

## Chapter 6

# The Congregation of Christian Brothers

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### Introduction

- 6.01** This preliminary chapter deals with topics that are of general application to the consideration of abuse in industrial schools run by the Christian Brothers.

### Foundations

- 6.02** Edmund Ignatius Rice (1762–1844), a wealthy import and export trader in the city of Waterford, opened a school for poor children in that city in 1802. He began recruiting men who shared his ambition to provide a free education for the poor Catholic children of Ireland. By 1803, a monastery was built in the city and more young men joined. In this way he founded the Institute of the Brothers of the Christian Schools, which became known as the Irish Christian Brothers.
- 6.03** His inspiration had come from a remark made by the sister of the Bishop of Waterford, with whom he was discussing his ambition to become a member of a religious Congregation. A band of ragged boys passed by and, pointing to them, she exclaimed, ‘What! would you bury yourself in a cell on the continent rather than devote your wealth and your life to the spiritual and material interest of these poor youths?’ Inspired by these words, Rice talked to other friends, all of whom advised him to undertake the mission to which he was being called. He settled his business affairs in 1800, the most profitable year he had known, and two years later opened his first Christian school.
- 6.04** The schools were open to all comers and were free to the poor. He developed a system whereby one Brother, sometimes with a monitor as assistant, would teach about 150 boys who were graded not by age but ability. He was adamant there should be no physical punishment, which he found contrary to his own spirit. In 1820 he wrote, ‘Unless for some faults which rarely occur, corporal punishment is never inflicted’.
- 6.05** His schools were a success and, as Edmund Rice’s reputation spread, his Community grew rapidly in numbers. By 1806, schools were established in Waterford, Carrick-on-Suir, and Dungarvan, and by 1808 the Community had Houses in Dublin, Cork and Limerick. Initially, they adopted, with modifications, the Rule of the Presentation Order of nuns and, like them, were subject to their local bishops. In 1820, however, the Order now known as the Christian Brothers became the first Irish Community of men to be granted a charter by the Holy See<sup>1</sup> and to be recognised as a Papal Institute. This new status meant that the Brothers were no longer under the authority of local bishops, and could develop their own internal management, under the overall authority of the Holy See, through the Secretariat of State for Religious. Br Rice was unanimously elected Superior General, and all the Houses were united under the new regime except for Cork, as the local bishop there refused his consent. In 1826, they too joined the greater Congregation, although one member, Br Austin Reardon, opted to remain under the old Order and founded the teaching Congregation of Presentation Brothers.

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<sup>1</sup> The Holy See is the episcopal jurisdiction of the Bishop of Rome, commonly known as the Pope.

- 6.06** From 1802 to 1868 the Christian Brothers remained a small group of men who managed only day schools for poor Catholic boys. It was the introduction in 1858 of the industrial school system into Ireland that led to the Congregation moving into the management of residential schools. The new industrial schools fitted in with their charism of educating and helping the poor. Moreover, the schools were being subsidised by the State, through a capitation system, whereby a sum was paid for each boy placed in the school. It was a system that for the first time would provide the Christian Brothers with a guaranteed income to feed, clothe, house and educate the boys.
- 6.07** The Brothers opened their first industrial school in Artane in 1870. It was a purpose-built school for 825 boys, built to the highest specifications. From that date, there was a rapid expansion of the Christian Brothers throughout Ireland and Great Britain. In 1868 a small number were sent to Australia, and the Congregation rapidly flourished there. In 1875 they moved to Newfoundland, where they opened another school. By 1900 there were Christian Brothers' schools in Ireland, Britain, Australia, Newfoundland, Gibraltar, New Zealand, India and Rome. Soon after that, the Congregation developed in Africa, the USA and later in South America. The Brothers are today a worldwide organisation with institutions in more than 26 countries on all populated continents.
- 6.08** In Ireland, the Christian Brothers soon occupied the dominant position in the industrial school system. Between 1868 and 1894 they had control of six industrial schools spread across the country, certified to take in a total of 1,750 boys. In 1831 the residence of the Superior General of the Irish Christian Brothers and the centre of teacher training was moved to North Richmond Street (O'Connell Schools) Dublin from Our Lady's Mount (North Monastery) in Cork. In 1874 it was transferred to Belvedere House in Drumcondra, now the residence of the President of St Patrick's College, Drumcondra. In 1875 the Brothers moved to Marino House, on the original Lord Charlemont demesne, and established their Generalate there. They recruited boys for their novitiates in schools across the country and sent them to their boarding schools, such as the one in Baldoyle, where they studied for the Leaving Certificate.
- 6.09** In 1956 the Irish Province divided into two, St Helen's Province and St Mary's Province.
- 6.10** The growth in numbers of Christian Brothers was remarkable. In 1831, there were only 45 Christian Brothers. By 1900, there were almost 1,000; and by 1960, there were 4,000 Christian Brothers in Ireland.<sup>2</sup>
- 6.11** The six Christian Brothers' industrial schools in Ireland were as follows:

<b>Name of School</b>	<b>Years of operation</b>	<b>Certified number of boys</b>
Artane Industrial School for Senior Boys	1870–1969	825
St Joseph's Industrial School for Senior Boys, Tralee	1870–1970	145
St Joseph's Industrial School for Senior Boys, Salthill	1871–1995	200
St Joseph's Industrial School for Senior Boys, Glin	1872–1966	190
St Joseph's Industrial School for Senior Boys, Letterfrack	1887–1974	165
Carriglea Park Industrial School for Senior Boys, Dun Laoghaire	1896–1954	250
Total		1,750

<sup>2</sup> B. Coldrey, *Faith and Fatherland. The Christian Brothers and the Development of Nationalism, 1838–1921* (Dublin: Gill and Macmillan, 1988), p 22.

- 6.12** The Congregation operated, in addition, two day/boarding schools, for orphans – namely, The O'Brien Institute and St Vincent's, Glasnevin – and a school for the deaf, St Joseph's School for the Deaf, Cabra, as well as over 100 primary and secondary schools.<sup>3</sup> While the Sisters of Mercy managed a much greater number of industrial schools than the Brothers, they were diocesan congregations that were not under central management until the mid-1980s and were in effect independent institutions until then. The Brothers, by contrast, were a unitary organisation under central management and control from 1820.
- 6.13** The Christian Brothers became a powerful and dominant organisation in the State and were responsible for providing primary and post primary education to the majority of Catholic boys in the country. Their greatest involvement was with non-residential education, and only a minority of Brothers were involved in industrial school work at any time.
- 6.14** The extent of the Congregation's involvement in residential care was reflected in the number of complaints (over 700) received by the Investigation Committee from former residents of its institutions, and in the number of hearings held (149) and interviews given (220).
- 6.15** The Investigation Committee conducted full investigative hearings into four of the institutions: Artane, Letterfrack, Tralee and Carriglea Park. Limited inquiries by way of analysis of discovered documents took place into the remaining two industrial schools, Salthill and Glin, and St Joseph's School for Deaf Boys, Cabra.

### **The Christian Brothers' mission**

- 6.16** In 1923 the Christian Brothers set out a new Constitution and Rule that reiterated the mission of the Congregation:
- The main end of the Congregation is that all its members labour for their own sanctification by the observance of the Evangelical Counsels and of these Constitutions. The secondary end is that they endeavour to promote the spiritual good of the neighbour by the instruction of youth, especially the poor, in religious knowledge, and their training in christian piety.
- The Brothers conduct Schools in which they teach the poor gratuitously; Institutions for orphan and neglected children; Day Schools and Boarding Schools which are maintained by the fees of the pupils; and other educational works.<sup>4</sup>
- 6.17** The majority of the Brothers who had worked in the industrial schools and who gave evidence made the decision to join the Congregation when they were 13 or 14 years of age. Some spoke of having joined the Christian Brothers at such a young age out of a spirit of adventure and a desire to do good in the world. They received instruction in theology and philosophy, and believed in the message of salvation through good works that was the cornerstone of the Christian Brothers' mission.

### **Organisation and management**

- 6.18** Supreme authority in the Congregation is vested in the General Chapter<sup>5</sup> which is held every six years. It is composed of former senior office holders, former Superiors General and delegates from each Province. The General Chapter is also the Congregation's legislative body whose statutes are known as Acts of Chapter. Outside the periods when the General Chapter is in session, authority is vested in the Superior General and his Council as the governing body.
- 6.19** The General Chapter elects the Superior General and four assistants to serve for a period of six years on the General Council. The Superior General may serve for no more than two consecutive terms. The assistants remain in office until a new General Chapter is convened.

<sup>3</sup> There are currently 122 schools in the Christian Brother network in Ireland, according to the Marino Institute of Education website.

<sup>4</sup> Constitutions (1923).

<sup>5</sup> The general assembly of representatives from the Congregation of the Christian Brothers.

- 6.20** The General Council appoints the Provincials and their assistants, who in turn appoint Superiors to Communities. The basic organisational unit is the Community. Each Community is headed by a Superior, assisted by a Sub-Superior and a local council, all appointed by the Provincial Council. The Superior is appointed for a three-year term and may be reappointed, but, like his superiors, he may only serve two consecutive terms.
- 6.21** When a Community of Brothers operated an industrial school, the Provincial Council ensured that their Superior was also the Resident Manager. These dual roles are relevant when considering the statutory demands of the position of Resident Manager. The practice also made it difficult for the Brothers to accept the recommendation of the Cussen Commission<sup>6</sup> that the Minister for Education should control the appointment of Resident Managers. The Congregation was obviously going to guard its right to appoint Superiors of its own Communities.
- 6.22** Brothers appointed to the position of Superiors, who thereby became ex officio Resident Managers of the institutions, assumed a very large responsibility but received no training for the role, even though the calibre of the manager affected the whole institution. A good manager not merely ran the school well, but improved the living conditions for staff and boys. A poor manager had a serious impact on an institution.
- 6.23** Although the Congregation was well organised at a national and provincial level, local organisation was often unsatisfactory. There was no discernable management structure in place within the industrial schools looked at by the Committee. Individual post-holders were appointed by the Superior, but there was no system of monitoring or support once the appointment had been made, and there was no obvious system of consultation with younger members of the Community who were often responsible for the day-to-day running of the school. There was no formally recognised complaints procedure within the local Community. This was evidenced by the number of complaints communicated to the Visitor<sup>7</sup> that had not been voiced by the Brothers to the Superior in the community.
- 6.24** The lack of any safe, secure method of making a complaint was a serious difficulty for the boys. Boys could only speak about the actions of a Brother to another Brother and were naturally reluctant to do so, fearing that they would be disbelieved or reported back to the Brother about whom they complained of. In the 1940s, a sodality<sup>8</sup> in Artane allowed boys to make complaints in a safe and confidential environment. Four sexual abusers were uncovered as a result, and were removed from the institution. This facility was discontinued and was never introduced into any other industrial school run by the Brothers. The obvious success of this initiative was not perceived as such by the Congregation, and it is probable that a great deal of the sexual abuse that continued unchecked for many decades in some schools could have been prevented by the introduction of a simple complaints mechanism.

### **Christian Brothers managers' meetings**

- 6.25** Meetings were held annually by the managers of the Congregation's six industrial schools together with the O'Brien Institute, St Vincent's, Glasnevin, and St Joseph's School for Deaf Boys, Cabra. They discussed general issues affecting the operation of their institutions, and little attention appears to have been focused on the affairs of individual schools. From a review of the minutes of these meetings held between 1936 and 1965, it can be seen that among the matters considered were:
- Dealings with the Department of Education and its policy regarding the institutions.
  - Numbers in the institutions and the impact of decreasing numbers.

<sup>6</sup> Commission of Inquiry into the Reformatory and Industrial School System Report, 1936 (the Cussen Report) (Dublin: Stationery Office).

<sup>7</sup> A Visitor was a Congregational Inspector who reported back to the leadership of the Congregation. See Supervision/Visitations below.

<sup>8</sup> An association where the main object is the well-being and improvement of a different group of persons, such as men, women and children, or more specially, priests, youths, church helpers, prisoners, immigrants, nurses, married people, couples, etc.

- Matters concerning the welfare of the children, including health, education, and aftercare.
- Financial affairs of the schools including the manner in which accounts should be maintained and presented, determination of the level of income to be taken by brothers (stipend) from the school income, payment of teachers; approach to be adopted in seeking increased grants from the Department.
- Consideration of issues to be discussed at Resident Managers' Association meetings.
- Other significant issues that might affect the institutions from time to time, for example the response to the Cussen Report.

**6.26** These meetings were held in advance of the annual meeting for Resident Managers of all industrial schools and reformatories, which were convened by the Resident Managers Association. This association was a means whereby industrial schools could present a united front in negotiations with the Department of Education.

## Funding

**6.27** The Christian Brothers contended that the quality of care provided in their industrial schools was the best they could provide, because the State funding was significantly below what was necessary to provide a proper standard of care.

**6.28** The funding from the State was by the capitation system, whereby a fixed sum was paid to the Congregation for each boy in the institution. Part of the grant was paid by the State and part by the local authority from whose area the child came.

**6.29** According to the Department of Education and Science in its statement furnished in advance of the Phase III hearings, the payment was intended 'to cover the expenses incurred in maintaining the children in the schools, including clothing, footwear, food, general medical care, staffing and accommodation'. The Department of Education and Science also explained that, under the legislation that set up this system, 'the school premises were owned and provided by the religious orders. The schools provided their own buildings, farms and plant without the aid of the State and local Authorities'.

**6.30** The main disadvantage of the capitation system was that the financial position of the institution was determined by the number of children committed. As a result, there was pressure on schools to maximise numbers and there was no incentive to allow early release of children.

**6.31** In their Opening Submission for the Artane hearings, the Congregation dealt with the question of funding in general terms, which applied to all their industrial schools. It made two important assertions: first, it stated that the Kennedy Committee found that the grant aid paid to industrial schools in Ireland was 'totally inadequate'; and, secondly, it compared the capitation in the State to funding in Northern Ireland and found that the former rate was significantly below the allowance in the neighbouring jurisdiction.

**6.32** With regard to the Kennedy Report finding, however, it must be noted that, at the time of the publication of that report in 1970, numbers in industrial schools had fallen dramatically and therefore the system of capitation that depended on large numbers of children in care was no longer an appropriate method of funding such schools. Kennedy recommended that the capitation system be replaced by an annual agreed budget, and this was ultimately put in place.

**6.33** Throughout the 1940s and 1950s and for some of the 1960s, capitation was a reasonable method of financing because schools had large numbers of children and the fixed costs associated with the running of these schools could be spread across a larger pupil population.

- 6.34** The industrial schools run by the Christian Brothers, with the exception of Letterfrack after 1954, had sufficient numbers of boys for economies of scale to be an important factor in assessing adequacy of funding. Farms provided food for the institutions and, in some cases, additional income. Trades such as tailoring and boot-making provided cheap clothing and could also be a source of additional income.
- 6.35** The chapters on the individual schools reveal that food, clothing, accommodation, education and aftercare were poorly provided. When the Department Inspector raised any of these issues with a Resident Manager, the standard response was that funding was inadequate to provide a higher level of care.
- 6.36** For most of the relevant period funding was adequate to provide basic care for children in industrial schools, particularly during periods of high occupancy. By the late 1960s, falling numbers made it impossible for all six industrial schools to stay open and, by 1973, only Salthill continued to operate.
- 6.37** The Brothers who lived in the monastery, even those with little or no involvement with the school, were assigned a stipend out of the capitation grant. This money was not paid to them personally but put into a fund for the maintenance of the Community.
- 6.38** The level of stipend to be taken from the school was determined internally by the Congregation and on occasion was discussed at the Annual Managers' Meeting. The 1940 minutes stated:  
The Community income is made up mainly by the brothers' Stipends. The following scale was decided upon.  
Artane: Manager: £500  
Sub-Manager: £300  
And each of the brothers (engaged in the institution) £120  
For all other institutions:  
Manager: £300  
Sub Manager: £200  
And each Brother: £120.
- 6.39** The minutes went on:  
The Community Expenses would not include ordinary "Rations" such as Bread, Flour, Meat, Milk, Butter, Fish, Eggs, Vegetables – Laundry, Fuel & Light. Any Balance (cr.) is to be treated as an Advance from Community to Institution as is done in case of ordinary House Loan A/c.
- 6.40** By 1954, the stipend had increased to £250 per Brother, and was £400 per Brother in 1964.
- 6.41** The stipend was the same amount irrespective of how much work the Brother did in the institution or in caring for the boys.
- 6.42** Stipends were in effect, in the nature of salaries that the Brothers paid themselves out of the school income and amounted to a substantial proportion of it. These stipends could represent up to 15% of the total capitation grant received by an institution.
- 6.43** The stipend was sufficient to enable some Communities, notably Artane, Carriglea and Glin, to invest money in the Congregation's Building Fund and to make payments to the Congregation by way of annual Visitation Dues.
- 6.44** Details of the Building Fund requested by the Committee were furnished between July 2007 and February 2008.

- 6.45** The Congregation stated:  
The Building Fund consisted of monies which were forwarded to the Provincial Councils by communities for use in refurbishing existing schools and building new schools. A Community submitted excess funds to the Building Fund, which funds could be called on for refurbishments and/or erections of new buildings.
- 6.46** This contrasted with the Congregation's Opening Statement for Artane in which they stated:  
the Brothers, in keeping with their vocation, lived frugal lives and surplus monies thus, generated in the Community Accounts were lodged to a Building Fund established by the Congregation for use on capital expenditure on Artane. It is quite clear, therefore, that the financial contribution from the Community in Artane to the Institution was substantial.
- 6.47** The Congregation was not in a position to say how much money in total was paid into the Building Fund by their industrial schools, but the accounts furnished show that Artane was consistently one of the largest contributors. Visitation Reports show payments into this fund by all the industrial schools at some point. There was also some evidence of payments out of this fund to the industrial schools, but these were relatively small sums and were generally concentrated in the period immediately prior to the closure of the institution as an industrial school.

### Visitation Dues

- 6.48** In the Phase III public hearing for Tralee, Br Nolan was asked to explain what the Visitation Dues were:  
*The Brothers in the Community maintained their House through taking a stipend and taking a salary from the money available. So also would the Provincial Council, they had no means of support other than putting a stipend on each House. It is a few hundred pounds. It changed with time of course. It was a levy on each Brother to contribute to the Provincial Council.*
- 6.49** The accounts for Artane show that the greatest expense in the House accounts over the period 1940 to 1969 was annual Visitation Dues. In that period the non-capital expenditure of the House was £236,000, and approximately one-third of this, £82,575, was sent to the Provincial towards the support of the Congregation by way of Visitation Dues.
- 6.50** In all of the correspondence between the Department of Education and the Orders on the question of finance, the financial needs of the Community or the Congregation were never discussed. The Department of Education's understanding of its role as set out above was to pay capitation grants in respect of youthful offenders and children committed to their schools under the provisions of the Children Acts, 1908 and 1941, and the School Attendance Act, 1926.
- 6.51** The stipends paid to all Brothers, out of which Visitation Dues and payments to the Building Fund account were made, represented a drain on resources available for the maintenance of the children.

### Supervision/Visitations

- 6.52** Supervision of Communities was the responsibility of the Provincial Council for the region and was exercised by way of annual Visitations by a member of the Council. The Visitor stayed with the Community for a number of days, following which he sent a written report to the Provincial Council, which was copied to the Superior General. The Provincial or another member of the Council sent a follow-up letter to the Superior of the Community referring to salient points in the report, but the report itself was not given to the Superior.
- 6.53** Visitations were a requirement of Canon Law, and their primary objective was to ensure that the Brothers were acting in the spirit of their vocation and observing the rules of the Congregation. In addition, the Visitor was required to inquire into the condition of discipline in the Community, its

finances, and its premises. Although his function was primarily to inspect, the Visitor was also required to take immediate action if, during the course of his inspection, he encountered 'anything of a serious nature ... opposed to the religious spirit' in the Community.

- 6.54** Visitations proceeded according to a formal pattern laid down in the Constitutions of the Order. The Visitor had a preliminary meeting with the Superior and then he had individual meetings with the Brothers. These conversations were confidential, and the Superior was expressly prohibited from attempting to influence what Brothers said in their conversations with the Visitor. The Visitor then met the Superior for a second time to discuss his administration of the Community. The Visitor did not routinely speak to the boys, and only met individual boys on exceptional occasions.
- 6.55** Visitation Reports for Communities attached to industrial schools followed the same general pattern, dealing with topics of Community observance and usually including comment on some or all of the following topics: health and diet, schools, premises, trades, aftercare, statistics, recreation, and finances.
- 6.56** The rules of the Congregation required that, if 'serious irregularities' reported at the time of the Visitation had not been remedied within a period of two months, the Brothers who reported them were to write to the Provincial or the Superior General directly and inform him of their continuance.
- 6.57** The Visitations were thorough, and the reports provided a good deal of detail about the operation of the various Communities. Although their purpose was primarily religious and concerned with the Community, the reports usually contained information about the industrial school and the children. Some Brothers were candid in reporting problems to the Visitor, as is demonstrated in the individual chapters on institutions. The system also enabled a Brother to circumvent his Superior by making a complaint to the Visitor if he felt that the former would not believe him. A number of cases of sexual abuse became known in this fashion.
- 6.58** Visitors often made frank observations and they could be severely critical in their reports, although the summaries that the Provincials sent to the Managers were usually much more discreet in their comments.
- 6.59** Visitation Reports are the single most valuable source of documentary evidence about life in the Brothers' industrial schools. They were written during inspections or shortly afterwards. The writers were senior members of the Congregation. Reports were intended for internal use by the Council of which the Visitor was a member. Where they contain criticisms of Brothers or institutions, the reports can therefore be considered reliable.
- 6.60** The Visitation Reports often contain information and comment that are much more critical and disapproving than the Department of Education Inspector's reports, which were also supposed to be conducted annually and were focused on the health of the boys and the conditions within the school.
- 6.61** The system had its limitations. In Communities where there were no personnel problems, the staff tended to close ranks. Visitors were more likely to get a realistic picture of an institution when there were problems in the Community, such as when relations were strained among the Brothers. Some Brothers testified that they were reluctant to complain to the Visitor for a number of reasons, including lack of familiarity with the Visitation system or feeling too junior to report. Others feared they might jeopardise their careers by complaining or that the complaint would get back to their Superior who would react badly to it. Furthermore, there were no objective standards applied to these reports and so different Visitors inspecting within months of each other could come to quite different conclusions as to the adequacy of the management.
- 6.62** The major deficiency of the Visitation system was that, while it was able to identify problems in an institution, it did not provide solutions or ensure that changes were put in place. In some cases, the Visitation Report was highly critical of a particular Resident Manager or member of staff, but the Council did nothing to remedy the situation, and the Provincial in his follow-up letter did not even mention the problem. A member of the current Provincial Leadership Team was asked to



explain this failure to act on Visitors' complaints, and he attributed it to the fact that the Visitation was a personal inspection, the report was a discussion document, and the Provincial Council might not necessarily agree with all of its conclusions.

- 6.63 Even if this interpretation is accepted as applying in certain cases, it does not explain why the Provincial authorities remained inactive in cases where they and the Visitor were united in their criticisms of a particular staff member. The records of the Congregation do not disclose any instance when a Superior/ Resident Manager was removed from his post for failing in his duties.

## Joining, leaving and transferring

### *Joining the Congregation*

- 6.64 Christian Brothers were recruited when they were very young. Most of the Brothers and former Brothers who gave evidence joined in their early teens, many when only 14 years of age. Brothers known as Postulators travelled around the country visiting primary and secondary schools to recruit boys. The new recruits were then sent to boarding schools operated by the Congregation, where they studied and sat for their Intermediate and Leaving Certificates, before beginning their preparation for life in religion. Brothers who were not suitable for teacher training became Coadjutor Brothers and worked as cooks, gardeners, farmers or general support staff in the schools.

- 6.65 Many of the Brothers and former Brothers who gave evidence to the Committee described the education and standard of care that they received in these schools as excellent. Conditions were good, the quality of care they received was of a high standard and, while life was extremely regimented, there was no corporal punishment.

- 6.66 One former Brother described his experiences as follows:

*[it was a] well run [boarding school] ... much better run school than the one I had left ... It was immensely pleasant and companionable and I have nothing only good memories of it. I had no trouble about it I think in my mind ... When I went to the juniorate, to Old Connaught, there was no corporal punishment, there was no sense of fear. They were much better. I think I had a particularly bad set of teachers in [a named National school], but there was good teaching and everything was structured. I think again, a good boarding school operates on keeping you busy all the time and we were certainly kept busy all the time ...*

- 6.67 Other Brothers described a similarly positive experience. One Brother said that *'the staff were very good, they were very good teachers ... they were excellent teachers'*. Another former Brother, who was critical of many aspects of the training process, said that;

*'I have very happy memories of Baldoyle. It was a very friendly place. We got on very well with each other. It was happy go lucky. We were very well treated. I have no particular axe to grind about ... Baldoyle'*.

- 6.68 In his article 'Seven Years in the Brothers', Professor Tom Dunne described the contrast between the juniorate he attended and his old schools as 'remarkable':

Here there was no corporal punishment and bullying was not tolerated. We were treated fundamentally as adults who had taken on immense responsibilities, and as new members of the Community. The teachers were all Brothers, and were among the best the Congregation had. It was all profoundly civilised, carefully disciplined and immensely caring.

- 6.69 A boy could not enter the Novitiate until he was 15 years of age, at which point he wore the habit of the Congregation. When he had completed his Leaving Certificate, he spent a year in the Novitiate studying religion. He took his first religious vows on the first Christmas Day after the completion of the Novitiate. These were temporary vows and were renewed annually.

**6.70** Having completed the Novitiate, the temporarily professed Brother was sent to the Congregation's Teacher Training College in Marino to study primary school teaching. The course was two years in length, but the Congregation was given a dispensation from the Department of Education whereby its members left the college when they completed their first year to work in schools run by the Congregation. After a number of years working in the field, the Brothers returned to college to complete their second year and become fully qualified National Teachers. This arrangement with the Department delayed the acquisition of the National Teacher qualification.

**6.71** The rules of the Congregation provided that a temporarily professed Brother could not take perpetual vows until he was 25 years old and had made temporary vows for at least six years. In this regard, the rules of the Congregation differed from the requirements of Canon Law, under which an individual could make permanent vows at 21 years of age.

**6.72** The combination of these provisions meant that young Brothers were unable to acquire their qualifications as teachers until they were well advanced towards a binding commitment to their vocations. These young, temporarily professed Brothers were often sent to industrial schools to teach for a number of years before returning to Marino. They were put in charge of large classes of boys and were also expected to perform supervisory duties in the afternoons and evenings and throughout the weekend. They had neither the teacher training nor the childcare training to equip them for this task.

### ***Leaving the Congregation***

**6.73** An individual could leave the Congregation voluntarily or he could be dismissed. The rules governing the departure and the dismissal of religious are contained in the Constitutions of the Congregation and the Code of Canon Law 1917.

**6.74** The rules draw a distinction between Novices, temporarily professed Brothers, and perpetually professed Brothers. Novices could leave voluntarily at any time, as they had not taken any vows. The General or Provincial Councils could dismiss them for 'just reasons', and there was no requirement to inform the Novice of the reasons for his dismissal. The decision to dismiss the Novice was taken by the General or Provincial Council.

**6.75** A temporarily professed Brother could leave voluntarily at the expiration of his annual vows. The Superior General or the General Council could dismiss him for 'grave reasons'. He was entitled to be told the reason for his dismissal, and had the right to have an opportunity to defend himself and to appeal to the Holy See. The Congregation also had the power to refuse to permit a Brother to renew his vows for 'just and reasonable motives'. The evidence before the Committee indicated that the latter was the preferred method of removing temporarily professed Brothers.

**6.76** Having taken perpetual vows, a perpetually professed Brother could only leave the Congregation voluntarily by applying to be dispensed from his vows. In Pontifical Congregations such as the Christian Brothers, only the Holy See could grant a dispensation from perpetual vows. This power was sometimes delegated to an Apostolic Visitor, who could grant a dispensation where he considered it wise and necessary to do so. If Rome granted it, the local Bishop formally executed the indult. The discovery material indicated that Brothers who wished to be dispensed applied first to the Provincial Council who, if they voted in favour of the request, would forward it to the General Council. If they in turn voted in favour, it was sent to the relevant Secretariat in the Vatican. A dispensation was not automatically granted.

**6.77** The dispensation procedure was often utilised in cases of suspected sexual abuse. Where the authorities were satisfied that a particular individual had committed the acts complained of, he was encouraged to apply for a dispensation instead of having to undergo the dismissal procedure.

**6.78** This method of dispensation was also employed in cases where the dismissal procedure had been instituted and the General Council had taken the decision to dismiss the Brother but the decree of dismissal had not been issued. The Brother would be invited to pre-empt the dismissal by applying for voluntary dispensation and could leave the Congregation without stigma.

**6.79** If a Brother was accused of a serious offence under Canon Law or the rules of the Congregation, and the authorities were satisfied as to the truth of the allegation, but the Brother refused to apply for a dispensation, they were left with no option other than to institute formal dismissal proceedings. A perpetually professed Brother could not be dismissed unless he had committed an 'external grave delict', had received two warnings about his conduct and had failed to correct his behaviour. These admonitions were known as Canonical Warnings, and the immediate major Superior administered them personally or had them administered by a colleague acting on his instructions. The warning was composed of two parts: the first was a call to correct the offending activity and to do the appropriate penances; and the second was a threat of dismissal. In addition, the Superior was 'bound' under Canon Law to remove the offending Brother 'from the occasion of relapse even by transfer if it is necessary to another house where vigilance is easier and the occasion of delinquency is more remote'. The Canon Law set out what constituted a 'grave delict' and it included sexual offences against minors. The rules required that each of the three offences must have been of the same type, or, if different, have been 'of such a nature that when taken together they manifest the perversity of the will resolved on evil'. The rules also provided that one continuous offence could give rise to dismissal if it 'from repeated admonitions, has virtually become threefold'.

**6.80** If a Brother had been issued with two Canonical Warnings and had committed a third delict, his case was forwarded to the Superior General and the General Council, who then considered whether he should be dismissed. The Brother was given the opportunity to defend himself, and Canon Law required that his responses be entered in the records. The General Council then voted on whether the Brother should be dismissed. If a majority of the votes was in favour of dismissal, the Superior General issued a formal decree of dismissal, which was forwarded to the Holy See for confirmation. The Brother had a right to appeal the decision to the Holy See. Even if the dismissal was confirmed, the Brother remained bound by his religious vows until he applied for, and was granted, a dispensation by the Holy See.

**6.81** Canon Law and the Constitutions of the Congregation also provided for immediate dismissal in the case of 'grave external scandal, or of serious imminent injury to the Community'. In this situation the decree of dismissal was issued by the Provincial with the consent of his Council, or 'if there is danger in delay' by the local Superior with the consent of his Council and the Local Bishop. The case was then forwarded to the Holy See for judgment.<sup>9</sup>

**6.82** The dismissal process which took place in the General Council, and which was often described as a canonical trial, is different from the formal canonical trial provided for in the Code of Canon Law, which describes the procedure for the dismissal of religious priests or members of non-exempt religious orders, and the procedure for the dismissal of members of diocesan congregations.

### ***How Brothers were transferred***

**6.83** The Congregation was a large national organisation that moved its members around periodically. The regularity with which Brothers were moved depended on the functions they performed and where they were working. Teaching Brothers were moved more regularly than Coadjutor Brothers.

**6.84** Industrial schools were perceived as hardship postings and they had a high turnover of staff. The vow of obedience meant that Brothers had to accept their postings no matter how unpleasant they found them to be.

**6.85** Young Brothers were often appointed to teaching positions in industrial schools. The posting of Brothers happened at the same time each year, at the start of a new academic year. Brothers transferred outside of this period often excited comment, because the sudden transferring of a Brother could signal a serious punishment. No contemporaneous information exists concerning the criteria that were used to assess the suitability of Brothers for particular postings. However, the records of the Congregation show that, on a number of occasions, individuals who were

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<sup>9</sup> Cn 653.

accused of sexual abuse were transferred to other residential or day schools. In some cases, Brothers who had been sexually abusing children were, in their later careers, appointed to senior positions within the Province. When asked at the Phase I hearing for Letterfrack how this had happened, Br Gibson explained that, because the leadership in the Congregation changed every 12 years, there was no memory within the organisation of offences committed before that. He acknowledged that there was a personal file for each Brother and concluded that these files were not consulted in making appointments.

- 6.86** If Br Gibson's theory is correct, it means either that the Provincial Council made its decision to fill senior posts without reference to the Brother's history or to his personal file, or that the Council made its assignment in the knowledge of the man's previous trouble.

## Impact of religious life on institutional care

### Vows

- 6.87** Christian Brothers took the traditional vows of poverty, chastity and obedience, as well as two additional vows, namely 'perseverance in the congregation', and, for teaching Brothers, 'teaching the poor gratuitously'. They differed in this regard from the Coadjutor Brothers, who did not teach, and whose commitment was to domestic chores in communities.

### Poverty

- 6.88** The vow of poverty required Brothers to deprive themselves of the right of disposing of anything of monetary value without the permission of their Superiors. They were not allowed to accept, take or retain anything for themselves save what they were allowed by their Superiors. They were required to give to the Congregation whatever they acquired by their industry or ability while under temporary or perpetual vows.

### Chastity

- 6.89** Constitution 87 relates to the vow of chastity. It 'not only obliges the Brothers to celibacy, but also imposes upon them the obligation of avoiding everything contrary to the sixth<sup>10</sup> and ninth<sup>11</sup> Commandments of God'<sup>12</sup>. In addition to the injunctions against adultery and coveting one's neighbour's wife, the Brothers were to restrict communication with women to a minimum. Constitution 89 spelled out what was required:

The Brothers, in their interviews with the mothers or female friends of their pupils and in all conversations with females, must observe great reserve and modesty and make the conversations as brief as possible.

- 6.90** Constitution 91 deals with relations between Brothers and their pupils. It states:

Whilst the Brothers should cherish an affection for all their pupils especially the poor, they are forbidden to manifest a particular friendship for any of them. They must not fondle their pupils; and unless duty and necessity should require it, a Brother must never be alone with a pupil.<sup>13</sup>

- 6.91** The meaning of the word 'fondle' was discussed during the public hearings into Letterfrack Industrial School, when Br Gibson, on behalf of the Congregation, argued that the word did not have a sexual connotation, notwithstanding its location in the chapter of the Constitutions dealing with chastity.

- 6.92** A circular letter from the Superior General, Br P. J. Hennessy, in 1926 went into the nature of the vow of chastity in some detail. He wrote:

<sup>10</sup> You shall not commit adultery.

<sup>11</sup> You shall not covet your neighbour's wife.

<sup>12</sup> Congregation of the Christian Brothers 1962, Chapter VIII 'Chastity', p 23 section 81.

<sup>13</sup> Const 8 of the 1923 Constitutions.

In a discourse on “The Education of the Child”, Pere Lacordaire says: “It is necessary, above all, to love one’s pupil: to love him in God, not with a weak and sensual affection, but with a sincere affection which knows how to preserve firmness”.

The child’s spiritual endowments and the end to which he is destined naturally cause the thoughtful religious to “love him in God”, while his natural charms tend to excite that “weak and sensual affection” that may easily prove to be ruinous to the child and teacher. Here is a DANGER SIGNAL that should never be lowered and should ever be heeded. The teacher who allows himself any softness in his intercourse with his pupil, who does not repress the tendency to “pets”, who fondles the young or indulges in other weaknesses, is not heeding the danger signal and may easily fall. Disastrous results for teacher and pupil have sometimes resulted from such heedlessness and effeminacy. Chapter VIII, Part I, of our Constitutions in its different articles, sets forth salutary precautions in this connection.

**6.93** Assertions by some members of the Congregation that they had no awareness of the possibility of Brothers sexually abusing boys were not supported by the Acts of Chapter or the documentation.

**6.94** Br Hennessy went on to exhort teachers to impress on their pupils the importance of purity:

They must rigidly refrain from all unnecessary freedoms with their persons at all times. In bed they ought to fold their arms over their breasts in the form of a cross, and before falling asleep pray to their Guardian Angel to preserve them from every dangerous thought or act during the night.

**6.95** As early as 1887, the Superior General was explicit in pointing out the danger of sexual activity amongst the boys:

With vigilance in the playground is intimately connected watchfulness in regard to the conduct of boys in and about the water-closets ... Much harm may be done, and sin not unfrequently committed, in those places, if the necessary precautions be not taken, and if wholesome discipline be not strictly enforced ... A serious responsibility rests on the Brothers in this matter, if through their carelessness or want of proper caution any of their pupils should come to learn evil they knew not before.

**6.96** Although these advices were sent out to all Communities, they do not appear to have formed part of the training Brothers received. Some Brothers spoke of their lack of any awareness of the possibility of peer abuse among the boys in their care. The Committee heard evidence, however, that peer abuse was a constant and serious problem in industrial schools.

### **Obedience**

**6.97** The vow of obedience required Brothers to obey their Superiors in all things that pertained, directly or indirectly, to the life of the Congregation, as well as their vows and the Constitutions of the Congregation. They owed their entire obedience to the Superior General of the Congregation and to their immediate Superiors. The reason for this total obedience was explained as follows:

The motive of obedience should be the spirit of faith whereby the Brothers consider their Superiors as the representatives of Jesus Christ in their regard; hence they must always show them honour, esteem and reverence.<sup>14</sup>

**6.98** This vow of obedience permeated every aspect of life within the Congregation and was something the Brothers and former Brothers who gave evidence to the Committee spoke about at length. Apart from the obvious implications of the vow, the main way in which it affected Brothers was in their interactions with their seniors, in particular their reluctance to criticise them. The chapters on specific schools disclose cases where the obligation to be subject to the will of the Superior and to serve the interests of the Congregation discouraged or prevented Brothers from reporting abuse, or making protests about objectionable behaviour, or even making suggestions as to improvements. In some circumstances, it inhibited the reporting of suspicions about sexual misconduct on the part of other Brothers.

<sup>14</sup> Const 97 of the 1923 Constitutions.

**6.99** The importance of the vow is emphasised by Constitution 62, which requires the General Council to be careful not to admit to the profession of vows by any Brother who in his conduct shows a 'want of submission, and due respect for, those placed over him' or a 'litigious and critical spirit'. A Brother who deviated from this duty to obey was quickly reminded of his position. One former Brother described his experience of obedience thus:

*I think the vow of obedience was conceived of as being partly like military discipline. Indeed, the priests who gave the Brothers their retreats and so on, and the 30-day retreat we had in the novitiate, all from Jesuits, and they'd famously have a military metaphor for what they'd do. I think there was a certain amount of that, this was like the army and you just obey.*

*But that's not what I understood as the vow of obedience, I think the vow of obedience was an internal – if I can use the kind of language that I think would have learned – an internal resignation of your will to the will of your Superior. The most important thing about obedience was not what you did but how you thought. I certainly would have believed that when I was that age, yes.*

**6.100** The same witness described some of the more unusual ways in which obedience was tested while the Novices were in training. He recalled how Novices were made to walk about with no coats or hats in bad weather, and he went on to describe one incident when he was put to the test. He told the Committee:

*The one I remember in terms of work was being told to move a pile of stones in part of the garden, I think, an old shrubbery from there to literally the far side of the table and spending several days doing it with an old wheelbarrow, when it was all finished he came around and said, "That is very good now. Excellent. Now would you move them all back again please". You were meant to say, "certainly, Brother", which I did being a very good boy.... It was a bit silly really but we just accepted it.*

**6.101** This unnecessary labour had a function: it was an exercise in discipline and obedience. The vow of obedience taken by all perpetually professed Brothers required them to obey their legitimate superiors. The Superior was empowered to impose 'such penances or humiliations as his faults or the usage of the Community may require.'<sup>15</sup>

**6.102** The Brothers and former Brothers who gave evidence recounted a number of examples of the punishments, often humiliating, that were meted out to Brothers who disobeyed. A number of respondent witnesses described how their Superiors verbally admonished them. Discipline seemed to be harder on the younger Brothers.

### **Discipline**

**6.103** Brothers were required to exercise discipline in their daily lives. They rose early for prayer and Mass, and were required according to the rules of the Congregation to live an asectic and spiritual life with few comforts. They practised fasting, and mortification of the flesh, in order to perfect their communion with God. Visitation Reports contained long and detailed accounts of the Brothers' religious observances, and any laxity on the part of the Superior in enforcing the Rule was a matter for comment.

### **Retirement from the world**

**6.104** The Christian Brothers were obliged 'not to maintain any intercourse with externs' without permission from their immediate Superior. Brothers were not allowed to read newspapers, listen to the radio, visit friends or attend outside functions or sporting events without express permission. Walks had to be taken in the company of at least one other Brother.

**6.105** Correspondence from lay people, particularly containing complaint or criticism, was treated with suspicion and hostility. The documents revealed an anxiety on the part of the Congregation to avoid scandal or adverse comment, which dominated its relationship with the outside world.

<sup>15</sup> Congregation of the Christian Brothers 1962, Chapter XIII 'Mortifications & Humiliations', p 30 section 128.

**6.106** The injunction against undue familiarity with lay people was even more strictly enforced in the case of women. Brothers were instructed to keep all conversations with mothers or female friends of the children in their care to the minimum. One consequence of this was that the Christian Brothers' institutions became all-male worlds. Numerous witnesses gave evidence to the Investigation Committee about the problems caused by the lack of female involvement in the day-to-day operation of the schools.

### ***Modesty and silence***

**6.107** According to Chapter XIII of the 1923 Constitutions, 'The Brothers shall observe silence at all hours out of recreation. If, however, duty or necessity require a Brother to speak at such times, he should do so as briefly as possible and in a subdued tone'. This necessity for silence affected the general atmosphere of the schools and was often imposed on the children as well as the Brothers. Justice Cussen<sup>16</sup> was particularly critical of the practice of imposing silence during meal times and recommended that it be discontinued. Some complainants recalled silence during mealtimes into the 1950s, and many recalled that there was a general rule of silence when moving through the building and in the dormitories at night.

**6.108** A consultant psychiatrist who regularly visited Artane in the 1960s told the Committee:

*On average my general impression, well; with the greatest respect to everybody, it was a daunting institution. The abiding impression I had was that during the school hours my biding impression was the silence. The silence. So you had all these children, young boys, and virtually not a sound.*

**6.109** In his evidence to the Committee, he said, 'it was one of an intimidatory type of silence'.

**6.110** Numerous complainants spoke of the insistence on silence in the daily tasks of eating and preparing for bed. Silence was a rule strictly adhered to in everyday life. Whistles were used in some cases to signal to the children when they were to move from one activity to the next.

**6.111** There were several warnings in the Visitation Reports referring to the neglect of the rule of silence in the school.

### ***Impact of vows on institutional life***

**6.112** The adherence by the Christian Brothers to their vows, and the monitoring of such adherence by senior Brothers, led to the application of these principles to the day-to-day care of the children. The virtues of obedience, chastity and hard work had to be inculcated in the children for the good of their souls, and for the good of society as a whole.

**6.113** Obedience and discipline were part of the life of the institutions. The daily timetable provided the framework for a closely controlled and well-orchestrated routine. The whole system was regimented, but Artane with its large numbers was particularly so.

**6.114** The regimentation and discipline were needed not just to keep order: it was, the Christian Brothers believed, a necessary lesson to be learned by boys who had never been properly controlled by their parents.

**6.115** There were, however, doubts within the Congregation about the efficacy of the industrial school regime as the best way to prepare children to become upright and decent citizens in a Christian society. These reservations were sometimes expressed in Visitation Reports but were not acted upon by the authorities.

**6.116** This concern, that the needs of the boys were not being met by the school, clashed with the philosophy of the Congregation and the way of life they advocated for themselves. The boys needed to be prepared for the day 'when they pass through Artane gates into the wide world',

<sup>16</sup> The Cussen Report 1936 – Commission of Inquiry into the Reformatory and Industrial School System, para 74.

but the Brothers needed to keep their minds on the spiritual way of life and withdraw from that wide world.

**6.117** The importance of all the vows taken by the Brothers was emphasised in a circular letter dated 3<sup>rd</sup> October 1958 from the Superior General to each Christian Brothers' Community. The Superior General wrote:

It is evident that in many of the houses of our Province the rule of silence is not being well observed. The observance of silence has always been regarded as essential to the Religious Life ...

Silence is necessary for the practice of recollection without which there can be no spirit of prayer or true holiness of life...

The cause of these defections [from the Brothers] is to be found in the loss of the religious spirit due to such secularizing influences as too great intercourse with externs, frequenting places of public resort and undue preoccupation with the news of the day.

Our rule warns us against the danger to vocation of holding too great intercourse with externs. The sentiments and outlook of people who live in the world are, of necessity, very different from those of religious. A Brother who frequents the company of seculars either by visiting them in their homes or by holding long and unnecessary conversations with teachers, parents, or domestics will be in danger of imbibing the spirit of the world and losing his esteem for his vocation ...

Too great preoccupation with the newspaper or with radio programmes can also be a cause of the loss of the religious spirit by diverting attention from the affairs of the soul and diminishing interest in the spiritual life.

**6.118** These are values for a spiritual life of religious meditation, but they do not form a basis for training young boys to enter the outside world.

**6.119** To counteract the attraction of the outside world the Brothers lived a life of religious and secular study. It was not surprising that they applied the same way of life to the boys in their care. Through moral teaching, religious observance and hard work in the school and in the workshops, they sought to change and reform the children. Young boys from poor families were confronted with this regime, and found it arduous. It not merely clashed with the culture from which they came, but it placed them in an all-male world that did not meet the emotional and developmental needs of children and adolescents.

**6.120** The strict regime, the routine that took away all initiative and placed all its emphasis on following orders, led to the boys becoming institutionalised. Many left to join the army, or drifted into other institutionalised occupations, and far too many ended up in institutions like prisons or in psychiatric care.

### **Evidence of Brothers**

**6.121** A recurrent complaint made by Brothers in their evidence to the Committee and found in the documentation was the unequal division of work.

**6.122** In his evidence at the public hearing into Letterfrack during Phase I, Br Gibson stated:

*You see the Brothers who were teaching in the school, who were mainly the young Brothers, they were with the boys almost 24 hours a day; in other words, from 6:00 to 10:00 at night. They would have had very little free time during that period. They slept then in small bedrooms at the end of one of the dormitories. Often those rooms were very simple. There wasn't heating for a lot of the time. That was their place of living and then they went up to the house for a short period of recreation at night-time, but effectively speaking they were on the job seven days a week.*

**6.123** The vow of obedience made it difficult for these Brothers to voice their disquiet. Junior Brothers were in awe of their seniors in the Community. Each Community that operated an industrial school had senior Brothers who did not work in the school or act as carers but who nevertheless



exercised authority and influence over those who fulfilled those arduous duties. Many Brothers spoke of how they resented this unequal burden of labour when they were juniors in the institutions, but felt they could not challenge the system by asking the senior Brothers to do more. Some junior Brothers felt that, because of their lack of seniority, there was no point making suggestions for reform.

- 6.124** Many of the Brothers who gave evidence complained about the difficulties they had in carrying out the onerous dual responsibilities of teaching and caring, which inevitably had an adverse effect on the children.

### **The failure to train Brothers in childcare**

- 6.125** In their Opening Statement on Tralee, the Christian Brothers defined the purpose of industrial schools as being:

To cater especially for neglected, orphaned and abandoned children, to safeguard them from developing criminal tendencies and to prepare them for industry.

- 6.126** To achieve this end, children were removed from the backgrounds of neglect and poverty, given a basic education and were taught a trade. In the process, it was believed that they were improved by hard work and religious observance. These objectives remained central to the Christian Brothers' thinking, and became the basis of the training given to the new recruits. The teaching Brothers were trained as national school teachers, and received no special training in childcare. Many Brothers deplored this fact.

- 6.127** The Brothers explained that this failure to give specialist training was due to the fact that 'there existed no special training system in Ireland for carers in Industrial Schools' and that there was no awareness of the emotional needs of children. They had a 'physical care philosophy'.

- 6.128** In fact, ideas on how to provide better care were being developed abroad. As early as 1943, Dr Anna McCabe, the Medical Inspector of Industrial Schools, attended a course in England and recommended the establishment of a child guidance clinic, but her advice was ignored. The Carysfort Conference of 1951 revealed that there was expertise in the State on care issues. Members of the Sisters of Charity went to England to do Home Office courses and returned with schemes to reorganise the system of care homes they provided.

- 6.129** No such training was undertaken by the Christian Brothers until, in the early 1970s, Br Burcet<sup>17</sup>, who had worked in senior positions in both Letterfrack and Artane, attended the course in the School of Education in Kilkenny in 1973, and implemented some of what he had learned in the last remaining industrial school operated by the Brothers, Salthill. He recalled his frustration in Artane in the mid-1960s when he was trying to change teaching methods and to introduce psychological expertise. He felt that he was engaged in an uphill struggle and that there was no understanding of the importance of this kind of approach among the Leadership of the Congregation.

- 6.130** New ideas had the potential to undermine the institutions and the Brothers who worked in them. It was this fear of change that ensured that the institutions run by the Christian Brothers remained, in all essential respects, unchanged from their foundation in the 19th century to their closure.

- 6.131** One effect of the belief that teacher training and the religious way of life were an adequate basis for training and caring for children was that the Christian Brothers never passed on their expertise in a formal way. They were experienced in dealing with boys in institutions; their own members had taught and cared for boys for years. They should have been in a position to pass on information and advice to those coming after them, yet they produced no written texts, nor did they give formal lectures on the subject even to their own members. Brothers testified that they

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<sup>17</sup> This is a pseudonym.

were given no guidance on childcare issues during their training in Marino. Brothers learned techniques of control from older Brothers, in an ad hoc way.

- 6.132** It is unfortunate that a Congregation dedicated to the education of the poor never devised a system of education for their own members, which would have prepared them for the demanding care work they did in these schools, in addition to their teaching duties.

### **How the Brothers responded to the allegations of abuse**

- 6.133** During the Investigation Committee's Emergence hearings, Br David Gibson, then Province Leader of St Mary's Province of the Christian Brothers, outlined the response of the Congregation to the issue of child abuse in Ireland.
- 6.134** He said that allegations of child abuse first arose as an issue in the 1980s, when four allegations of child abuse were made against Irish Christian Brothers. Following an official inquiry into child abuse at an orphanage run by the Congregation at Mount Cashel in Canada, the Canadian Leadership highlighted the issue at the 1990 General Chapter of the Congregation. The Province Leader from Canada presented a graphic picture of what it was like to have to deal with allegations from the past in a public inquiry and the subsequent litigation under the full glare of media exposure. He also referred to the need to look at institutions and the protocols that were in place to deal with the issue of abuse.
- 6.135** After the General Chapter concluded, the Congregation leader urged its various Provinces to issue guidelines and protocols on child protection. The leadership teams of the Irish Provinces drew up guidelines based on international best practice and published them in 1993.
- 6.136** Between 1990 and 1996 the Congregation received approximately 30 allegations of child abuse. Because of these complaints and the increasing publicity, the Congregation established an independent advisory group to which it passed the complaints, and received advice on how to respond. A further 52 complaints were received between 1996 and the Christian Brother Public Apology issued in March 1998.
- 6.137** Br Gibson said that the Congregation had great difficulty in coming to terms with the fact that Brothers could have abused children. *'It was something totally contrary to the whole vocation of a Brother and yet we were getting detailed accounts of how Brothers abused children'*. It had particular difficulty in accepting that members of its Congregation had engaged in sexual abuse, *'[This] was creating the greatest problem and difficulty for us to come to terms with'*.
- 6.138** It is difficult to understand why allegations of abuse should have come as such a shock to the Congregation. The documentation made available to this Committee disclosed that allegations of child abuse, and particularly child sexual abuse, were a recurring and persistent problem for the Congregation.
- 6.139** In 1995, St Mary's Province organised seminars about the nature of child abuse which were conducted by Dr Art O'Connor, a consultant Forensic Psychiatrist in the Central Mental Hospital, and Ms Kate Keery, a social worker from Temple Street Children's Hospital, and they were attended by individual Brothers. A similar exercise was carried out in the Southern Province.
- 6.140** Child abuse was a major issue at the 1996 General Chapter of the Congregation, which was held in Johannesburg, South Africa. The Chapter issued a document entitled 'New Beginnings with Edmund' in which it stated:

There are signs of that death [in not living the Gospel vision] in our congregational story. Such signs include undue severity of discipline, harshness in Community life, child abuse, an addiction to success, canonizing work to the neglect of our basic human needs for intimacy, leisure and love. To-day we have been made painfully aware of these aspects of our sinful history.

**6.141** The Congregation appointed a full-time Director of Child Protection Services, and set up an office called the Westcourt Child Protection Service to deal with allegations of abuse.

**6.142** On 14<sup>th</sup> April 1997, on the occasion of his receiving the Freedom of Drogheda, the Congregation Leader, Br Edmund Garvey, expressed an apology and asked for forgiveness from former pupils who had suffered abuse at any of the schools or institutions run by the Congregation.

**6.143** In October 1997 the Congregation asked Dr Robert Grant, a psychotherapist, to come to Ireland to speak to the Brothers and school principals on the issue of child protection and abuse. During its meetings with Dr Grant, the Leadership Teams considered making a public apology acknowledging certain failures on the part of the Congregation and expressing a willingness to meet with complainants and to deal with their complaints.

**6.144** According to Br Gibson:

*He [Dr Grant] was emphasising the need to really take this on board, that child abuse had taken place in our institutions. Through his help but also from our own realisation of this, we felt the time had come to make some form of apology.*

**6.145** In order to consider what form the apology should take, the Leadership held a retreat in November 1997 and invited an Australian Brother, Br Paul Noonan, to attend. Br Noonan had been leader of the Melbourne Province in Australia when it responded to allegations of child abuse in Australian Christian Brothers' institutions and had issued its own apology in 1993. Br Noonan outlined the impact of the apology and encouraged the Irish Provinces to follow suit. The Australian apology included the following:

We have studied the allegations available to us, and we have made our own independent inquiries. The evidence is such as to convince us that abuses did take place, abuses that in some cases went well beyond the tough conditions and treatment that were part of life in such institutions in those days.

While the extent of the abuse appears to have been exaggerated in some quarters, the fact that such physical and sexual abuse took place at all in some of our institutions cannot be excused and is for us a source of deep shame and regret. Such abuse violates the child's dignity and sense of self worth. It causes psychological and social trauma that can lead to lasting wounds of guilt, shame, insecurity and problems in relationships.

**6.146** There followed a paragraph entitled 'Our Apology', which read as follows:

We, the Christian Brothers of today, therefore unreservedly apologise to those individuals who were victims of abuse in these institutions.

We do not condone in any way the behaviour of individual Brothers who may have perpetrated such abuse.

In apologising, however, we entreat people not to reflect adversely on the majority of Brothers and their co-workers of the era who went about their work with integrity and deep regard for the children entrusted to their care.

Their work and dedication are reflected in the numerous students who, despite deprived backgrounds, went on to take their places as successful members of Australian society. We are deeply grateful for the very many expressions of thanks and support we have had from former students.

**6.147** Br Gibson said that the Irish Leadership Team decided to issue a public statement:

*because we felt that there was a need for healing and we felt that no healing would be possible unless we were prepared to accept the fact that it happened, number one, and to say that we know it happened, we are sorry it happened and to be open and honest with that.*

**6.148** He added that the Congregation intended its public statement to be more than an apology: it was to set out various mechanisms to promote healing, such as mediation, counselling and reconciliation. The leaders engaged in a widespread consultative process before issuing the

apology. It met with individual Brothers, the advisory group, the Archbishop of Dublin, the Conference of Religious of Ireland (CORI), the Government and legal experts. The statement was issued on 29<sup>th</sup> March 1998 and read:

Over the past number of years we have received from some former pupils serious complaints of ill-treatment and abuse by some Christian Brothers in schools and residential centres.

We the Christian Brothers in Ireland wish to express our deep regret to anyone who suffered ill-treatment while in our care. And we say to you who have experienced physical or sexual abuse by a Christian Brother and to you who complained of abuse and were not listened to, we are deeply sorry.

We want to do much more than say we are sorry. As an initial step we have already put in place a range of services to offer a practical response and further services will be provided as the needs become clearer.

**6.149** The Congregation subsequently received a further 260 complaints which ranged from '*allegations of a harsh regime or of inadequate schooling to very serious allegations of abuse*'. In consultation with the independent advisory group, the leadership teams asked 18 individual Brothers against whom allegations were made and who remained in active Ministry to withdraw from work. Three subsequently returned to work.

**6.150** The Congregation in 1998 established an independent pastoral service, to respond to the needs of those alleging abuse and to provide practical and financial support to those coming forward, but did not proceed with a mediation and conciliation scheme on the advice of a task force.

**6.151** Another part of the Brothers' reaction to the issue was its contribution to the Residential Institutions Redress Scheme. In its statement to the Commission prior to the Emergence Hearings, the Congregation stated that it had wished to make 'a meaningful contribution' to the scheme, but this decision was not based on a sense of culpability or negligence but on a pastoral desire to bring healing and closure. Other reasons included:

- A greater number of former residents would get redress from the scheme than they would through the courts;
- The experience would be less adversarial and less stressful;
- The money would go directly to the former residents;
- It would be faster than the courts; and
- The scheme would be set up on a statutory basis.

**6.152** Br Gibson described a change in attitude in the Congregation following the 'States of Fear'<sup>18</sup> television programmes in 1999 and the publication of *Suffer the Little Children*<sup>19</sup> in 2000, when the Brothers became more sceptical and disbelieving of claims of abuse. He said that the Congregation was '*alerted ... to the danger of exaggerated allegations, false claims, and false memory*'. It believed that many of the allegations contained in the programme and book were '*inaccurate and grossly exaggerated*', and the Leadership Teams became concerned that '*every allegation was being viewed as the absolute truth*'. The Congregation also complained that their submissions were not taken into account by the Government in the drafting of the Commission to Inquire into Child Abuse Act, 2000. 'The Act that was passed failed to provide protection to those who could be wrongfully accused.'

**6.153** This account of the Brothers' odyssey on abuse, particularly sexual and physical, traces their journey from shock and dismay at the allegations, through a period of acceptance, which gave way ultimately to scepticism and suspicion, which were the characteristics of the stance taken by the Congregation in the Investigation Committee's proceedings.

<sup>18</sup> There were three programmes broadcast by RTE in 1999 in the 'States of Fear' series: 'Industrial Schools and Reformatories from the 1940s-1980s', 'The Legacy of Industrial Schools', and 'Sick and Disabled Children in Institutions'.

<sup>19</sup> *Suffer the Little Children*, by Mary Raftery and Eoin O'Sullivan, 1999, New Island.

- 6.154** A closer examination of the Brothers' March 1998 public statement of apology shows that it was not at all apparent what conduct was regretted. The 'formal apology', instead of making clear the Congregation's regret for abuse that had happened in its institutions, gave rise to considerable problems of interpretation and called into question the nature of their attitude to the complaints. Indeed, it was not even clear that the statement could properly be called an apology. It did not expressly acknowledge that abuse had occurred and did not accept any Congregational responsibility for what had taken place in its institutions.
- 6.155** If the Brothers intended this document to have substantial meaning, they should have made it clear that they were apologising for abuse that they believed and accepted had happened. This they notably failed to do. A public apology that required scrutiny to discover whether it actually contained a meaningful expression of regret failed in its purpose.
- 6.156** This first public step that was taken by the Brothers was couched in guarded, conditional and unclear terms, and did not actually acknowledge that Christian Brothers had committed abuse of children in their care or that the Congregation bore any responsibility. This was before 'States of Fear' was broadcast in 1999 which was, according to Br Gibson, the catalyst for a more defensive approach by the Congregation.
- 6.157** The statement compared unfavourably with the Australian version, which may have some difficulties of interpretation but which did expressly admit that abuse happened and apologised to victims.
- 6.158** The Australian Brothers also stated that they had conducted their own independent inquiries, which had yielded convincing evidence. If the Irish branch had examined the records and consulted members and former Brothers, it would also have discovered convincing evidence that serious cases of abuse had occurred in the Irish institutions.

### **Rome Files and documentary evidence**

- 6.159** In the Emergence hearings in July 2004, Br Gibson described how files, which came to be known as 'The Rome Files', came to the attention of the Leadership Team in Ireland.
- 6.160** In 2003, the Leadership Team took the decision to employ an archivist to look at all the documents in the possession of the Congregation. This archivist was asked to go to Rome to look at the files there that related to the Irish Communities for any references to abuse. He explained that, in the early 1960s, a decision was taken to move the Congregation's headquarters from Dublin to Rome. The management team brought with them the relevant archives for their own work, and left in Ireland the files and records that dealt with the Christian Brothers in Ireland.
- 6.161** Br Gibson explained:
- However, when our archivist went to Rome, she came across their minute books of their Council decisions, the General Council decisions. In those, she came across details of allegations of abuse in the institutions in Ireland that did not exist in our files ... Yes, all of these dealt with incidents of child abuse in our institutions between, say, 1930 and when they closed.*
- 6.162** Br Gibson outlined the number of allegations recorded in respect of residential schools:
- ... we came across details of incidents of abuse in our institutions in Ireland. We came across eleven incidents of child abuse in Artane, ten in our day schools, three in Letterfrack, two in Tralee, two in the OBI,<sup>20</sup> and two in Glin. Now, what we came across was that there had been information given to the Leadership Team at the time when they occurred. These allegations had been investigated. The investigation included getting the boys to write out what had happened to them and the boys had done that in some cases – well, in one case at the moment we have one incident of that. Then they had at the end*

<sup>20</sup> O'Brien Institute.

*of what they called a trial, they had a decision made, and the decision was either to give a Canonical Warning to the person, they were dismissed from the Congregation or they were rejected for the application for vows that year. Now, we wouldn't have the details of all the allegations, but a lot of material has emerged there which we didn't know about ...*

*It shows that there were individual cases of abuse. It wasn't, in a sense, systematic or widespread, but over 30 years in Artane there were eleven cases that had been discovered at the time they had occurred.*

**6.163** Br Gibson went on to state that, in 1990, the Leadership Team in Ireland was not aware of the existence of these files at all. He asserted that it was only when he saw these files that he understood the comments that he saw in the Constitutions and Acts of the Congregation emphasising that a Brother should never be alone with a child. He said:

*That makes sense in the light of this discovery of complaints where children were abused in the institutions.*

**6.164** He confirmed that there was no mention of the children in these records:

*The focus was on the culpability of the person who did it and I am not sure how much was done for the children who suffered.*

**6.165** The Rome Files were made available to the Committee after the Emergence hearings had been completed. They contained details of applications for dispensations or disciplinary hearings in respect of more than 130 Brothers. At least 40 of these cases referred specifically to improper conduct with boys. In the majority of cases, the actual crime being investigated was not detailed, and phrases such as 'evidenced unsuitable moral character' or 'grave misconduct' or 'caused scandal' were used when recommending a dispensation.

**6.166** The Rome Files were by no means exhaustive. Brothers who left the Congregation before any allegations came to the attention of the authorities would not appear in the Rome Files.

**6.167** In addition, the Brothers who left following allegations of abuse did not appear in these files. For example, Mr Brander<sup>21</sup> a former Christian Brother, did not feature although he received a Canonical Warning for sexually abusing boys in 1953 and was ultimately dispensed from his vows in the late 1950s.

**6.168** The Rome Files make it impossible to contend that the issue of abuse and, in particular, sexual abuse of boys was not an urgent and continuing concern to the Congregation. In circumstances where the issue of abuse in institutions had been the object of so much media attention from 1995 onwards, it is surprising that these files were only discovered to the Committee in 2004.

**6.169** The scale of the problem as revealed in these documents was very serious. When other features of abuse are taken into account, there is reason to believe that the amount of such abuse was substantially greater than is disclosed in these records. First, there was the recidivistic nature of child abuse; secondly, children were frightened and reluctant to speak about it; and thirdly, many adults experienced difficulty in dealing with it.

**6.170** In light of the investigations that had taken place in other jurisdictions and the evidence contained in their own archives, together with the complaints received, the Leadership Team in this country could be in no doubt that sexual abuse of children in their care had occurred at an unacceptably high level in their institutions.

**6.171** In the circumstances, although it was legitimate to protest about exaggerated allegations and false claims, which were undoubtedly made in some instances, it was also the case that an attitude of scepticism and distrust of all complaints was unwarranted and unjustified.

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<sup>21</sup> This is a pseudonym.

## The Congregation and the Commission

- 6.172 The Christian Brothers, like every other Congregation coming to the investigation, had to decide what position to adopt on the various issues that arose including:
- The quality of life generally for the children in its institutions;
  - How it would approach the issue of whether abuse of children took place in the institutions; and
  - How it would conduct itself at the private hearings.

## The Christian Brothers on the nature and quality of institutional life

- 6.173 The apologies issued by the Christian Brothers of Australia and Ireland said nothing explicit about the nature and quality of life in their institutions. The evidence of the Irish Christian Brothers to the Investigation Committee helped to clarify their position on this matter.

- 6.174 The Christian Brothers submitted that their schools provided positive experiences for the boys in them and that they offered a generally good standard of care, education and training when considered in the context of the time, having regard to shortages of resources and finance, and lack of training for the Brothers. Br Gibson expressed this in his evidence in Phase I of the Letterfrack hearings. He said:

*I think also it is important to remember that we are talking about a time in the 40s, 50s and 60s where now there is a tendency to judge life at that time from the viewpoint of how life is now. What I would be hoping to show is that the Christian Brothers provided a very necessary service to the State in caring for children who themselves were marginalised. The financial support provided by the State will show that it was grossly under funded and that the Brothers had to go to enormous lengths to provide adequately for the needs of the pupils.*

*I suppose what we are pointing out in fact is that the funding level was very difficult and it meant that literally the Brothers had to provide a quality education and a care of children on funding that was very inadequate.*

*The emotional impact of residential care, and we will deal with that later on, was not really understood and certainly separation from home and from the family, however bad the home was, and unfortunately some of them were very inadequate, it wasn't fully understood the impact of that on children separated from their families.*

*Well, I suppose what I would say is this: Brothers were trained to be teachers. There was no training for residential childcare. There was no State training, there was no State funding ... I think the first course in childcare, serious course, was in Kilkenny in 1970 and one of our Brothers went on that course when it started. There wasn't any form of childcare formation. There were occasional day courses or day seminars in childcare in the 1950s, but other than that there was no proper training available and certainly no funding for it. I would say the Brothers who went to these institutions were chosen specially, a lot of them were of the highest calibre.*

- 6.175 This view, that the emotional needs of children and the effects of residential care and separation from family were not really understood, was reiterated in the oral and written submissions made by the religious Communities. Issues raised in these submissions include the lack of any appreciation for the emotional needs of children in care, the inadequate funding from the State, and the lack of childcare training until the 1970s. Each of these is examined in the chapters dealing with individual institutions.

### **Philosophy of care**

- 6.176 The Congregation accepted that a focus on physical care was not sufficient to care for a child fully and properly, but they stressed the prevailing economic and legal climate in which the industrial schools operated as being the reason for this emphasis. In particular, they emphasised the extreme poverty of the country during the relevant period. They contended that there was no awareness anywhere prior to the early 1960s of the need for developmental or emotional care of

children. The Closing Submission for Artane quoted one senior member of staff who served in Artane from 1954 to 1969:

I knew absolutely nothing about this, the philosophy of Artane when I was there was a physical care philosophy. Look after the health of the boys, look after their physical education, like by drill and so on. Look after their health and so on. But it was a physical education philosophy. There was no understanding and I had no understanding at the time about any kind of emotional education, psychological education, I had no understanding of that at the time.

**6.177** In 1927, the Superior General, Br P. J. Hennessy, set out the obligations on Superiors of orphanages, industrial schools and schools for the deaf and dumb:<sup>22</sup>

Because of their forlorn and afflicted condition, the children of our orphanages, industrial schools and schools for the deaf and dumb are specially dear to the Sacred Heart of Our Lord, and the Brothers who are assigned to labour in these schools may truly feel that they are specially privileged ... Superiors and Brothers must hold in respect the inmates of these institutions, manifest sympathy in their lowliness and afflictions, and at all times treat them with consideration and kindness. Severity and sternness would produce ruinous results on the character of these afflicted ones.

The Superior, showing himself as a kind father, should set the standard of conduct to his Brothers in their regard. He should be generous in supplying their temporal needs – abundance of wholesome, well-prepared food of which pure milk should be a large constituent, decent clothing suitable to the season, tender care in their ailments, and kindly provision for their recreation and pastimes. He should, as far as he can, secure for them suitable employment when they must leave the school, and they should know that kindly sympathy in difficulties they may encounter after having left school will be gladly extended to them by Superiors and Brothers.

**6.178** The circular went on to recommend that the Superior should address the boys once a week and give guidance on the importance of cleanliness, truthfulness and honesty, and should impress upon them the meaning of ‘moral courage’ and the ‘love of truth’.

**6.179** Although the words ‘emotional care’ were not used, the obligation of love, respect and consideration for their vulnerability outlined by Br Hennessy encompassed much of what would now be regarded as ‘emotional care’. In advocating that the Superior ‘should set the standard of conduct to his Brothers’ by being ‘a kind father’, it is clear that the idea was to nurture children through love, kindness and good example, and not just through punishment for infringement of rules.

**6.180** The contention in the Opening Submission for Artane was that emotional needs were not considered at all in the caring of children, because such needs were not recognised in society as a whole. It was clear, however, from the Cussen Report which was published in 1936, and even from earlier Department of Education<sup>23</sup> Annual Reports dating back to 1926, that the vulnerability of children who were removed from their parents and placed in care was recognised and understood well before the 1940s. These reports advocated the requirement for something more than mere physical care.

**6.181** The 1926 Department of Education Report stated:

When children have to depend entirely on a school for what their homes should give them, much more than efficient instruction and material comfort is of importance, and it will be obvious that, apart from arrangements for education and physical wants, there is good reason to avoid any exaction of a hard and fast uniformity in other phases of school activity and to encourage whatever may relieve the institutional features of such schools.<sup>24</sup>

<sup>22</sup> P394 Circular Letters 1821–1930

<sup>23</sup> Department of Education Annual Report 1925/1926.

<sup>24</sup> Report of the Department of Education for the School Years 1925–26–27 and the Financial and Administrative Year 1926–1927, p 83.



**6.182** This Report went on to state:

Interwoven with all activities of the schools is the moral training of the pupils, each child's circumstances having to be taken into account – physique, intelligence, habits, recreations, surroundings and the effect of home influences before and after the school period being recognised as factors in the formation of character. Individual tendencies are noted, and, together with character developments, are briefly recorded to enable responsible members of the staffs to draw out the best qualities and to overcome the weaknesses of their pupils as well as to aid managers in making prudent decisions for disposal on discharge.

**6.183** In 1936 the Cussen Report stated at paragraph 69:

It must be borne in mind that the children committed to these schools have been deprived of parental control, where such control existed, and that, in many cases they are children requiring special study and care. It is, therefore obvious, that the person in whose charge they have been placed should be carefully selected for the work which, because of its difficult and peculiar nature, demands qualifications and gifts that might not be considered indispensable in ordinary schools.

**6.184** The Congregation correctly pointed out that an emphasis on physical care was echoed in the Department of Education inspections. The inspection reports dealt with material and physical aspects of the care of the children with little mention of their emotional well-being. Emotional well-being could have been assessed by talking to the children and the Department Inspectors did not generally do this.

**6.185** The Christian Brothers stated that the failure of the Department to address this aspect of the work being carried out ‘... gives an indication of how even at that time, the Department viewed the purpose and function of industrial schools’.

**6.186** The Department of Education's Annual Report for 1924–1925 set out its function:

These schools came under the control of the Department of Education on 1<sup>st</sup> June 1924. The function of the Department is to certify that the schools are fit for the reception of the young persons and children committed to them. This is carried out by inspection and while the Certificate is in force, State contributions in the form of Capitation Grants are made towards the maintenance of the inmates.<sup>25</sup>

**6.187** The Report went on to state:

In Saorstát Éireann all Reformatory and Industrial Schools are conducted by voluntary managers, who own the Schools and are responsible for the upkeep of the buildings, the appointment of the staff, the expenditure of the funds and all details of the school management.

**6.188** The Department did not assert control over the daily management of the schools or the way in which care was provided. The Department was at fault because it failed to supervise the institutions to ensure that the emotional needs of the children, which it had recognised from 1925, were being met. That did not exempt the Congregation from responsibility for its own failure in this regard. Moreover, the Christian Brothers had been educating children and managing industrial schools since the preceding century and were therefore, in a position to identify the failings of the system and to address them.

<sup>25</sup> Report of the Department of Education for the School Year 1924–1925 and the Financial and Administrative Years 1924–25–26, p 84.

## The Christian Brothers' position on whether abuse occurred in their schools

### Physical abuse

- 6.189** Br Reynolds gave evidence in public to the Investigation Committee on 15<sup>th</sup> September 2005 regarding Artane. He prefaced his evidence with his general view that the picture presented of Artane from the late 1980s through media coverage and publicity was largely negative and seriously unbalanced. He stressed the need for balance because, *'the Congregation's position is that Artane in the whole and in the round was a very positive institution'*.
- 6.190** This was a position adopted in the Submissions in respect of the four Christian Brothers' schools examined in detail by the Committee.
- 6.191** The basic stance that their institutions were not abusive and provided a positive experience for the boys led Br Reynolds to be sceptical of evidence to the contrary. As far as the Congregation were concerned, when something was documented it was more likely to make some concessions but not otherwise. An example of this was when he was asked about boys being punished for bed-wetting. Even though individual Brothers had conceded that this occurred and many ex-residents had testified about their experience, he was unable to accept that punishment for bed-wetting was a feature of life in industrial schools: *'Yes, they may have happened in instances, and all I am saying is I haven't any documentary evidence'*.
- 6.192** Evidence from Brothers and ex-Brothers was regarded as potentially fallible unless backed up by documentation. For this reason, in preparing their Submissions, the Congregation stated that they took no account of the statements of complaints made by former pupils. They confined themselves for this exercise to the archive material. He accepted that they had cross-checked documented evidence with people in the Congregation as a separate exercise, but these results did not form part of the public statement, and were a matter for private hearings. He was challenged about the limited picture that the 11 instances documented in their records for Artane gave of the situation, and his response was that he depended only on what he could find in the documentation and these were presented to the Commission, and thereafter it was up to the Committee to decide.
- 6.193** On the issue of corporal punishment, the Christian Brothers submitted that the industrial schools were no different from other schools in that they all accepted the use of corporal punishment.

### Rules and regulations governing corporal punishment

- 6.194** The official rules and regulations governing corporal punishment are set out above. For the convenience of the reader they are repeated in this section. There were two sets of rules for the use of corporal punishment, one consisting of the rules and regulations produced by the Department of Education,<sup>26</sup> and the other was set down by the Congregation.
- 6.195** The 1933 Department of Education Rules and Regulations for Certified Industrial Schools were aimed at reducing corporal punishment to a minimum and to controlling as far as possible such punishments as were inflicted. Regulation 13 stated:
- Punishment shall consist of:—
- (a) Forfeiture of rewards and privileges, or degradation from rank, previously attained by good conduct.
  - (b) Moderate childish punishment with the hand.
  - (c) Chastisement with the cane, strap or birch.
- Referring to (c) personal chastisement may be inflicted by the Manager, or, in his presence, by an Officer specially authorised by him, and in no case may it be inflicted on

<sup>26</sup> Rules and Regulations for the Certified Industrial Schools in Saorstát Éireann Approved by the Minister of Education under the 54th Section of the Act, 8 Edw VII., Ch 67, clauses 12 and 13 (see DES chapter).

girls over 15 years of age. In the case of girls under 15, it shall not be inflicted except in cases of urgent necessity, each of which must be at once fully reported to the Inspector. Caning on the hand is forbidden.

No punishment not mentioned above shall be inflicted.

**6.196** This regulation was prefaced by a clause which counselled caution in its use. It said:

The Manager or his Deputy shall be authorised to punish the Children detained in the School in case of misconduct. All serious misconduct, and the Punishments inflicted for it, shall be entered in a book to be kept for that purpose, which shall be laid before the Inspector when he visits. The Manager must, however, remember that the more closely the school is modelled on a principle of judicious family government the more salutary shall be its discipline, and the fewer occasions will arise for resort to punishment.<sup>27</sup>

**6.197** The 1946 Rules and Regulations for National Schools applied to the education<sup>28</sup> provision within the industrial and reformatory schools.

#### **Instruction in regard to the infliction of Corporal Punishment in National Schools**

96.(1) Corporal Punishment should be administered only for grave transgression. In no circumstances should corporal punishment be administered for mere failure at lessons.

(2) Only the principal teacher, or such other member of the staff as may be duly authorised by the manager for the purpose, should inflict corporal punishment.

(3) Only a light cane or rod may be used for the purpose of corporal punishment which should be inflicted only on the open hand. The boxing of children's ears, the pulling of their hair or similar ill-treatment is absolutely forbidden and will be visited with severe penalties.

(4) No teacher should carry about a cane or other instrument of punishment.

(5) Frequent recourse to corporal punishment will be considered by the Minister as indicating bad tone and ineffective discipline.

**6.198** This rule did not permit the use of the leather strap in the classroom.

**6.199** In November, 1946 a circular Cir. 11/46 prepared by Michael Ó Síochfhrada, the Department Inspector, gave more detailed guidelines. The title of the circular was 'Discipline and Punishment in Certified Schools'. It impressed upon Resident Managers their 'personal responsibility to ensure that official regulations' on matters of discipline and punishment were 'faithfully observed by all members of the staffs of their schools'. The circular stated corporal punishment should only be used as a last resort where other forms of punishment had been unsuccessful as a means of correction.

**6.200** The Circular went on to stipulate:

- Corporal punishment should be administered for very grave transgressions and in no circumstances for mere failure at school lessons or industrial training.
- Corporal punishment should in future be confined to the form usually employed in schools, viz., slapping on the open palm with a light cane or strap.
- This punishment should only be inflicted by the Resident Manager or by a member of the school staff specially authorised by him for the purpose.
- Any form of corporal punishment which tends to humiliate a child or expose the child to ridicule before the other children is also forbidden. Such forms of punishment would include special clothing, cutting off a girl's hair and exceptional treatment at meals.

<sup>27</sup> Rules and Regulations for the Certified Industrial Schools in Saorstát Éireann Approved by the Minister of Education under the Children Act, 1908.

<sup>28</sup> The Department submit this wording 'education provision' in other words the internal national school.

- 6.201** The Circular attempted to marry the provisions of the 1933 Rules and Regulations for Certified Schools with the new 1946 Rules and Regulations for National Schools. In so doing a certain amount of ambiguity arose with regard to the use of a leather strap in the classroom which was clearly not permitted in the classroom by the 1946 Rules and Regulations.
- 6.202** In December 1946 Cir.15/46 prepared by Michael Breathnach, Secretary of the Department of Education and entitled 'Circular to Managers and Teachers in regard to the infliction of Corporal Punishment in National Schools was sent to all national schools'. It appears from this document that two additions were made to Section (1) and (3) which did not appear when the original 1946 rules and regulations were circulated to the schools:
- 96.(1) Corporal Punishment should be administered only for grave transgression. *In no circumstances should corporal punishment be administered for mere failure at lessons.*
- (3) Only a light cane or rod may be used for the purpose of corporal punishment *which should be inflicted only on the open hand.* The boxing of children's ears, the pulling of their hair or similar ill-treatment is absolutely forbidden and will be visited with severe penalties.
- 6.203** The circular did not authorise the use of a leather strap as an implement of punishment in national schools.
- 6.204** In 1956 a further circular from the Department of Education Cir. 17/56 entitled 'Circular to managers and teachers of national schools in regard to corporal punishment' was issued. This circular was in response to publicity which had been given to the matter of corporal punishment in national schools and was issued to re-affirm the Department's policy with regard to corporal punishment and to give guidance to those 'who may be disposed to contravene Rule 96 of the Code'. The Department stated:
- In re-issuing that rule, set out hereunder, opportunity is being taken to announce an amendment printed in italics, of Section (3).
- 6.205** The full rule 96 was then set out with the amendment to Section (3) was as follows:
- (3) Only a light cane, rod *or leather strap* may be used for the purpose of corporal punishment which should be inflicted only on the open hand. The boxing of children's ears, the pulling of their hair or similar ill-treatment is absolutely forbidden and will be visited with severe penalties.
- 6.206** This amendment is significant in that it authorised at an official level the use of the leather strap into national schools after a ten year gap. The evidence of the Investigation Committee would indicate that the leather strap was used in Christian Brother schools throughout this period.
- 6.207** The Christian Brothers had their own rules and regulations in their Acts of Chapter and circular letters and, from the earliest days of that organisation, minimal use of corporal punishment was advocated. In the regulations made at the annual meetings of the Managers between 1881 and 1906, the position was clearly stated:
8. No instrument of punishment is to be allowed in the institution except the strap of leather. No boy shall be punished therewith on any part of the body save on the palm of the hand.
10. Extraordinary punishments are to be inflicted by the Manager only, or by some one specially appointed by him, and in his presence.
- 6.208** The dangers of excessive or abusive physical punishment were well understood by the Congregation. In 1900 the Superior General, Br Moylan, wrote on the topic of corporal punishment in his first circular letter:
- Though the Rule (Const 180, Acts of Chapter 65; D and R Chap L.1) contains definite instructions relative to the use of Corporal Punishment in our School, the Chapter desired I should refer to it in this Circular. Indeed, there are few matters I wish to urge with greater insistence upon the attention of the Brothers and especially of the young Brothers, than the evil done by the use of injudicious punishment when correcting faults of their pupils.

Corporal punishment is always degrading, and is more or less so according to the nature of the corrective used. Apart from the physical pain endured, the child's nature shrinks from the shame which its infliction inspires; the boy's incipient manhood revolts against it. Given in excess or when undeserved, it does harm which runs through a whole lifetime; it is never forgotten and sometimes never forgiven. The remembrance of such punishment sinks into the retentive memory of childhood, and there remains in clear outline and with every aggravating detail, when even the wrongs of after years have been well nigh forgotten.

Corporal punishment should be resorted to only when every other means of correction has failed. In some instances it should not be employed at all, as it serves only to render the delinquent more obdurate, and to hurry him more rapidly along the evil course from which it was intended to turn him aside.

**6.209** Br Moylan continued with an uncompromising indictment of unfair or excessive punishment that echoed through the century that followed and has immediate resonance with the work that was undertaken by the Commission:

He does far worse who punishes when punishment is not deserved, or exceeds what the child's own consciousness of justice tells him should not be overstepped. Such chastisement is brooded over and resented as a wrong which, perhaps, even years of kindness may not entirely obliterate. Sometimes it does incalculable injury. Long after it is recalled with bitterness, and associated unhappily not merely with the teacher who inflicted it, but with religion itself.

**6.210** Br Moylan's words were not generally adhered to, as was clear from the circular written by his successor, Br Whitty, in 1906:

At the General Chapter of 1900, Acts were framed to lessen the amount of corporal punishment in the schools. Conditions were prescribed for the use of it; and various restrictions imposed to prevent its abuse. In many schools, and even in many establishments, these regulations faithfully were carried out, in the proper spirit, and with the best results. In other schools – the minority truly, but still, I regret to say, too large minority – it was not so. In these schools much of the old spirit continued to prevail. The restrictions, laid down by the Chapter, were either ignored, or but half observed, and even that grudgingly. The Brothers in these schools set up a standard to suit their own ideas of what was, and what was not, legitimate punishment in given cases. These Brothers also decided for themselves the proper times and occasions for administering corporal punishment-and not in accordance with Rule. This course of action was very improper, very censurable and could not have the blessing of God.

**6.211** Br Whitty went on to recount the consequences of such behaviour as including discontent in the classrooms and even petitions from parents calling for the removal of Brothers.

**6.212** He concluded with a strong exhortation to his members to restrict corporal punishment 'within the narrowest limits':

The Brothers generally would do well to bear in mind that the growing spirit of the times is opposed to corporal punishment in the schools. The tendency is to abolish it. In some countries it is positively forbidden, and illegal, for the teacher to punish a child for any cause. He must find other and more rational methods of dealing with him. Other countries are much ahead of Ireland in this respect; but even in Ireland the same tendency is manifesting itself – to restrict corporal punishment in schools within the narrowest limits. It would not be to the credit of the Brothers, as educators, to be found at the rear of this movement when they should rather lead the way.

**6.213** The 1920 Chapter was even more specific. It set down guidelines for corporal punishment which included the advice that it should not be administered within one hour of starting or finishing school and that numbers of boys should not be punished at the same time. It stated that:

the strap ... shall not exceed 13 inches in length;  $1\frac{1}{4}$  in width and  $\frac{1}{4}$  inch in thickness; in junior schools the strap is to be of smaller dimensions ... No child shall be punished on any part of the body save on the palm of the hand.

**6.214** The rules were revised in 1930 and stated:

It must be the aim of every Brother to reduce corporal punishment to the minimum. Frequent recourse to corporal punishment indicates a bad tone and ineffectual discipline ...

Corporal punishment should be administered only for grave transgressions – never for failure in lessons.

The principal teacher only, or a Brother delegated by a Superior, shall inflict the corporal punishment. An interval of at least ten minutes should elapse between the offence and the punishment.

Only the approved leather strap may be used for the purpose of inflicting the corporal punishment. The strap is to be left on the master's desk except when in actual use.

The boxing of children's ears, the pulling of their hair and similar ill treatment are absolutely forbidden.

The particulars required by the headings in the corporal punishment book should be entered in that book before the infliction of the punishment.

**6.215** Residential institutions were specifically brought within these Acts of Chapter relating to corporal punishment, which were the rules applying to Christian Brothers throughout the period relevant to this inquiry.

**6.216** The prohibition on striking a child on any part of his body other than the palm of the hands, which was reiterated in the 1910 and 1920 Chapter, was omitted in the 1930 rules and did not appear again in any of the rules set down by the General Chapters until 1966.

**6.217** As long as corporal punishment was tolerated, the possibility of abuse existed and this was recognised by Br Noonan, Superior General, in 1930:

The opinion amongst educators that corporal punishment should be altogether abolished in schools is hardening. While admitting its decline in our schools, the Committee felt, and the Higher Superiors are aware, that abuses have arisen; and they will recur, I fear, as long as our regulations give any authority for the infliction of corporal punishment. Let us aim at its complete abolition in our schools and anticipate legislation which would make its infliction illegal.

**6.218** The 1930 rules were adopted verbatim in 1947 and in the 1960s, and circulars were sent to all institutions requesting moderation and decorum in the use of the strap. In 1966, for example, the Acts of General Chapter stated:

It must be the aim of every Brother to reduce corporal punishment to a minimum. It should be administered for serious transgressions only – never for mere failure in lessons. Only the approved leather strap may be used for the purpose of inflicting corporal punishment. Not more than two strokes on the palm of the hand are to be administered on any occasion. The strap is to be left in the Master's desk except when in actual use. The Department's regulations should be borne in mind.

**6.219** This was the first time that Government regulations were referred to, but the recommendation was that they should be borne in mind rather than adhered to as a legal obligation. This was addressed in 1968 when the Acts of Chapter stated:

Government regulations must be observed in the administration of corporal punishment and it must be the aim of each Brother to reduce it to a minimum.

- 6.220** Abolition of corporal punishment did not occur in Irish schools until 1<sup>st</sup> February 1982, when a Department of Education circular stated that any teacher who used corporal punishment was now to be 'regarded as guilty of conduct unbecoming a teacher' and would be subject to 'severe disciplinary action'.
- 6.221** Although this circular could have provided grounds for a civil action against a teacher who acted in breach of it, it was not until 1997<sup>29</sup> that physical punishment by a teacher became a criminal offence.
- 6.222** For over 100 years the Acts of Chapter recommended that corporal punishment should be minimised and ultimately abolished. It is inexplicable, therefore, that Brothers who were in serious breach of the Congregation's own rules were tolerated and protected by the Congregation. Complaints by parents or lay-persons were discounted, even when these complaints reached the Provincial Leaders, notwithstanding the clear understanding the Congregation had of the danger posed by abuse of this rule.
- 6.223** As already cited a submission made by the Christian Brothers and other Congregations on the subject of corporal punishment and physical abuse is that the historical context is essential to any investigation, and particularly the fact that such punishment was permissible and widespread in schools and homes at the relevant time. The chapters that follow recount details of corporal punishment which by any standards, at any time, amounted to physical abuse.

### **Punishment book**

- 6.224** Under the 1933 Rules and Regulations for Certified Industrial Schools, all such schools were required to keep a punishment book in which all serious punishments were to be recorded.
- 6.225** There was no evidence that the Christian Brothers kept such a book in any of their residential schools during the relevant period. To require exclusive reliance on records and documentation was a difficult position to justify, because the Brothers themselves failed to keep the records that were required by law, and which were intended to allow external inspectors to see that regulations were being complied with.
- 6.226** However, such documents that do exist are an important source of information. In the chapters on each individual institution that follow, a detailed examination of the records precedes the oral evidence heard by the Committee in the hearings.

### **Sexual abuse**

- 6.227** The Congregation's approach to allegations of sexual abuse of pupils was broadly similar for all its schools. It was set out by Br Michael Reynolds in a representative capacity in September 2005 and may be summarised as follows:
- The Congregation accept that there were instances when members of the Congregation and members of staff engaged in the sexual abuse of boys while in their care.
  - That such instances took place is a matter of great regret to the Congregation.
  - That there was no systemic sexual abuse of boys in their institutions.
  - Brothers who did sexually abuse boys betrayed the trust given them and thereby caused pain to the great number of Brothers who honoured this trust and devoted themselves to the education and welfare of the boys in their care.

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<sup>29</sup> Section 24 of The Non-Fatal Offences Against the Person Act 1997 provided:  
the rule of law under which teachers are immune from criminal liability in respect of physical chastisement of pupils is hereby abolished.

With the removal of this immunity, teachers are now subject to section 2(1) of the 1997 Act which provides that:  
a person shall be guilty of the offence of assault, who without lawful excuse, intentionally or recklessly, directly or indirectly applies force to and causes an impact on the body of another. Teachers who physically chastise pupils may now be guilty of an offence and liable to 12 months' imprisonment and/or a fine of £1,500.

- 6.228** It is stated in the Congregation's Artane Opening Statement that:
- The Congregation endeavoured to ensure the safety of the children in its care, whether in day schools or in residential institutions.
  - Brothers, during their training as teachers, were not given specific instruction in child protection, and such instruction is relatively new in the training of teachers and others involved in the education and care of youth.
  - The issue of sexual abuse was seen as a moral one where such abuse was seen as a grave moral failing. It was the cause of scandal and a moral danger both to the child and to the abuser.
  - Long-term psychological damage caused by sexual abuse was not understood by society at the time.
  - The recidivist nature of child sexual abuse was, likewise, not understood by society at that time.
  - The response of the Congregation to instances of sexual abuse was conditioned by this inadequate understanding of the issue.
  - Procedures were in place for dealing with abuse, but they were of their time and were therefore very inadequate by current standards.
- 6.229** The Congregation's statement describes how Brothers guilty of child sexual abuse were dealt with:
- A Brother not yet a finally professed member of the Congregation was usually dismissed.
  - A finally professed Brother was summoned to the Provincialate and either given a formal Canonical Warning or dismissed.
  - A repeat offender was dismissed.
- 6.230** The source material referred to and analysed by the Congregation in making its submission was identified as contemporaneous documentation extracted from the Provincial Archives of the Christian Brothers in Ireland and the General Archives of the Christian Brothers in Rome. As in the case of its submission in relation to corporal punishment, the Congregation does not in this submission place reliance on other possible sources of information such as the recollections and accounts of those who lived and worked in the institutions during the relevant period, nor on the accounts contained in the statements of complainants furnished to the Commission.
- 6.231** The documents extracted from the Christian Brothers archives in Rome were not comprehensive; in most cases, they did not contain statements of the evidence; they sometimes referred to the offence under scrutiny in oblique terms and they referred only to those cases where the allegation against the Brother was considered well founded.
- 6.232** Having analysed the documented cases, the Congregation concluded that the approach to sexual abuse was that it was seen as a moral issue. Such abuse was seen as a grave moral failing on a number of grounds:
- It was morally wrong, sinful in itself.
  - It was a cause of serious scandal to and endangered the morals of the child.
  - It damaged the reputation of the individual offender, the institution and the Congregation.
- 6.233** Its analysis of these cases also leads the Congregation to comment that there was no adequate understanding either of the emotional impact which sexual abuse caused the child or of the recidivistic nature of the abuser. The Congregation agreed with a suggestion by counsel for the Commission that the fact that the abuse was a crime should have been added to this list.
- 6.234** It was submitted by the Congregation that, while the approach to instances of sexual abuse of children was very inadequate by present-day standards, the manner in which the Congregation did respond was characterised as follows:



- There was no cover up of the issue.
- When personnel became aware of the issue they reported it to the Congregation authorities.
- Structures in place made it possible for boys to bring such issues to the attention of the Resident Manager or other personnel, and this in fact happened.
- The Congregation removed the abusers from the institution and in most cases from the Congregation.
- The Congregation Visitor was attentive to the dangers of sex abuse.
- Guidelines and recommendations were issued to assist with child protection.

**6.235** In its investigations into individual schools, the Committee found that the Congregation's response to sexual abuse fell short of the measures outlined above.

**6.236** After the conclusion of the evidence given in Phases I, II and III hearings, the Congregation furnished written submissions setting out its position in relation to various aspects of the evidence heard by the Investigation Committee.

**6.237** In essence, the submissions made by the Christian Brothers at this stage in relation to allegations of abuse were that the quality and reliability of the evidence given by complainants during the Phase II hearings had been undermined owing to a broad range of significant factors. The effect of these undermining factors was to render much of the evidence (particularly in respect of sexual abuse) implausible, inconsistent, contradictory, and therefore unreliable.

### **Assessment of evidence**

**6.238** The Congregation emphasised in its submissions the impact that publicity and lobby groups had on the reliability of evidence about abuse. It also outlined concerns regarding the Statute of Limitations (Amendment) Act, 2000 which, it submitted, affected the reliability of allegations of sexual abuse.

**6.239** Many witnesses were questioned closely by counsel for the Christian Brothers about their association with lobby and support groups. There was a clear implication by the Congregation that active association with a lobby group was indicative of a lack of objectivity on the part of the witness.

**6.240** The Committee recognised there were grounds for concern that some complainant witnesses had been influenced by events at meetings. For example, lists of names of Brothers who were present in the institutions were distributed at some meetings so that ex-residents would be able to name abusers. Issues such as this diminished the credibility and reliability of the testimony of some witnesses.

**6.241** The Christian Brothers were able to cross-examine all the complainants who came forward, and the issue of collusion was fully explored by their counsel. Evidence of some witnesses was discounted by the Committee where these issues arose.

**6.242** The Statute of Limitations (Amendment) Act, 2000 was also cited by the Congregation as a significant factor, in that it granted extension of time for bringing claims for damages in respect of sexual abuse in circumstances that did not apply to other forms of abuse including physical abuse. One of the conditions for getting an extension was making a complaint to the Gardai.

**6.243** In their final Submission for Artane, the Christian Brothers stated:

it is likely that complainants were aware of the possibility of this requirement being incorporated into the pending legislation. Indeed ... many complainants went to the Gardai at the suggestion of their legal advisors.

**6.244** The Submission went on to state:

A substantial number of the other allegations of sexual abuse which were made to the Commission (including allegations where the complainant ultimately chose not to give evidence) were first made to the Gardai around 1999/2000 also and it is not unreasonable to infer that some of these complainants may have been influenced by the prevailing perception as to what they would have to allege so as to be eligible to make a claim for compensation.

**6.245** Matters affecting weight and transparency of evidence were not confined to complainants. On the respondent side, some members and ex-members of the Congregation were reluctant to speak openly and frankly about their memories of the industrial schools in which they worked. They were reluctant to criticise the Congregation or their colleagues, and the defensive attitude which was adopted by the Congregation in its Opening Statement was mirrored by some of the respondent witnesses.

**6.246** These and other considerations were relevant in assessment of evidence, but the occasions of determining facts that were merely asserted on one side and denied on the other, with no accompaniment of documentary or circumstantial material or corroboration, were greatly reduced by the Committee's method of investigation.

### **Impact of allegations on respondents**

**6.247** The Committee was satisfied that some allegations of abuse were false. A small number were not the result of contamination or exaggeration but were deliberately manufactured for the purposes of compensation or to cause maximum damage to the Christian Brothers.

**6.248** Respondents spoke to the Committee about the impact that allegations of sexual abuse had on their lives.

**6.249** One Brother had an allegation of sexual abuse made against him which was never pursued by the complainant. This Brother had come in to the Investigation Committee to answer this charge, but was not given an opportunity to do so because of the failure of the complainant to attend, and expressed his distress at having the allegation hang over him for four and a half years.

**6.250** Another Brother described an allegation of sexual abuse that was made against him as *'hurtful'*. He went on to say that there had never been an allegation against him in all of the subsequent 40 years that he had been a teacher. *'Yes, I feel deeply hurt that these allegations come from a period in my life where I literally cared for the uncared for'*.

**6.251** After two years, a decision was made by the Director of Public Prosecutions (DPP) that no prosecutions would take place. He spoke of the impact the allegations had:

*This has had impact not alone on me ... But it has impacted on me and my family. It has impacted also on a true and loyal staff, that any one of those could find themselves where I am today. This has got to be stopped. How I don't know, but it will have to be halted.*

**6.252** This man was reinstated to his teaching position shortly after the DPP's decision, when the Board of Management of his school declared itself satisfied, after an investigation, that this be done.

**6.253** Another Brother described the experience of being accused of wrong-doing in 1997, some 40 years after he had left the Institution:

*It was eight years of torture and disappointing because I felt I had dedicated myself when I was in Artane to the people there and done great work and I was the same in every school I was in and this was a horrible way to finish my career.*

- 6.254** This former Brother was in his mid-60s when these allegations were put to him. He was married with two children. Eventually, some seven years after the initial interrogation, the DPP made a decision not to prosecute.
- 6.255** Allegations of sexual abuse are difficult to verify. Length of time and the inherent secrecy of the act make it hard for complainants to prove their case, even on the ‘balance of probabilities’. To prove such a case beyond reasonable doubt, as is required by the criminal law, is even more difficult. In the same way as it is difficult to prove abuse, so it is also difficult to prove that abuse did not occur.
- 6.256** In one case before the Committee a Brother was reinstated on the strength of a DPP decision. Counsel for the Congregation stated that there was ‘*an infrastructure put in place ... to determine what is the correct thing to do*’.
- 6.257** In subsequent correspondence with the Investigation Committee, it emerged that no such procedures had been followed in this case and that the decision had been taken by the Provincial Leadership Team. The decision was based on the fact that the only allegations against this man were from the two years he had spent in Artane and that the Leadership Team ‘were satisfied that they had no concerns that Br Romain<sup>30</sup> posed any childcare dangers to children or pupils under his stewardship’.
- 6.258** The Congregation stated that they were guided in this case by the 1987 Regulations and by the Irish Bishops Advisory Committee which issued ‘A Framework for a Church Response’ (Green Book 1996) ‘which was being adhered to by the Congregation’. In fact, the Green Book set out a detailed procedure for dealing with allegations of child sexual abuse and these do not appear to have been applied in this case.
- 6.259** It is in the interests of both genuine complainants and accused that allegations be investigated expeditiously and in an independent and transparent manner.

## **The private hearings – Phase II**

- 6.260** At the private hearings the Congregation of the Christian Brothers was usually represented by senior and junior counsel, who were attended by the firm of Maxwells, Solicitors. At least one senior member of the Congregation, and on most occasions more than one, was present on each day of the hearings and heard all the testimony of both respondents and complainants. Individual respondents were represented by either senior or junior counsel or by both. They, too, had their own solicitor in attendance. Complainants were represented for the most part by senior counsel. Solicitors for the complainants were also present. Some members of the Investigation Committee legal team was present throughout.
- 6.261** The Congregation provided their own responses to all the complainant statements. Most were signed by former members of staff and they generally took the form of a blanket denial of the allegations.
- 6.262** There were several problems with these response statements:
- Some of the statements were signed by Brothers who were not in the School at the time. The fact that they had signed the document gave the impression that they were in a position to affirm the facts asserted in statements, but in reality they were in no position to do so.
  - Brothers who signed the statements gave evidence to the Committee that contradicted the facts asserted in the response statements.
  - Some statements simply omitted relevant facts, while at the same time making assertions that were known to be incorrect or misleading.

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<sup>30</sup> This is a pseudonym.

- 6.263** The Christian Brothers began making their response statements using a policy of denying that a Brother was ever in the institution when a complainant had got a name even slightly wrong, or had used a Christian name or a nickname rather than the Brother's surname.
- 6.264** Counsel explained the reason for this approach as follows:  
*I understand that in the early statements instructions were given that the Brothers were known only by their surnames. We now know after only a few days it was a mixed bag.*
- 6.265** In circumstances where the individual respondent either admitted abusing the complainant, or elected to ask no questions, the Congregation was still entitled to cross-examine the witness, and in most cases it availed itself of this opportunity.
- 6.266** The records provided by the Congregation, whilst limited and incomplete in some respects, were more extensive and detailed than the materials in the archives of other Congregations, and contributed significantly to the overall picture of these institutions. The structure of the chapters on the institutions, proceeding from documented cases of abuse to the uncorroborated evidence, reflects this approach. The documented cases were examined for behaviour described and for the way the cases were managed. This illuminated attitudes the Congregation had at the time to Brothers who broke the rules.
- 6.267** The documents originally discovered to the Committee were added to on several occasions. A public hearing on discovery issues, arising out of the investigation of Carriglea Industrial School, took place in November 2006 after prolonged correspondence failed to produce requested material. The Congregation supplied this additional material subsequent to that hearing, which included recordings and notes of interviews with Brothers about their experiences in industrial schools. A further substantial body of documentary evidence was furnished in March 2007, when the Congregation's solicitors notified the Committee that it had decided to waive its claim to withhold documents from discovery on the grounds of privilege.
- 6.268** The contemporary records of the Congregation, and in particular their Visitation Reports, allowed an in-depth investigation of the industrial schools under their control, and this was helpful to the work of the Committee.