six of the report the shortcomings in relation to the ability of the Health Services Executive to intervene properly in relation to child sexual abuse perpetrated by a non family member without the connivance of a child's parents. The Inquiry recommends that an in-depth study be conducted on the full remit of the Health Services Executive's powers in relation to this issue and that express statutory recognition is given to those powers.
18. The Inquiry would recommend that all Gardai should notify their superior officers in writing, in relation to a decision taken by them not to investigate or proceed with a referral for prosecution to the Director of Public Prosecutions any offence concerning a complaint or allegation of child sexual abuse.
19. The Inquiry is satisfied that there are adequate procedures in place to enable any citizen to complain where he believes that his or her complaint has not been dealt with in an appropriate and satisfactory manner. These procedures exist within and outside of the Garda structure and the Inquiry would recommend that these procedures be made more widely known.
20. The Inquiry would recommend that a local Superintendent should consult with the Domestic Violence and Sexual Assault Investigation Unit in Dublin to seek their advice where issues arise in relation to the desirability of maintaining surveillance on an alleged or suspected perpetrator of an offence of child sexual abuse, whether or not a formal complaint has been made.

“H. In the event of the withholding or withdrawal of full cooperation from the Inquiry by Church authorities or any State authorities, or any suggestion that cooperation is being withheld, to report that fact immediately to the Minister for Health and Children. In the event of the Minister for Health and Children receiving such a report he will then grant the Inquiry statutory powers.”

The Inquiry is satisfied that, it received cooperation from all the agencies involved with the issue of child sexual abuse in the Diocese of Ferns.

“I. At the conclusion of their inquiries, to deliver a full and final report to the Minister for Health and Children who will lay it before the Houses of the Oireachtas and publish the report in full subject to legal advice.”

The Ferns Inquiry has concluded its investigations and the Report of the Inquiry is attached hereto.