

THE INQUIRY INTO INSTITUTIONAL CHILD ABUSE IN IRELAND

In Brief

The Government of Ireland initiated an inquiry into institutional child abuse in 1999. The inquiry was carried out by *The Commission to Inquire into Child Abuse (CICA)* which was established by legislation in 2000. The Commission took 10 years to complete its task, working through two complementary teams, a Confidential Committee and an Investigations Committee. Of the 25,000 children who had attended the institutions in the time period concerned, around one thousand five hundred persons came forward. The Commission published its final report, commonly referred to as the *Ryan Report*¹, in May 2009. It is estimated that the Inquiry cost in the region of €126 million to €136 million.

Background

The Commission to Inquire into Child Abuse (CICA) was set up by the Government of Ireland in 1999. It began on a non-statutory basis by considering the Terms of Reference for the inquiry and the powers and protections it would need to carry out its work. At this stage the Commission was composed of three members². It reported back to government twice in 1999³ and in the following year the Government passed the Commission to Inquire into Child Abuse Act, 2000 which established the Statutory Commission. Another three members were appointed to the Commission at this time⁴.

Progress was extremely slow in the initial years of the Commission's work. In 2002 the Government decided to review the Terms of Reference of the Commission and its legislation to ascertain if its original intentions could be achieved within a more reasonable timeframe and in a more cost effective manner. In September 2003 it published "Proposals on the Way Forward" and in December 2003 a new Chairperson, Mr Justice Ryan was appointed to the Commission following the resignation of Ms Justice Mary Laffoy⁵.

The scope of the Inquiry

The Commission's primary functions were:-

- to listen to victims of childhood abuse who wanted to speak about their experiences to a sympathetic forum;
- to fully investigate all allegations of abuse made to it, except where the victim did not wish for an investigation and

¹ <http://www.childabusecommission.ie/rpt/pdfs/>

² The Honourable Ms Justice Mary Laffoy (Chairperson), Dr Imelda Ryan and Mr Bob Lewis.

³ September and October 1999

⁴ Dr Patrick Deasy, a Consultant Paediatrician, Ms Norah Gibbons, Childcare Director with Barnardos and Mr Fred Lowe, Principal Clinical Psychologist.

⁵ Judge Laffoy resigned on 2 September 2003 due to a departmental review on costs and resources.

- to publish a report on its findings to the general public.

The 2000 Act was amended by The Commission to Inquire into Child Abuse (Amendment) Act, 2005⁶ which added a duty on the Commission to inquire into the manner in which children were placed in institutions and the circumstances in which they continued to be resident there.

A principal amendment to the legislation in 2005 was the removal of the obligation on the Committee to hear every allegation of abuse that had been made to it. The Committee could now decide on which cases to hear based on a prior examination of the documentation associated with each complainant. Another significant reform was to prohibit the identification of an alleged abuser unless they had been convicted of that abuse⁷. Other provisions in the 2005 Act allowed for joint hearings to take place and for complainants to withdraw their complaint subject to the consent of the Committee.

The Inquiry covered the period from 1914 to 2000⁸ and focussed on the Irish institutions for children operated by Catholic Church Orders and funded and supervised by the Irish Department of Education. These Institutions included schools, industrial schools, reformatory schools, orphanages, hospitals and children's homes. A "child" was deemed to be a person who had not attained the age of 18 years at the relevant time.

Four types of abuse were included in the Commission's mandate:

- *Physical abuse* – infliction of, or failure to prevent, physical injury to the child
- *Sexual abuse* – the use of the child for sexual arousal or sexual gratification
- *Neglect* – failure to care for the child which risks or causes serious impairment or serious adverse effects
- *Emotional abuse* – any other acts or omissions towards the child which risk or cause serious impairment or serious adverse effects

The Commission had no role in relation to financial compensation; this function was given to the Residential Institutions Redress Board created by the Residential Institutions Redress Act 2002⁹.

Methodology

The Commission's functions of hearing evidence of, and inquiring into abuse were performed through two separate Committees – the Confidential Committee and the Investigation Committee. Members were assigned to one or other of the two Committees; they could not be members of both. A person who wished to give evidence of abuse was required to choose between giving evidence to one or other

⁶ The Commission to Inquire into Child Abuse (Amendment) Act, 2005
<http://www.irishstatutebook.ie/2005/en/act/pub/0017/index.html>

Note also that additional functions were added by Government in June 2001. These involved examining cases where vaccines had been tested on children. As a result a further member was appointed to the Commission – Professor Edward Tempany, a retired Consultant Paediatrician. The Vaccine Trials Division was closed in November 2003.

⁷ In October 2002 a ruling of the Investigation Committee was challenged by the Christian Brothers. They claimed that findings would be rendered unsafe due to the inability to offer proper defences plus the danger of prejudice from the lapse of time in older cases. In June 2004, the Investigation Committee issued a decision that it would not name individual perpetrators.

⁸ The 'relevant period' of the inquiry was from 1940 to 1999, but the Commission had power to extend it in either direction. The Investigation Committee exercised this power by extending the beginning of the period back to 1936. The relevant period for the Confidential Committee was determined to be between 1914 and 2000.

⁹ http://www.rirb.ie/documents/act_13_2002.pdf

committee. Hearings were held in Ireland, the UK and elsewhere. A dedicated counselling service was made available for victims of abuse, by the Department of Health and Children.

Confidential Committee

This Committee provided an informal, confidential setting for the victims of abuse who wished to recount their experiences but did not wish to become involved in an investigative procedure. The hearings were recorded on an audio system with the witnesses consent. Evidence presented by witnesses could not be challenged by any third party and there was no legal representation of witnesses.

The Committee provided the Commission with a general report on the issues encountered in its work. The report did not identify witnesses or the persons against whom allegations were made, or the institutions involved.

Investigation Committee

This Committee was created for victims who wished to both speak about their experiences and to have allegations of abuse fully inquired into. It had powers to compel persons to attend before it and to produce any documents required. In addition to victims of abuse, the Committee also heard from respondents such as individuals, Religious Orders, representatives of State Institutions, survivor groups and others. The Committee held both public and private hearings. Most hearings were held in private. All participants were entitled to legal representation and to cross-examine. Evidence was given at either (or both, in some cases) a full hearing of the Committee, or an interview with members of its legal team. This Committee also reported to the Commission.

Under the Chairmanship of Mr Justice Ryan the Investigations Committee conducted its work in three phases:

- Phase 1. This was a period of public hearings which allowed the Institutions to describe how they were managed and present arguments they thought relevant in advance of a private hearing. The aim was to establish the context in which abuse occurred.
- Phase 2. This was a period of private hearings into specific allegations of abuse in institutions. These hearings commenced in September 2004 and ended in November 2006. Statements from complainants, individuals, Institutions, Government departments etc. were obtained prior to the hearings and recorded and analysed by the Committee's legal team.
- Phase 3. In time a picture emerged from the hearings of the extent of abuse that had taken place. As a result, the Commission appointed eight firms of solicitors to act as Amicus Curiae¹⁰ to represent the interests of complainants.

Section 13 of the 2000 Act, as amended by section 8 of the 2005 Act specified that the report of the Investigations Committee:

- may contain findings that abuse of children occurred in a particular institution and may identify:
 - (i) the institution where the abuse took place and

¹⁰ Amicus Curiae or Friend of the Court is a person who has a strong interest in a matter that is the subject of a case in which they are not a party but it is thought necessary to have interests represented. A friend of the court may be given permission by the court to file a written statement of their views on the subject.

- (ii) the person, (or each person) who committed the abuse but only if he or she has been convicted of an offence in respect of abuse
- may contain findings in relation to the management, administration, operation, supervision and regulation, direct or indirect, of an institution, and
- shall not contain findings in relation to particular instances of alleged abuse of children

Timescale¹¹

Initially, a two year timeframe was set. The term of the Commission was extended by the Government four times – to May 2005, May 2008, January 2009 and May 2009. After the report was published in May 2009, the Comptroller and Auditor General (C&AG) estimated that the business of the inquiry would not be over until 2010 due to the settlement of legal bills, dealing with discovery documentation and wind-down operations following publication of the report.

The C&AG found that a number of factors had impacted on the timeframe for the Commission such as:

- the additional functions given to the Commission in 2001 relating to the testing of vaccines on children¹²
- reviews of the Commission had delayed its work
- proceedings were also delayed by the issue of compensation to victims
- some litigation cases delayed its work

Figure 1 below provides a chronology of the Main Events of the Inquiry¹³

Figure 1 Chronology of Main Events

Commission Established on Administrative Basis	May 1999
Commission Established on Statutory Basis	May 2000
Publication of the First Interim Report	May 2001
Additional functions Conferred on Commission	June 2001
Publication of the Second Interim Report	November 2001
Vaccine Trials Division established	November 2001
First Phase Review of Operations commenced	December 2002
First Phase Review Report completed	February 2003
First Phase Review report submitted to Government	March 2003
Commission informed Second Phase Review had commenced	July 2003
Second Phase Review – public announcement	September 2003
Announcement of resignation of Justice Laffoy	September 2003
Government publishes “Proposals for the Way Forward”	September 2003
Justice Ryan’s Review of Operations	September 2003
Vaccine Trials Division closed	November 2003
Justice Laffoy stepped down	December 2003
Appointment of Justice Ryan as Chairperson	December 2003

¹¹ The Controller and Auditor General (C&AG) published a report on the timeliness and costs of the CICA in 2009. See Chapter 3 of Comptroller and Auditor General Special Report 67 June 2009 http://www.audgen.gov.ie/documents/vfmreports/67_Education_Report.pdf

¹² This referred to: Three vaccine trials referred to in a report of the Chief Medical Officer of the Department of Health and Children which had been referred to the Commission by the Minister for Health and Children, and any other vaccine trial found by the Commission to have taken place in an institution between 1940 and 1987 based on an allegation by a person who was a child in that institution that he or she was the subject of such a vaccine trial.

¹³ From Comptroller and Auditor General Special Report 67 page 40

Publication of Third Interim Report issued	January 2004
Reports on Justice Ryan's Review and Attorney General's Review published	January 2004
Resumption of work of the Investigative Committee following Reviews	June 2004
Final Hearing of the Confidential Committee	March 2006
Final Sitting of the Investigation Committee	November 2006
Publication of the final Report	May 2009

Costs/resources available to the Commission

As stated earlier, the Commission was initially given a two year timeframe in which to complete its work. This was expected to cost in the region of €1.9 million to €2.5 million. It is now estimated that the Inquiry cost in the region of €126 million to €136 million. Some of the factors which impacted on the timescale and costs were noted earlier in this paper. (See Figure 2 in the Annexe to this paper which details the gross projected cost of the Tribunal excluding third party and discovery costs at the end of 2008¹⁴).

It is estimated that:

- administration will amount to almost €30 million
- the Commission Legal Team will cost €15.73 million
- litigation will account for €2.2 million
- other State Costs will cost over €2 million
- the outlay by the State in responding to Commissions enquiries will be €8.5 million

It is also estimated by the Commission that the final cost of third party representation could range from between €52 million and €62 million.

Staff levels in the Commission peaked around December 2005 and fell as the work of the Commission came to an end. At 31 December 2005 and 31 December 2008 the following posts were held in the Commission:

Structure of Commission at 31 December 2005 & 31 December 2008

	Role	2005	2008
Chairperson	Justice Sean Ryan	1	1
Commissioners	Confidential Committee	3	3
	Investigation Committee	3	3
Legal Counsel	Senior Counsel	3	0
	Junior Counsel	1	1
	Solicitors	2	1
	Paralegals	7	2
	Documentary Juniors	4	4
Administrative Staff			
Civil Servants	Principal Officer	1	1
	Assistant Principal Officer	2	1
	Higher Executive Officer	1	2
	Executive Officer	4	1
	Staff Officer	1	0

¹⁴ From Controller and Auditor General (C&AG) Special Report 67 June 2009 page 52
http://www.audgen.gov.ie/documents/vfmreports/67_Education_Report.pdf

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	Usher	1	1
Non Civil Servants	Clerical support	7	8
	IT Manager	1	1
	IT Support	1	1
	Higher Executive Officer	1	0
	Legal Administration	4	1
	Administrative Support	1	0
	Registrar	1	0
	Research Assistants	2	0
	Temporary staff	3	2
	Total	55	34

Annexe A

Costs of the Inquiry

Figure 2 below details the projected costs of the Inquiry excluding third party and discovery costs:

Figure 2 Gross projected cost of the Tribunal excluding third party and discovery costs						
Category of cost	Incurred to end 2008 ¹⁵ €m	Projected further costs ¹⁶		Total projected cost		
		Low €m	High €m	Low €m	High €m	Average €m
Administration ¹⁷	25.57	4.08	4.30	29.65	29.87	29.76
Legal Team costs	14.25	1.39	1.48	15.64	15.73	15.68
Litigation costs	2.22	-	-	2.22	2.22	2.22
State respondent costs	8.48	-	-	8.48	8.48	8.48
Other State costs ¹⁸	1.56	0.51	0.75	2.07	2.31	2.19
Total	52.08	5.98	6.53	58.06	58.61	58.33

Source: Controller and Auditor General

Annexe B

Survivor Groups

There are a number of groups which represent the views of survivors of institutional abuse in Ireland, North and South.

- Survivors of Child Abuse (SOCA), main contact - Mick Waters (based in Coventry), tel. 2476 551952. This group started as a support network for former pupils of Artane.
- Irish SOCA, C/O Gallagher/Shatter Solicitors, Dublin.
- ORIA (Organisation for Recovery from Institutional Abuse), contact Joe Baker (Dublin) 825 2353.
- Alliance for Healing from Institutional Abuse, contact Tom Hayes, (Northern Ireland number) 76 2871708.
- Justice and Healing from Institutional Abuse, contact Victor Hackett (Dublin) 867 1006.
- Alliance Support Group Right of Peace-
<http://www.alliancesupport.org/index.html>
- Aislinn Centre: Association for the Healing of Institutional Abuse Aislinn Centre, Jervis House, Jervis street, Dublin 1, Phone: + 353 1 8725771, Fax: + 353 1 8725694
- NCS The National Counselling Service is a Health Board Service providing counseling to adults who have experienced sexual abuse. It was established initially to provide counselling to adults abused in institutions but also offers support to adults abused in other settings.

¹⁵ Unaudited figures, subject to change

¹⁶ The low estimate assumes a wind-up date of January 2010 and the high estimate assumes a wind-up date of December 2010.

¹⁷ Included in the Administration estimate is €0.5 million for the publication of the report and for dealing with the closure of the Vaccine Trials Inquiry.

¹⁸ These are 2007 figures but are unlikely to have changed.

- [Right of Place](#) - Right of Place is an organisation set up to help and support survivors of Institutional Abuse in Ireland. The group is managed by a committee of five former residents of industrial schools, who are also ably assisted by a staff of seven former residents of Industrial Schools. The group is funded by the Department of Education, through the city of Cork VEC
- [One in Four](#) - offers a voice to and support for people who have experienced sexual abuse and sexual violence. The group states “Research has consistently shown that one in four children will experience sexual abuse before the age of 18. Society has thus far been unwilling to face up to the deep rooted nature of this problem or the sheer scale of the long term damage it leaves in its wake. Our determined aim is to change this”.
<http://www.oneinfour.org.uk/about/>
- [Survivors of Abuse in Ireland](#)- <http://www.irish-survivors.com/irish-survivors/irish-survivor-rules.htm>
- [Voice of the Faithful, Ireland](#). The group states “Our Goals; to support survivors of clergy sexual abuse, to support priests of integrity, to shape structural change within the Catholic Church”- <http://votfi.com/> Sean O'Conaill, 2 Greenhill Rd, Coleraine, Northern Ireland, BT51 3JE

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