

Scottish Child Abuse Inquiry



Submission
of the
Congregation of Christian Brothers Trustees
on
St. Ninian's Falkland
2017

Parts A&B 26/04/2017

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Christian Brothers – St. Ninian’s Falkland

Introduction

This report has been compiled by the Christian Brothers in response to a notice issued by the Rt. Hon. Lady Smith, Chair of the Inquiry, to Brother Edmund Garvey, Christian Brothers Centre, Griffith Avenue, Dublin 2, Eire, on 25 January 2017 under Section 21(2)(a) of the Inquiries (Scotland) Act 2005. It is important to note that the report refers to St. Ninian’s, Falkland, which was run by the English Province of the Christian Brothers and not St. Ninian’s, Gartmore, which was a different establishment run by the De La Salle Brothers.

The organisation responsible for the setting up of the residential care home at St. Ninian’s, Falkland (the establishment), was the Congregation of Christian Brothers St. Mary’s Province, England, also referenced as the English Province of the Christian Brothers. This Province was established in 1945 and was responsible for the running of St. Ninian’s, Falkland, for the duration of its existence, i.e. from 1950 until 1983. In 2007, the English Province of the Christian Brothers was subsumed into the European Province of the Christian Brothers. The organisation now responsible for the Christian Brothers’ educational enterprise in the United Kingdom is the Congregation of Christian Brothers Trustees based in Hale Barns, Altrincham, Cheshire WA15 OHF.

The report is presented in a manner which adheres as closely as possible to the **Guidance for Completion** which was issued with the aforementioned notice. Terms are used in accordance with the definitions provided in the **Report Request Template**. Sources for information provided are indicated in brackets within the general text rather than by way of foot-notes or end-notes. Abbreviations are used for sources that are referenced a number of times. A key to these abbreviations is provided underneath.

Abbreviations

Annals: Refers to Annals kept by the Brothers for the duration of their time in Falkland House.

D. & R. (1927): Directory and Rules of the Congregation of the Brothers of the Christian Schools of Ireland, (Dublin, 1927).

Hodgson (2012): Trusted and Independent: Giving charity back to the charities (Review of the Charities Act 2006, carried out by Lord Hodgson of Astley

Abbotts and presented to Parliament by the Minister for the Cabinet Office, pursuant to section 73 of the Charities Act 2006).

Log Book: refers to entries in log books for years 1950 – 1976.

Meakin (2016): Law & Religion U.K. – What are the implications of being a Church-controlled charity in the Church of England and the Roman Catholic Church? Guest post by Robert Meakin, Partner at Stone King LLP, Solicitors (Posted on 21 January 2016 by Frank Cranmer).

MF (2/3/2017): refers to an interview on 2/3/2017 with Brother Matt Fogarty who was a member of the staff of St. Ninian’s from 1959 to 1966.

Shaw (2007): Historical Abuse Systemic Review, Residential Schools and Children’s Homes in Scotland 1950 to 1985 (An independent review led by Tom Shaw), published in 2007.

VR (xxxx): Visitation Report identified by year, resulting from the official Visitation carried out each year by the Provincial or a member of his council to the establishment.

Zwolinski (1998): Frank A. Zwolinski, The Congregation of Christian Brothers in Scotland, The Innes Review vol. 49 no. 1 (Spring 1998), 11 – 40.

Part A – Background

1. Characteristics

1.1 History of the Organisation and Establishment

Past

i. When, how and why was the organisation founded?

The Congregation of Christian Brothers St. Mary’s Province, England, was established in 1945 to assume responsibility for Christian Brother schools that already existed in England and to meet the growing demand for Catholic education conveyed to the Brothers by bishops of various Catholic dioceses throughout England. Prior to their involvement with St. Ninian’s, Falkland, the Christian Brothers had no involvement in Catholic education in Scotland and the fact that the new province was called St. Mary’s Province, England, rather than St. Mary’s Province, U.K., would suggest that the main focus of the

Christian Brothers' mission in the immediate post-war period was the provision of Catholic education in an England only context.

ii. What part did the provision in Scotland of residential care (including foster care) for children play in the organisation's purpose, operation and activities?

The provision of education and residential care for deprived, homeless children would be very much in keeping with the Christian mission of the founder of the Christian Brothers, Edmund Rice. In founding the Christian Brothers, Brother Rice was motivated by the need he saw in the city of Waterford, Ireland, to provide poor, uneducated children with a basic education that would give them a sense of dignity and self-worth. Inspired by Gospel values, Brother Rice who was a successful businessman decided to devote his life and wealth to the apostolate of Catholic education. Soon he was joined by men who wished to devote their lives to this apostolate and, gradually, schools were founded in various towns throughout Ireland and eventually in England and other countries in the English-speaking world.

iii. When and how did the organisation become involved in the provision of residential care (including foster care) for children in Scotland?

Initial contacts were made 21/2/1947 by Fr. Quille on behalf of the Archbishop of St. Andrews and Edinburgh, Andrew Joseph MacDonald, with the Provincial of St. Mary's Province, England, Br. J. O. McNamara. The Archbishop was keen to have the Christian Brothers involved in either a day or boarding school in Edinburgh. When the Archbishop met the Provincial later in 1947, the question of caring for homeless children was raised but no immediate decision was made in this regard. A short time later, Archbishop MacDonald arranged for Brother J.S. Roche, vicar Provincial (First Consultor) of St. Mary's Province, England, to meet Major Michael Crichton-Stuart, owner of Falkland House, a mansion in Falkland, Fife. Major Crichton indicated that he was keen to lease the mansion to the Christian Brothers for the purpose of providing a residential home and education for orphans. Before committing themselves to running the residential care home for children, the Christian Brothers looked into various aspects of the proposed project – the suitability of Falkland House, the question of recognition by the relevant authorities in Scotland and the provision of grants to support the enterprise. Br. J.S. Roche and Br. J. K. Nugent entered into negotiations with the Scottish Education Department and the Scottish Home Department. In a letter to Br. Roche dated 9th May 1950, the Scottish Education Department confirmed that, subject to the conditions prescribed by Residential Special Schools and (Orphanages) Grant Regulations,

1948, the Department was 'prepared to pay grant in terms of regulation 2(1) (b) thereof'. A letter was received by Br. Roche from the Scottish Home Department on 17th January 1951 confirming that St. Ninian's, Falkland House, had been registered under Section 29(3) (b) of the Children Act, 1948, as a voluntary home.

Meanwhile, the Provincial Council of St. Mary's Province, England, entered into a 99 year lease arrangement with the owners of Falkland House, covering aspects of central and local governance. The Central Governing Body would be the Provincial of the English Province of the Christian Brothers and his council. In today's parlance, the Provincial of a Province and his council are usually referenced as the Province Leadership Team.

iv. Why did the organisation consider that it had the competence to be responsible for, and manage the care of, children in establishments?

The correspondence between the Christian Brothers St. Mary's Province, England (the organisation) and Archbishop MacDonald would suggest that neither the Brothers themselves nor the Archbishop had any doubts about the Brothers' competence to manage the care of children in residential establishments. The Brothers had some experience of running a residential care home in Brentwood, England, and Br. J.K. Nugent who was involved in the setting up of the Falkland House establishment and was appointed Superior of the Brothers' community there from 1950 - 56, had in fact worked in Brentwood. There is no evidence in the corpus of documentation relating to Falkland House in the Brothers' archives at Marino, Dublin, that Br. Nugent or any of the Brothers working with him in the early years of the establishment had any specific training in caring for children in residential care homes, apart from their academic university qualifications and their teacher training and teaching experience. All of the Brothers assigned to St. Ninian's seemed to have academic or teaching qualifications, at least at primary teaching level, but in the case of some Brothers their teaching qualifications did not seem to meet the requirements of the Scottish Education Department.

v. How many establishments did the organisation run, where were they located, over what period were they in operation, and what were their names?

The Christian Brother St. Mary's Province, England, was responsible for just one residential care establishment in Scotland – St. Ninian's, Falkland. As indicated in the Introduction to this report, St. Ninian's Residential Care Home, Falkland, operated from 1950 to 1983.

vi. When, how and why was each of these establishments founded?

Section iii above provides a summary of when, how and why St. Ninian's Residential Care Home, Falkland, was established. As already stated, this was the only residential care home run by the Christian Brothers in Scotland.

vii. In the case of any establishment which is no longer in operation, when and why did it cease operating?

St. Ninian's, Falkland, ceased to operate in 1983. By the 1980s, the Christian Brothers, like most other religious congregations, were experiencing a significant drop in vocations. A decision was taken by the Brother Provincial and his Council that they would have to withdraw their Brothers from a number of establishments, with St. Ninian's, Falkland, being one of these. Strenuous efforts were made to find another religious congregation to take over the running of St. Ninian's, Falkland, but these efforts ultimately failed. Despite earnest appeals to the Provincial council to reconsider their decision from the Brothers' community and lay staff of St. Ninian's as well as from other interested parties, the Provincial, Br. P.T. Coffey, wrote to all concerned in September 1982 to inform them that the decision to close St. Ninian's, Falkland, from July 1983, was final. Letters were also dispatched to Cardinal Gordon Gray, Archbishop of St. Andrews and Edinburgh, Archbishop Thomas Winning, Archbishop of Glasgow, Mr. Ninian Crichton-Stuart, the Authorities from which boys were received at St. Ninian's and the Scottish Education Department informing them of the Brothers' decision to withdraw from St. Ninian's.

viii. If the organisation itself is no longer involved in the provision of residential care for children in Scotland, when and why did it cease to be so involved?

As St. Ninian's was the only residential care establishment run by the Christian Brothers in Scotland, their involvement in the provision of residential care in Scotland ceased with their withdrawal from St. Ninian's in 1983. The reasons for this withdrawal have been cited in vii above.

ix. If the organisation was founded as a religious order by members of a particular faith or church, what was the precise relationship between the order and the religious hierarchy within that faith or church?

As previously indicated, the organisation responsible for St. Ninian's children's residential home in Falkland was the religious congregation of the Christian Brothers – a Catholic Church congregation of religious brothers. The congregation is recognised by and owes its allegiance to the Holy See in Rome. Since its foundation, the congregation of Christian Brothers has been involved mainly in the work of Catholic education. Under Canon Law of the Catholic Church, the bishop/archbishop is responsible for Catholic education in his own diocese, so the Christian Brothers become involved in running schools or institutions in a particular diocese only at the request of the local bishop. As outlined in iii above, the Christian Brothers' involvement with St. Ninian's Falkland was at the invitation of the Archbishop of St. Andrews and Edinburgh, Andrew Joseph MacDonald. Having accepted the bishop's invitation to run a school or institution or become engaged in other apostolic work in a particular diocese, it was then a matter for the Provincial Council of the Christian Brothers to appoint a Brother Superior and assign a community of Brothers to engage in the particular apostolic activity.

- x. Within the faith or church to which the religious order belonged, what degree of autonomy was enjoyed by the order in relation to the provision of residential care for children in Scotland?**

Once the Christian Brothers accepted an invitation from a bishop or ordinary of a diocese to engage in apostolic work, they had a high degree of autonomy in terms of how the work was to be undertaken. The bishop and clergy of the diocese acted in a supportive capacity but did not dictate or interfere in the work of the religious congregation. Appointing of Superiors and assigning members to religious communities were matters for the Provincial Council of the congregation. When manpower considerations caused the Provincial Council of St. Mary's Province, England, to reconsider their involvement with St. Ninian's, Falkland, the decision to withdraw was taken by the Provincial Council and while Cardinal Gray, Archbishop of St. Andrews and Edinburgh had been informed earlier of the Brothers' difficulties with regard to remaining in St. Ninian's, he was not a party to the final decision. It can be said, therefore, that both the decision to be become involved in St. Ninian's , Falkland, albeit at the invitation of the Archbishop of St. Andrews and Edinburgh, Andrew Joseph Mac Donald, and the decision to withdraw were taken autonomously by the Provincial Council of St. Mary's Province, England.

- xi. In the case of establishments that were run by members of a religious order, what degree of autonomy within the order itself was enjoyed by such members?**

Within the religious order or congregation, those appointed to run a particular establishment were acting in a delegated capacity. The local Superior or community leader was expected to lead the community in their spiritual exercises, to assign community members to particular tasks and to attend to the many aspects of the day to day running of the establishment. Decisions about certain matters had to be referred to the Provincial Council, for example expenditure beyond a certain level. In the case of St. Ninian's, Falkland, the first Superior, Br. J.K. Nugent, kept in regular contact with the Provincial and one of his leadership team as evidenced by the many items of correspondence relating to the Falkland House itself, the community of Brothers, the lay staff, the boys under their care, upkeep and maintenance issues, the provision of necessary facilities and amenities, relationships with relevant Scottish State Departments as well as local authorities and other bodies involved in the sending of boys to St. Ninian's. So while the local Superior had the autonomy to deal with a wide variety of matters, he, nonetheless, kept the Provincial Council well informed and sought permission, when appropriate, to incur expenditure that he felt was necessary for the welfare of all those involved in the residential child care home. The Brothers in the community were answerable to the local Superior but, as a general rule, when day to day tasks were assigned to them in the areas of teaching, extra-curricular activities, and supervision, normal practice would suggest that they were allowed to attend to these task without interference from the Superior.

Present

- xii. With reference to the present position, are the answers to any of the above questions different?**

As the only residential care home in Scotland run by the Christian Brothers was closed in 1983, questions relating to present position are not relevant.

- xiii. If so, please give details.**

Not relevant – please refer to vii and xii above.

1.2 Funding of Establishment

Past

- i. How were the establishment's operations and activities, so far as relating to the provision of residential care for children, funded?**

Before opening Falkland House as a residential care home, significant capital expenditure had to be incurred in order to adapt and furnish the building for the housing and education of children. A donation of £6,000 was gratefully received from Major Michael Crichton-Stuart but this was inadequate to meet the costs of all the repairs, modifications and refurbishment required. The Visitation Report issued in December 1951 refers to the debt on the establishment as £10,500. Some initial monies must have been provided by the Christian Brothers, St. Mary's Province, England, for Br. Nugent's own subsistence and that of the other Brothers who arrived at St. Ninian's before grant-aid from the Scottish authorities came on stream. While grant-aid was also sought from the Archdiocese of Saint Andrews and Edinburgh, it is not clear from the records of St. Ninian's whether this grant-aid was received. Other monies for capital works had obviously to be borrowed as there are frequent references in the records of its early years that St. Ninian's had considerable difficulties in meeting the interest payments on bank loans. The Scottish Education Department undertook to pay a portion of the salaries of two Brothers whose qualifications met their requirements. The salaries of the other three Brothers, lay teachers and other staff were paid from the per capita grants that were received from the local authorities from whose jurisdictions boys came to St. Ninian's. Grants were also received from Fife County local education office towards the cost of furniture, fittings, lighting and heating.

ii. Was the funding adequate to properly care for the children?

While there appears to be no specific reference in the records to the adequacy of the funding, the Visitation Reports of the early years clearly indicate a significant deficit in the bank balance, a deficit which is shown to be still close to £10,000 in the Visitation Report for 1958. One can infer from these references that the initial capital outlay placed a heavy burden on the funding of the establishment. A likely consequence of the ongoing deficit in St. Ninian's bank balance over the first decade of its existence would have been the Superior's inability to employ extra staff that may have helped the over-all quality of care for the children. We do not know if the shortage of funds had an impact on food, clothing and heating for the children during the first decade of residential life in the establishment.

iii. If not, why not?

Apart from the financial burden on the establishment arising from the initial capital outlay, the number of boys who arrived at St. Ninian's in the opening year was considerably less than anticipated. This meant that the income from the per capita grants was greatly reduced - which exacerbated the financial

problems already mentioned. It is, furthermore, difficult to understand why only two of the Brothers assigned to St. Ninian's had portions of their salaries paid from state funds when Brother J.K. Nugent, in particular, seemed to be eminently qualified to receive a State salary. In a context where Brothers' salaries would have contributed to the over-all funding of the establishment, it would have helped to ease the financial burden if all of the Brothers who worked in St. Ninian's received a portion of their salaries from the State. Moreover, Section 13 (7) of the Children Act, 1948, determined that: "where a local authority provided for a child by maintaining him in a home not provided by the authority, the terms whether as to payments by the authority or other matters shall be such as may be agreed between the authority and the persons providing the home". Correspondence, dated 30/5/1951, from Br. J.K. Nugent to the Provincial refers to difficulties in collecting these payments from some of the local authorities.

iv. What state support did it receive?

The support received from the state is outlined in section i. above.

Present

- v. If the establishment continues to provide residential care for children, how is that funded?**
- vi. What state support does it receive?**

Questions v and vi are not applicable as St. Ninian's is now closed.

1.3 Legal Status

(a) Organisation

Past

- i. What was the legal status of the organisation since it was founded?**

While Catholic religious congregations are recognised in Canon Law of the Catholic Church, this law does not form part of English and Welsh law. The law of England and Wales does not recognise the Catholic Church as a legal entity in its own right but instead sees it as an unincorporated association with no legal personality (Meakin, 2016). For this reason Roman Catholic canonical bodies such as dioceses and religious congregations establish trusts or corporate

charities in order to conduct their affairs within a domestic law structure. In their operation of schools in England, the Christian Brothers, St. Mary's Province, would have been guided by the provisions of the Education Act 1944. The Education Act makes provision for supporting three main types of Catholic schools: voluntary aided, independent and academy. The voluntary aided school was favoured by the Catholic Church as it conformed more closely to the requirements of Canon Law. While it did not replicate the law for England and Wales, Scottish law recognised the concept of voluntary aided care homes. (See **Shaw**, 2007, p.53 – 54). It is noteworthy that in his letter of 4th May 1950 to the secretary of the Scottish Home Office, Br. J.S. Roche, writing on behalf of the Provincial Council, describes the proposed establishment at Falkland as 'a Voluntary Home for homeless boys'. The Home Office's acceptance of this description is reflected in its reply of 17th January, 1951, where it is stated:

“ . . . as it is understood that it is now intended to open the home for the reception of children on 23rd January, the home has been registered under Section 29 (3) (b) of the Children Act, 1948, as a voluntary home from that date”.

All initial negotiations regarding the status of the proposed establishment at Falkland were between the Provincial Council of the Christian Brothers St. Mary's Province, England, and both the Scottish Home Department and the Scottish Education Department. The latter Department indicated its recognition of St. Ninian's as a school and orphanage in correspondence, dated 26th February, 1951, to Br. J.S. Roche:

“They (the Scottish Education Department) are further prepared to regard the institution as an orphanage within the meaning of Section 70 (8) (ii) of the Education (Scotland) Act, 1946, and to recognise it as from the date of the opening of the school as an orphanage eligible for grant under the Residential Special Schools and Orphanages (Scotland) Grant Regulations, 1948”.

ii. Were there any changes in the legal status of the organisation since it was founded?

Since its foundation in 1945 the English Province of the Christian Brothers would have had charitable status as a result of a Law Lords' ruling in 1891 that relief of poverty was not the only charitable purpose and that advancement of education, advancement of religion and other purposes beneficial to the community could also be deemed charitable purposes (**Hodgson**, 2012, p.9 – 10). The Charities Act 1960 introduced the first formal register of charities and laws were modernised in order to provide more effective oversight of how charities were run. A trust deed for The English Province of the Congregation of Christian Brothers, in compliance with the Charities Act 1960, was formally

established on 20th October 1967 and registered with the Charities Commission for England and Wales on 15th November 1967. That the scope of the charitable works to which the trust deed applies extends beyond England and Wales is evident in par. 2 where there is a reference to ‘other charitable work for the time being carried on in Great Britain or abroad by or under the direction or with the support of the Society (The English Province of the Congregation of Christian Brothers) as the trustees. . .’. Clearly, the charitable work of running the residential care home for children at St. Ninians, Scotland, came within the ambit of the 1967 English Province trust deed. The charitable trust has an incorporated trustee body, which is known as “The Congregation of Christian Brothers Trustees”, by order of the Charity Commission dated the 12th July 1968. In 1972 the Charity Commission’s role was further strengthened by, for example, giving the Commission jurisdiction over education charities (Hodgson, 2012, p.11).

iii. What, if any, material changes were there to the legal status of the organisation?

While the canonical status (i.e. status under Canon Law of the Catholic Church) of the English Province of the Christian Brothers changed in 2007, the charitable trust has remained in place, albeit with amendments or modifications under the provisions of Section 74D of the Charities Act 1993(as inserted by Section 42 of the Charities Act 2006) that reflect the merging of the English Province of the Christian Brothers with two Irish provinces to form the European Province of the Congregation of Christian Brothers, changes regarding trustee members as well as changes to the manner in which meetings of trustees can be conducted and the manner in which decisions can be reached. Within the aforementioned provisions, amendments were made to the trust deed in 2007 and again in 2013.

As a general principle, the Christian Brothers work within the legal framework in which they find themselves and adapt to changes, particularly in regard to education and other relevant legislation, when and where these occur.

iv. What was the legal basis which authorised or enabled the organisation to become responsible for the provision of residential care (including foster care) for children in Scotland?

The legal basis for the Christian Brothers’ involvement in the provision of residential or foster care for children in Scotland was the procurement of due recognition for their involvement from the Scottish Home Department and the Scottish Education Department. Without this recognition and the assurances of

grant aid, it would not have been possible for the Christian Brothers to become involved in the provision of residential care for Scottish children.

- v. Did that legal basis require the organisation to meet, or fulfil, any legal and/or regulatory requirements in respect of children in its care? If so, please give details.**

Both of the above named Departments cited the legal basis for the recognition of St. Ninian's and the provision of grant-aid. A letter from the Scottish Home Department (9th May, 1950) to Br. J.S. Roche indicates that a voluntary home is defined in Section 96 of the Children and Young Persons (Scotland) Act, 1937, "as any home or other institution for the boarding, care and maintenance of poor children or young persons, being a home or other institution supported wholly or partly by voluntary contributions . . .". As previously indicated, a primary requirement for the care aspect of the home was that it be registered by the Secretary of State in accordance with the terms of Section 29 of the Children Act, 1948, while the education aspect would be recognised within the provisions of section 70 of the Education (Scotland) Act 1946.

- vi. Did the organisation have a legal duty of care to each child in its care?**

Shaw (2007, p. 101) describes the regulatory framework from 1950 to 1987 as "limited, vague or silent about three key areas of accountability for children's welfare and safety:

- the qualifications of those delivering the care services;
- the suitability of staff for work with children in both care and education;
- national standards of care".

The report goes on to state that the contrast between requirements for care and education is stark and, particularly, in the early part of the review period, there was 'no expectation that people working in residential childcare needed qualifications' (p.101). Regarding general accountability for ensuring children's welfare and safety, Shaw states the following: "The staff in children's residential establishments, the managers, the authorities who administered the establishments and the government were all accountable for children's welfare and safety" (p.99). The inference from this statement is that the legal duty of care to each child extended to a number of agencies. The organisation which was represented by Brother J.S. Roche in negotiations about St. Ninian's with the relevant Scottish state departments must have had a basic understanding of what Scottish law and Common Law required of them in terms of a duty of care to each child.

Present

- vii. With reference to the present position, are the answers to any of the above questions different?**
- viii. If so, please give details.**
- ix. If the organisation is a Scottish local authority, please provide details of the predecessor authorities for the local authority area for which the authority is now responsible, and the time periods during which these authorities were the responsible authority for the area, or any part thereof.**

As the organisation has no involvement in the provision of residential home care for children in Scotland, since 1983, questions vii, viii, and ix in this section are not applicable.

(b) Establishment**Past**

- i. Did the establishment have a special legal, statutory or other status?**

While voluntary homes received general recognition within the provisions of the Children and Young Persons (Scotland) Act, 1937, and the Children Act, 1948, it would appear from the correspondence between Br. J.S. Roche and the Scottish Home Department that applications for setting up such a home received individual or special treatment. As one would expect, the authorities had to satisfy themselves that the building for a residential care home was suitable and that other basic requirements were met. Since the residential care home for children in Falkland, Fife, was the only such establishment run by the Christian Brothers in Scotland, what is stated in 1.3 section (a) about legal or statutory status applies solely to the Falkland establishment.

- ii. If not, how was the establishment described?**

The establishment had legal or statutory status.

- iii. What was the legal basis which authorised, or enabled, the establishment to become responsible for managing the care of children in a residential setting?**

As a voluntary home, the establishment had legal or statutory status within the terms and meaning of section 96 of the Children and Young Persons (Scotland) Act, 1937, section 70 (8) (ii) of the Education (Scotland) Act 1946, and section 29 (3) (b) of the Children Act 1948.

- iv. Did that legal basis require the establishment, or its management, to meet, or fulfil, any legal and/or regulatory requirements in respect of children in its care? If so, please give details.**

The legal or statutory basis required the establishment and its management to act within the terms of the Acts to which iii above refers.

- v. Did the establishment have a legal duty of care to each child in its care?**

As the organisation (the Provincial Council of the English Province of the Christian Brothers) appointed a Superior to manage the establishment and assigned other Brothers to assist him, the Superior, community and other staff had the delegated responsibility of looking after the welfare and safety of the children in their care. The Superior and staff were the front line people who were acting in loco parentis and as such had a legal duty of care, but this legal duty of care extended to other parties as stated in par.vi , 1.3 (a).

Present

- vi. With reference to the present position, are the answers to any of the above questions different?**
vii. If so, please give details.

Due to the closure of the establishment, questions vi and vii are not relevant.

1.4 Legal Responsibility

(a) Organisation

Past

- i. Did the organisation have any legal responsibility for the children in its care?**

While **Shaw** (2007) does not define ‘administering authority’, the manner in which he uses the term would seem to equate in meaning the definition of organisation provided in the **Guidance For Completion** of this report. In stating that the ‘administering authorities were directly responsible’ one has to assume that Shaw means they had a legal duty of care.

ii. If so, what was the nature and extent of that legal responsibility?

As the organisation or administering authority appointed others to look after the day-to-day running of the establishment, the nature and extent of the legal responsibility of the organisation had to do with oversight. By today’s standards, as **Shaw** (2007, p.102 - 103) points out, the regulatory framework between 1950 and 1984 was deficient in making provision for the kind of oversight needed for care homes for children. There were no prescribed standards of care to inform visitors or inspectors in their evaluations of the quality of care being provided.

iii. Did any other person or organisation have any legal responsibility for the children while they were in the organisation’s care?

It has to be assumed that the Government Departments involved with the care of children had the responsibility to provide a regulatory framework which ensured that vulnerable children received the best possible care. Children who were cared for in St. Ninian’s, Falkland, arrived there, as a general rule, at the behest of various local authorities. The fact that local authority personnel made frequent visits to St. Ninian’s indicates that the local authorities were assuming a significant degree of responsibility for the children they had placed there.

iv. If so, what was the nature and extent of that responsibility?

The nature and extent of that responsibility can be inferred from the fact that the local authorities had been assuming responsibility for the care of children before they were placed, at 11 years of age or older, in St. Ninian’s and continued to look after their needs when they left St. Ninian’s either by locating them in another home or by assisting them to find employment. The frequent visits paid by child care officers to children, from their jurisdictions, in St. Ninian’s implies that the local authorities continued to take an ongoing interest in the children’s welfare. Entries in the Log Book testify to these frequent visits.

v. If the organisation had no legal responsibility for children in its care, where or with whom did legal responsibility lie?

Reference has been made above to the range of people and bodies who shared responsibility for children in residential care homes {see 1.3 (a) vi}. The organisation or administering authority is included among the bodies identified as having responsibility for children in residential care homes. It has to be assumed that the organisation understood that it had a legal duty of care to meet the basic requirements of Scottish Law and Common Law in ensuring that reasonable care was being taken for the health and safety of the children for whom it provided residential care.

Present

- vi. With reference to the present position, are the answers to any of the above questions different?**
- vii. If so, please give details.**

Questions vi and vii are not relevant.

(b) Establishment

Past

- i. Did the establishment, or those in charge of the establishment, have any separate legal responsibility (separate from the organisation) for children in its care?**

Those in charge of the establishment were acting in a capacity where they had responsibility delegated to them by the organisation. As they were in the front line of people acting in loco parentis, one has to assume that they had legal responsibility, separate from that of the organisation, for the welfare of the children under their care.

- ii. If so, what was the nature of that responsibility?**

The nature of the responsibility depended on the roles assigned to them. The manager, or Superior in the case of St. Ninian's, would have over-all responsibility for the day to day running and good order of the establishment. As St. Ninian's was an education establishment as well as a home, the duty of care to the children extended to providing an education for them that suited their needs. The various staff members who had particular functions assigned to them

by the Superior or Headmaster had a duty of care to children within their particular sphere.

Present

- iii. With reference to the present position, are the answers to any of the above questions different?**
- iv. If so, please give details.**

Questions iii and iv are not relevant.

1.5 Ethos

(a) Organisation

Past

- i. What did the organisation see as its function, ethos and/or mission in terms of the residential care service it provided for children?**

The Christian Brothers' attitude towards the provision of residential care for children is reflected in the Constitutions of the Congregation (1947, p.8) as follows: “. . . they (the Brothers) 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 orphans and neglected children; Day schools and Boarding schools . . .” The daily routine in all schools included morning-prayer, a prayer at the beginning of each class and the angelus. Each classroom had a crucifix and an emblem of the Blessed Virgin Mary. The Acts of Chapter of the English Province of the Christian Brothers (1972, p.10 – 12) emphasise the importance of cultivating among pupils: “a sympathetic understanding of the problems of the poor, the aged and other under-privileged groups; a readiness to avail of opportunities to help such people especially in their own locality”. The same Acts of Chapter state that it must be the aim of every Brother to reduce corporal punishment to a minimum because frequent recourse to corporal punishment indicated ‘a bad tone and ineffectual discipline’. Regulations concerning the administering of corporal punishment and other sanctions are set out in Acts 61 – 63 (p.11 – 12) which refer to these regulations being equally binding in residential schools. In regard to residential schools, Act 62 goes on to state: “As the Brothers hold the

position of parents in regard to their children in such schools every effort should be made to make them as much as possible resemble a home”.

- ii. If the establishment was run by a Catholic religious order, what vows were taken by members of the order and at which point in their training?**

The Christian Brothers are a Catholic order or congregation recognised by the Holy See. Each Brother takes vows of poverty, chastity and obedience. Temporary vows are normally taken at end of the novitiate year which is a year of introduction to the religious life. The novitiate year is a year of concentrated study on the meaning of religious life with much time being devoted to meditation and prayer. Perpetual vows are taken several years later - not before the Brother has reached 25 years of age but may be later. Normally brothers will have completed teacher training programmes or primary degree courses before professing their perpetual vows.

- iii. What did the organisation see as the establishment’s function, ethos and/or mission in terms of the service that the establishment provided to children accommodated there?**

The Christian Brothers saw the establishment’s function as (a) caring for the children in a manner in which as much as possible resembled a home (see 1.5, i), and (b) imparting secular instruction which was ‘the obligation of the Brothers to their pupils that (was) second only to the duty of imparting religious education’ (Constitutions of the Congregation, 1946, p.34).

- iv. Were there changes over time in terms of what the organisation saw as its function, ethos and/or mission in terms of the residential care service it provided for children?**

As evidenced by Visitation Reports from 1971 onwards, the Christian Brothers saw the need for training in child care. A specific reference is made in the Visitation Report of 1971 to the need to consider allowing a Brother to attend a one year child care course in Scotland. There is also a reference in the Visitation Reports of the early seventies to the possibility of building smaller units for the boys on the grounds near Falkland House, as homes for the boys, which would be staffed by people who had training in residential home care. The facilities in Falkland House would be used for classrooms and recreational facilities.

- v. If so, what were the changes and when and why did they come into effect?**

The suggestion regarding child care training was put into effect by the releasing of Brother Boniface Murphy to attend a one year training course in Glasgow (VR, 1972). The increasing concern for improving the quality of care at St. Ninian's is further evidenced by the appointment of a qualified social worker (VR, 1974). Among the duties undertaken by the social worker was visiting the homes of the boys (VR, 1975). Around this time, the question of a follow-up hostel for boys who had completed their time at St. Ninian's was also mooted. Neither this idea nor the provision of smaller unit homes for the boys in the Falkland Home grounds were acted upon.

- vi. Were there changes over time in terms of what the organisation saw as the establishment's function, ethos and/or mission in terms of the service that the establishment provided to children accommodated there?**

The reasons why the aforementioned ideas were not acted upon may have been due to doubts that existed at Provincial Council level regarding the future of the Falkland residential care home. These doubts are reflected in some of the Visitation Reports during the 1970s. While at least two of the Brothers in the Falkland community expressed a very strong commitment to caring for the type of boys that were being catered for at the Falkland establishment, the Provincial and his council were beset by manpower problems and, after consultation with Brothers throughout the Province, arrived at the decision to try to find another religious congregation to take over their work at Falkland. It was in this context that a move to St. Ninian's, Gartmore, was contemplated. It was felt that St. Ninian's, Gartmore, from which the De La Salle Brothers had withdrawn, was much better suited to the requirements of a residential care home for children. It was also felt that another religious congregation would be much more likely to take over from the Christian Brothers in a Gartmore context than a more isolated Falkland one. When negotiations to procure another congregation to continue their Falkland apostolate failed, the Brother Provincial and his council took the hard decision to leave Falkland House.

- vii. If so, what were the changes and when and why did they come into effect?**

The decision to close Falkland House was put into effect in 1983.

Present

- viii. With reference to the present position, are the answers to any of the above questions different?**
- ix. If so, please give details.**

Questions viii and ix are not applicable.

(b) Establishment

Past

- i. What services were provided at the establishment, in terms of care for children?**

The services provided by the establishment were the provision of home care and education for children from disturbed, neglected or deprived backgrounds. These children who were baptised Catholics for the most part were deemed by local authorities or other agencies to be at risk in their home or local environment and would be best served by being placed in a residential care home for children.

- ii. Did the establishment care for children of both sexes?**

The establishment catered for boys only.

- iii. If the establishment cared for children of one sex only, what was the thinking behind that policy?**

Catering for boys only was in line with the traditions and the policy of the Christian Brothers during the time frame in which the Falkland establishment functioned as a residential care home for children.

- iv. Were any special child care, or child protection measures, taken in the light of that policy? If so, please provide details.**

The Brothers obviously recognised the importance of giving boys from disturbed or dysfunctional backgrounds the stability of a healthy daily routine which included plenty of outlets for games and recreation. As many of the boys had engaged in truancy or non-attendance during their primary schooling, teaching programmes had to be tailored to meet their educational needs. Class sizes were reduced as much as possible - usually to single figures – so that the individual learning needs of pupils could be met. In later years the Brothers tried to have trained remedial teachers on the staff and, in order to improve the quality of care, a Brother received training in child care and a qualified social worker was appointed to the staff {see 1.5, (b), v}.

v. What was the daily routine for boys/girls cared for at the establishment?

The daily routine comprised rising, morning prayer (some boys attended mass – optional), breakfast, charges or small housekeeping tasks supervised by the matron, classes, morning break, more classes, lunchtime – main meal of the day, classes, afternoon tea accompanied with bread and jam, field games, showers, homework - half an hour to an hour, evening meal and recreation. (MF, 2/3/2017)

vi. What were the on-site activities for children cared for at the establishment?

The on-site activities included field games (rugby, soccer and cricket are mentioned in the Annals), cross country running, and indoor games such as table tennis, card and board games. The Annals refer to films being shown to the boys on Sunday evenings and there are frequent references to whist drives taking place. In later years discos were run for the older boys and girls were invited to these from the local villages.

vii. What were the off-site activities for them?

Off-site activities included walks in the countryside, sledging after snow-falls on the local hills, frequent trips to Perth baths, visits to Glasgow zoo, trips to Murrayfield for rugby matches and to Glasgow for football matches, camps organised by the armed forces, football matches against village teams, singing in the Palace church at mid-night Christmas mass and at Holy Week ceremonies, and summer camp every year. Every second year over a long number of years, the boys were taken on camping holidays to France. The destination was usually Lourdes but the boys visited several camping sites en route to Lourdes and on the way back. Educational trips and various field trips were also organised and some of the more senior pupils were allowed to attend classes in a technical school off the Falkland campus.

viii. Did children work manually, either at the establishment, or externally (e.g. farming work or other labour), or both?

The main manual work the children engaged in was potato picking for some local farmers. This usually occurred during the month of October. The boys received a small amount of remuneration for this work which helped to supplement their pocket money. With regard to on-site work, the boys, as mentioned in v. above, carried out small household chores each morning after breakfast which contributed to the tidiness and cleanliness of the establishment.

- ix. If the establishment was run by a Catholic religious order, were any prospective members of the order who were in training permitted to care for children?**

While some younger Brothers who were in training in the sense that they were pursuing academic degrees or teacher qualification programmes may have helped with relief work at Falkland House, these were already members of the congregation and had taken temporary vows.

Present

- x. With reference to the present position, are the answers to any of the above questions different?**
- xi. If so, please give details.**

Questions x and xi are not relevant

1.6 Numbers

(a) Organisation

Past

- i. How many children did the organisation accommodate at a time and in how many establishments?**

The Christian Brothers had just one residential care home in Scotland – St. Ninian’s, Falkland. On the basis of the number of children registered on 31 January each year, the numbers fluctuated from as high as 73 to as low as 17 in the final year of the establishment (1983).

- ii. Please provide details of any material changes in numbers of children, or numbers of establishments, and the reasons for those changes?**

Any material changes affecting the number of children at the establishment were not at the instigation of the organisation. The fact that St. Ninian’s was defined as a foster home as distinct from an ‘approved school’ meant that children were accepted in St. Ninian’s on the basis of requests from orphanages for younger children or from local authorities who were concerned for the welfare of neglected children. Requests for places from both of these sources

tended to fluctuate. The children in St. Ninian's were not, as a rule, directed there by the Juvenile courts' system.

iii. How many children in total were accommodated by the organisation?

The total number of children accommodated at St. Ninian's according to the register held in the archives at the Marino, Dublin, headquarters of the European Province of the Christian Brothers is 858.

iv. What numbers (if any) were placed in foster care by the organisation?

The organisation, i.e. the headquarters of the English Province of the Christian Brothers seems to have taken no part in placing children in foster care. Placings occurred on the basis of applications made to the Superior of the establishment by the bodies mentioned in 1.6 (ii) above.

v. In general terms, was the main service provided by the organisation the provision of residential care for children in establishments, or was it the provision of foster care?

The main service provided by the English Province of the Christian Brothers was the provision of day schools for the Catholic education of boys in England. The fact that they became involved in running a residential care home or orphanage for children in Scotland was, as explained at the beginning of this report, due to a request made by the Catholic Archbishop of St. Andrews and Edinburgh.

Present

vi. With reference to the present position, are the answers to any of the above questions different?

vii. If so, please give details.

Questions vi and vii are not relevant.

(b) Establishment

Past

i. How many children did the establishment accommodate at a time?

Since St. Ninian's was the only residential care home for children run by the Christian Brothers in Scotland, the information provided in {1.6 (a) i.} also applies here.

ii. Did this change, and if so, what were the reasons?

The accommodation capacity remained the same throughout the existence of St. Ninian's as a residential care home for children. Numbers of children in residence fluctuated from year to year depending on requests for places from foster homes for younger children and local authorities or other agencies in later years.

iii. How many children in total were cared for at the establishment?

The total number of children cared for at St. Ninian's according to the register in the Marino archives was 858.

iv. What accommodation was provided for the children?

The children were accommodated in an old mansion, Falkland House, owned by Major Michael Crichton-Stuart who wished to lease the property to the Christian Brothers for the purpose of providing a residential home and education for orphans and neglected children. The mansion was modified and refurbished in order to make it as suitable as possible as a home and education centre for children. The accommodation comprised sleeping quarters, dining area, recreation rooms, television room, classrooms, shower facilities and toilets.

v. How many children occupied a bedroom/dormitory/house?

Usually, four children occupied a dormitory.

Present

vi. With reference to the present position, are the answers to any of the above questions different?

vii. If so, please give details.

Questions vi and vii are not relevant.

1.7 Children's Background/Experience

Past

- i. Did the children admitted to the establishment generally have a shared background and/or shared experiences?**

While a number of the children who came to St. Ninian's from Nazareth House, Lasswade, Lothian (Zwolinski, 1998, p.15) may have had shared similar background experiences, beyond that it is not possible to establish from the available records whether or not other children had shared backgrounds or experiences.

- ii. Were children admitted into the care of the organisation as a whole, or were they admitted into the care of a particular establishment?**

There is nothing in the records to suggest that the organisation was directly involved in the acceptance of children into St. Ninian's. It would appear that the children were admitted into the care of the particular establishment – St. Ninian's – by the Superior.

- iii. If children were admitted into the care of the organisation, did the organisation decide which establishment they would be admitted into?**

The organisation was not involved in admitting children to St. Ninian's, this was left to the management of the establishment.

- iv. Who placed children with the organisation?**

It would appear from the St. Ninian's register that the local authorities placed children with the establishment – not with the organisation. Even when children were transferred from homes for younger children to St. Ninian's, this appears to have been either at the behest, or with the approval, of the relevant local authorities.

- v. From 15 April 1971 (the date on which the Children's Hearing system was introduced), did the organisation/establishment receive children mainly from the Children's Hearing system?**

While there are references to the Children's Hearing System in the records of St. Ninian's, it is not clear from these records what percentage of the children that came to be placed there after 1971 resulted from the new Hearing system. Zwolinski (1998, p.16) states that: "Latterly most referrals to the school were made through the Children's Hearings . . ." but does not provide a source for this claim. The St. Ninian's register continues, through the seventies, to identify the local authorities as the channels through which boys become placed in Falkland House.

vi. If not, how generally did children come to be admitted into the care of the organisation?

Welfare officers from the local authorities generally sought places for children who were in danger due to 'broken homes and feckless parents' (VR, 1971). The same VR describes St. Ninian's as 'a voluntary establishment, i.e. it has the power to accept or reject pupils offered to it'. As the emphasis in St. Ninian's from its foundation was on caring for orphans or neglected children, there was always a reluctance to accept children from the Juvenile Courts who were being put on remand for petty crime or delinquency.

vii. Was there a gender or other admission policy or practice operated by the organisation or any establishment run by it?

St. Ninian's admitted boys only.

viii. What was the policy/procedure and practice regarding admission of siblings?

There appears to have been no particular policy regarding the acceptance of siblings. From time to time there were brother siblings in the residential care home (MF, 2/3/2017).

ix. How long did children typically remain in the care of the organisation?

Children were admitted to St. Ninian's after they were eleven years old and remained until they were fifteen or sixteen years of age, unless a local authority officer thought that their family circumstances had improved and that they could return safely to their communities (MF, 2/3/2017). In the 1970s, the register refers to Children's panels 'releasing children', but this must have been done in consultation with local authority welfare officers.

x. Were children moved between different establishments run by the organisation?

It was not possible to move children between different establishments in the organisation as St. Ninian's was the only establishment run by the organisation.

xi. If so, in what circumstances?

See x. above.

xii. Generally did children typically stay in one, or more than one, establishment?

Generally children stayed in just the one establishment run by the organisation.

xiii. What provision was made for contact between siblings while siblings were at the establishment?

As the over-all number of children was relatively small one has to assume that there were no obstacles to frequent interaction between brother siblings in the establishment. With regard to siblings from without the establishment, there are references in the Log Book to boys in St. Ninian's being visited by sisters who were probably older than the boys as there is no reference to these sisters being accompanied by a parent.

xiv. What provision was made for contact between children and their parents and wider family while children were at the establishment?

St. Ninian's records refer to regular visits to St. Ninian's on the part of some parents. Such contacts with parents seem to have been welcomed and there is no record of any policy limiting or discouraging them. There is no record of how parents interacted with the Superior or community at St. Ninian's but one has to assume, on the basis of the friendly and homely attitude cultivated by the Brothers and staff of St. Ninian's, that relationships were cordial. In later years a qualified social worker was appointed at St. Ninian's whose main function was to meet the boys' parents. As a trained social worker, he would no doubt have facilitated the two-way communication process between parents and boys.

xv. What provision was made for information sharing/updates about the children to their parents?

Newsletters or magazines prepared by the boys were sent to parents where possible. There are no records of reports or other communications being sent to parents but that is not to say that such reports or communications didn't occur.

xvi. What provision was made for information sharing/updates about parents to their children?

Apart from visits made by parents to St. Ninian's, there is no reference in the records to correspondence being received by children from their parents.

xvii. What provision was made for the celebration of children's birthdays, Christmas and other special occasions?

There is no reference in the records to children's birthdays being celebrated. For children who could not go home for Christmas, there are references in the Annals to Christmas parties taking place during the afternoon and evening of Christmas Day.

xviii. What was the process for review of children's continued residence at the establishment, in terms of whether they continued to require to be there?

When the welfare or children's officer of a particular local authority thought that the family circumstances or community support services had improved sufficiently in the case of individual children, he or she came and spoke with the authorities at St. Ninian's (MF, 2/3/2017).

xix. When children left the care of the establishment, what was the process for discharge?

The process for discharge seems to have been a matter of the welfare officer or child care worker from the local authority coming to collect the child at St. Ninian's (MF, 2/3/2017).

xx. What support was offered to children when they left the care of the establishment?

The care of the children after they left the establishment seems to have been left to the welfare officers in the local authorities.

xxi. What information was sought by the organisation and/or establishment about what children leaving its care planned to go on to do?

There are a number of references in the Annals to boys coming back to visit St. Ninian's after they had left and, the fact that they were made very welcome, is reflected by sleeping facilities being made available to them. However, there does not appear to have been any organised system for maintaining contact with past pupils.

xxii. Was such information retained and updated?

Information about career opportunities or the whereabouts of children after they left the establishment does not appear to have been maintained on record.

xxiii. What was provided in terms of after-care for children/young people once they left the establishment?

The question of after-care was raised by the Bothers' community during the early nineteen seventies and the possibility of setting up a hostel for boys after they left the orphanage was discussed {see 1.5 (a) v.}. This idea seems to have gone off the agenda, possibly because of the resource implications and a degree of uncertainty about the future of Falkland as a residential home for orphaned or vulnerable children.

Present

xxiv. With reference to the present position, are the answers to any of the above questions different?

xxv. If so, please give details.

Questions xxiv and xxv are not relevant.

1.8 Staff Background

(a) Organisation

Past

i. How many people were employed by the organisation who had some responsibility for residential care services for children?

While the English Province of the Christian Brothers were responsible for providing residential care services and appointed a succession of Superiors and assigned Brothers to Falkland House, they did not otherwise employ specific people to look after residential care services for children.

ii. How many people were employed by the organisation at any one time who had some responsibility for residential care services for children?

The people who had responsibility at any one time were the Superior and community of Brothers assigned to run the residential care home. It was a matter for the local Superior to appoint whatever lay teaching and ancillary staff he deemed necessary. The numbers of staff he employed seemed to vary as it was difficult at times to find suitable staff for a remote place like Falkland House. There were usually four to five Brothers resident in Falkland House whose work was supported by two to three lay teachers, a gardener, a matron, a seamstress and two women who worked in the kitchen.

iii. What experience/qualifications did such staff have?

Until the 1970s when a qualified social worker was appointed and a Brother undertook training in child care, neither the Brothers nor the lay staff had particular qualifications in child care. Some of the teaching Brothers had qualifications that satisfied the Scottish Education Department. Meeting the requirements of the Scottish Education Department seemed to be an ongoing issue for the Brothers as sometimes they had taken up duty in Falkland House to discover later that their teaching qualifications were not being recognised.

iv. If the organisation is a religious order, how many members of the order had a responsibility for residential care services for children provided by the organisation in Scotland?

Successive Provincials and their councils had over-all responsibility for the residential care home for children at Falkland. Normally, a Provincial Council comprised the Provincial and four other Brothers who were called consultors. The first consultor deputised for the Provincial in his absence. Five Brothers Provincial and 21 council members comprised the Provincial councils during the Falkland House era as a residential care home for children.

v. What experience/qualifications did such members have, to equip them to discharge their responsibilities?

These Brothers would have had teaching qualifications and experience at managing Catholic primary and secondary schools in England. However, they had no particular experience or qualifications in the running of residential care homes for children. One may assume that it was for this reason that Br. J. K. Nugent, because of his experience of residential care at St. Charles, Brentwood,

initially was assigned the task of adapting Falkland House for residential care purposes and, later, was appointed first Superior of the establishment.

Present

- vi. With reference to the present position, are the answers to any of the above questions different?**
- vii. If so, please give details.**

Questions vi and vii are not relevant.

(b) Establishment

Past

- i. How many persons were employed in some capacity at the establishment?**

Apart from the four or five Brothers who were assigned to Falkland House in any one year, records suggest that there were at least two lay teachers, two ladies who worked in the kitchen, a seamstress, a matron and a gardener. In later years with the appointment of a social worker, the over-all number of staff increased.

- ii. How many of those persons had the opportunity of unaccompanied access to a child, or children, cared for at the establishment?**

There are no records of protocols relating to unaccompanied access to children. As the boys required a high level of supervision throughout the day up to bed-time and in a context where a great part of the supervision in the early morning and in the evening had to be done by Brothers, it is very likely that on occasions unaccompanied access to children was possible. The Constitutions of the Congregation (1946, p.21) clearly discouraged unaccompanied access to children, on the part of Brothers: “. . . unless duty and necessity should require it, a Brother must never be alone with a pupil”.

- iii. How many were involved in the provision of care to children accommodated at the establishment (child care workers)?**

All of the people identified in i. above were involved in different aspects of child care provision. It is difficult to put a precise figure on the number of

people involved as there were many instances of staff leaving to take employment elsewhere and there could have been a time gap before replacements were found.

iv. What experience and/or qualifications, if any, did the child care workers require to have?

Most of the Brothers assigned to Falkland House would have had experience at teaching boys elsewhere - in day schools for the most part. The records do not indicate whether ancillary staff had particular training or experience required of them.

v. What was the child care worker/child numbers ratio?

As both numbers of staff and children fluctuated from year to year the best estimate one can give of the child care worker/child numbers ratio is 4 to 1. This ratio takes Brothers and all other employees at Falkland House into consideration.

vi. What was the gender balance of the child care workers?

Taking Brothers and all employees into consideration, the gender balance was weighted at c. 3 to 1 in favour of male child care workers.

vii. Was any attempt made to employ child care workers in looking after children of the same sex as those workers?

St. Ninian's was a residential care home for boys only and, apart from the matron, seamstress and kitchen staff, teaching staff and other staff members were predominantly male. Insofar as concern about gender is expressed in the records, it has to do with employing more women so that there would be a greater feminine input into the quality of care.

Present

viii. With reference to the present position, are the answers to any of the above questions different?

ix. If so, please give details.

Questions viii and ix are not relevant.

2. Organisational Structure and Oversight

2.1 Governance

Past

- i. What were the governance arrangements within the organisation?**

Governance of the Christian Brothers English Province was exercised by the Provincial and his council, in more recent times called the Province Leadership Team.

- ii. How were the members of the governing body selected?**

The members of the governing body, the Provincial Council, were elected at the province's chapter which, as a rule, took place every six years.

- iii. What qualifications and/or training, if any, did the members require to have in relation to the provision of residential care services for children?**

Apart from their general experience as teachers and headmasters of day schools, there is no evidence that the Brothers involved in governance had qualifications or training in relation to the provision of residential care services for children. It has to be borne in mind that there appears to have been little awareness in the State regulatory mechanisms for the need for such training until the late 1960s.

- iv. Did the members receive remuneration?**

The Brothers involved in governance did not receive remuneration.

- v. What was the nature of the accountability and oversight regime between the organisation's governing body and the establishment?**

The governing body appointed a Superior for a term of office, usually not less than three years but could be appointed for a further three years. The Superior had responsibility for the day to day running of the establishment and assigned both Brothers and other staff to various duties that ensured the smooth running of the establishment. The governing body also appointed the Brother Bursar who was responsible for the finances of the establishment. The Superior and Bursar were answerable to the governing body for their stewardship. Certain

decisions had to have the approval in advance of the governing body, particularly those relating to expenditure that exceeded a pre-determined limit.

vi. What visits were made by the governing body to the establishment?

Annual visits to the establishment were made by the governing body.

vii. What was the purpose of such visits?

The purpose of the visits was to check the standard of observance of the religious life on the part of the Brothers and also the quality of their apostolic work. The Visitation Reports issued after these visits refer to relations between the Brothers and boys from which one can infer that the quality of the interactions between the staff of St. Ninian's and the boys was being observed.

viii. How frequently did these happen?

These visits happened annually and lasted for a number of days.

ix. Were children interviewed, or spoken to, by members of the governing body during such visits?

There does not seem to have been a formal interview process but normal practice would suggest that the Brother visitor visited classes and observed other activities in which the children were involved.

x. If so, were establishment staff present while children were interviewed or spoken to?

There is no reference in the records to children being interviewed.

xi. Were reports of such visits made and discussed by the governing body?

A written report of each visit by the member of the Provincial Council who conducted the visitation was submitted for consideration to the Provincial Council. Occasionally recommendations were issued and reports were sent back to the Superior of the establishment.

xii. Did visits result in changes to the organisation's policy, procedure and/or practice? If so, please give examples.

The reports tend to concentrate more on the standard of observance to the requirements of religious life on the part of the Brothers than on practical matters relating to the establishment. The changes in practice sought usually referred to attendance at the religious exercises of the community – morning prayer, mass, lecture, vespers and compline. The challenge to Superiors was to find an horarium or time-table which would enable as many Brothers as possible to attend these exercises without the supervision requirements of the boys impinging on them. No satisfactory solution to this dilemma seems to have been found for the duration of the Falkland establishment.

Present

- xiii. With reference to the present position, are the answers to any of the above questions different?**
- xiv. If so, please give details.**

Questions xiii and xiv are not relevant.

2.2 Culture

Past

- i. What was the nature of the culture within the organisation?**

The culture and practice of the organisation, or congregation in this instance, derived its inspiration from ‘a spirit of faith and ardent zeal for the religious instruction of youth and their training in Christian piety’ (D & R, 1927). In order to sustain and cultivate that spirit of faith within themselves, the Brothers were exhorted to attend faithfully to their spiritual exercises – daily prayer, attendance at daily mass where possible, regular reception of the sacraments and fidelity to their vows in word and deed.

- ii. Was that culture reflected in the organisation’s policies, procedures and/or practice in relation the provision of residential care services for children?**

All the Visitation reports written by members of the Provincial Council between 1951 and 1983 testify to the concern of the Province Leadership Team for the spiritual and temporal well-being of the Brothers in the community at Falkland House. There appeared to be a belief among the Brother visitors that the quality of care being provided by the Brothers needed the nourishment of a vibrant personal spiritual life. These reports frequently comment favourably on the

friendly relationships that were evident between the Brothers and the children in their care. They also refer favourably to the quality of religious instruction being received by the boys and the general quality of the care being provided for them.

iii. How can that be demonstrated?

Concern for the spiritual welfare of some of the Brothers because of their lack of attendance at their religious exercises is expressed in a number of the Visitation reports. While some of this lack of attendance was due to supervision duties, the visitors were not happy that this was sufficient reason in every instance, particularly in regard to attendance at morning-prayer and meditation. In the case of one particular Brother, his non-attendance at Mass is described as a possible source of scandal to those children who, voluntarily, rose early to attend Mass.

iv. Did the running of establishments reflect the organisation's culture, policies and procedures?

The level of care and attention given to both the spiritual and temporal needs of the boys, as reflected in the Annals and the Visitation reports, was in tune with the congregation's culture and practice.

v. If not, please provide a representative range of examples and explain, by reference to those examples, why particular establishments were not, in material ways, run in accordance with the organisation's then culture, policies and procedures and what, if anything, was done to change that state of affairs?

There is nothing in either Visitation reports or in the Annals to suggest that St. Ninian's residential home for children at Falkland House was run other than in accordance with the culture, policies and procedures of the Christian Brothers.

vi. When and why did any changes in the culture of the organisation come about?

There was no discernible change in the culture of the organisation up to the time that the Christian Brothers terminated their involvement with Falkland House.

vii. Were any changes in culture driven by internal influences, incidents, experiences or events within the organisation, or any of the establishments run by the organisation?

While it could hardly be described as a cultural change, manpower problems caused the Christian Brothers to re-evaluate their involvement in residential home care for children in Scotland. Having made a determination about their priorities, the Brothers withdrew from this particular mission.

viii. Were there any changes in culture that were driven by abuse, or alleged abuse, of children cared for at the establishment?

Within the period of the Christian Brothers' involvement with Falkland House (1950 – 1983), there is a reference in a letter to the Superior General from Brother Patrick Curran, Provincial of the English Province, indicating that it had been necessary to remove a particular Brother from St. Ninian's because he could not be trusted with children'. The inference drawn from this particular reference is that there was some element of inappropriate sexual behaviour towards children involved. On Brother Curran's recommendation, the Brother in question was relieved of his vows on [REDACTED] 1965 and ceased to be a member of the congregation. The handling of this matter does not suggest a change in culture but reflects a certain attitude on the part of the higher superiors in the congregation who obviously took a very serious view of any inappropriate sexual behaviour by a Brother towards children.

ix. If so, when did they occur and how did they manifest themselves?

There is no evidence of changes in culture that were driven by abuse, or allegations of abuse, at St. Ninian's, Falkland, residential care home children.

x. Were any changes in culture driven by any external influences or factors and if so what were those influences or factors?

The only documented change in respect of St. Ninian's, Falkland, driven by external influences was the decision by the Christian Brothers to withdraw their services because of a drop in vocations leading to manpower difficulties.

Present

- xi. With reference to the present position, are the answers to any of the above questions different?**
- xii. If so, please give details.**
- xiii. To what extent, if any, has abuse or alleged abuse of children cared for at any establishments caused, or contributed to, the adoption of the current policies, procedures and/or practices of the organisation, in relation to the provision of residential care**

services for children including the safeguarding and child protection arrangements applying to its current establishments?

Questions xi, xii and xiii are not applicable.

2.3 Leadership

Past

i. How was the establishment managed and led?

The establishment was managed and led by a succession of Superiors appointed by the Province leadership team, the Provincial Council.

ii. What were the names and qualifications of the persons in charge of the establishment? Please include the dates for when each of the persons was in charge.

Seven different Brothers were appointed as superiors of St. Ninians, Falkland.

- Br. J.K. Nugent was the first Superior at St. Ninian's. He arrived at Falkland House in 1948 and set about adapting the house as a home and education centre for orphaned or neglected boys. He also liaised with clergy, Government, local authorities and other agencies regarding recognition for the new children's home, grants to support both the caring and education aspects of the home and the channels through which children would be placed at Falkland House. Br. Nugent was a registered secondary teacher in Ireland before taking up a teaching post in Gibraltar. He spent six years as assistant master in Brentwood (Orphanage School) before taking up his appointment in Falkland, where he was Superior until 1956. After being away from Falkland House for three years, Br. Nugent returned as Sub-Superior and Bursar in 1959 and remained there until his death in 1977.
- Br. W. I. Carroll (Superior, 1956 – 1958) who had been headmaster for two years before he became Superior in 1956 acquired a B.A. (N.U.I.) degree in 1939. He acquired a teaching qualification in London but neither college nor year is cited in the records.
- Br. R.C. Blake (Superior, 1958 – 1964) graduated with a B.A. (N.U.I.) in 1934 and acquired a teaching certificate from Edinburgh University in

1955. Prior to becoming Superior, Br. Blake had been Headmaster at St. Ninian's from 1952 to 1954.

- Br. J. L. Forde (Superior from 1964 – 1970 and again from 1973- 1976) graduated with a B.A. (N.U.I.) in 1943 and acquired a teaching certificate from Moray House, Edinburgh, in 1955.
- Br. C.U. McNamara (Superior from 1973 – 1976) graduated with a B.A. from N.U.I. (U.C.G.) in 1960 and acquired his Higher Diploma in Education from University College Dublin in 1961.
- Br. P.T. Coffey (Superior from 1976 – 1978, when he became Provincial) graduated with a B.Sc. (N.U.I.) in 1945.
- Br. J. B. O'Keefe (Superior 1978 – 1983, when St. Ninian's closed) graduated with a B.A. (N.U.I.) in 1942.

iii. What were the oversight and supervision arrangements by senior management within the establishment?

The Superior had over-all responsibility for supervision and oversight of the establishment. He was assisted by a Sub-Superior and a Bursar who attended to all matters involving finance. If the Superior's qualifications were not recognised by the Scottish Education Department for teaching purposes, another Brother was appointed Headmaster. This Brother was responsible for the organisation of classes and the curriculum and met with HMI inspectors when they visited St. Ninian's. One of the Brothers was also games' master and organised rugby, soccer and cricket games on the playing pitches. Soccer matches were arranged with village teams and rugby matches against other schools were organised from time to time. Occasional reference is made in the Annals and Visitation Reports to the position of housemaster. This person would appear to have had particular responsibility for supervision of the dormitories both at times of going to bed and rising. Meals and indoor recreation had also to be supervised and this supervision seems to have been done on a rotation basis.

iv. What were the oversight arrangements by the organisation, including visits by or on behalf of the organisation?

The oversight arrangements by the organisation, the English Province of the Christian Brothers, were formal visitation to St. Ninian's, Falkland, for a number of days each year. A report was written on each one of these visitations. Apart from these visits, the Superior was obliged to keep the Provincial and his

council informed about any matter of consequence that occurred in the establishment.

Present

- v. With reference to the present position, are the answers to any of the above questions different?**
- vi. If so, please give details**

Present Questions v and vi are not relevant.

2.4 Structure

Past

- i. What was the structure of the organisation?**

The structure of the organisation was that a Provincial and Provincial Council were nominated at the Province's chapter which normally took place every six years. The formal appointment of the Provincial and his Council was a matter for the General Council of the Christian Brothers. The Council members were also called consultors. The most senior of these was called the First Consultor and would deputise for the Provincial in case of illness or absence from the Province on official business.

- ii. What was the structure of the establishment?**

The Superior was responsible for the day to day running of the establishment. The Superior's appointment was normally for three years but he could be appointed for a further three years in accordance with Canon Law. The Superior was assisted by a Sub-Superior who deputised for him in his absence. The establishment also had a Bursar who looked after the finances and temporalities of the establishment. The Superior, Sub-Superior and Bursar were all appointed by the Provincial Council. If the Superior's teaching qualifications were not recognised by the Scottish Education Department, another Brother was appointed Headmaster. During Brother J.K. Nugent's period as Superior, there were three different Headmasters – Brothers O'Leary, Blake and Carroll. Brother Gerard Ryan was Headmaster from 1976 to 1981 when he was succeeded by Brother Mark Farrell who was Headmaster until St. Ninian's was closed in 1983. Assigning of other roles within the establishment was a matter for the Superior, usually as a result of dialogue with the remaining Brothers and other employees.

Present

- iii. With reference to the present position, is the answer to the above question different?**
- iv. If so, please give details.**

The present position does not arise because St. Ninian's has been closed as a residential home for children at risk since 1983. The English Province of the Christian Brothers has been subsumed into the European Province of the Christian Brothers whose headquarters are in Marino, Dublin. As stated in the introduction, the education enterprise in the United Kingdom is now under the auspices of the Congregation of the Christian Brothers Trustees, Hale Barns, Altrincham, Cheshire.

2.5 Hierarchy and Control**Past**

- i. What was the hierarchy within the organisation?**

The hierarchy within the organisation, as previously intimated, comprised the Provincial and his Council.

- ii. What was the structure of responsibility within the organisation?**

The Provincial had ex officio powers in accordance with the Constitutions of the Congregation of Christian Brothers. Major decisions would normally be taken after consultation with his council members, but the Provincial was the person responsible for day to day matters within his Province.

- iii. What were the lines of accountability?**

The Provincial was responsible to the General Council and was expected to make regular reports to the General Council about significant matters within his Province. The General Council was elected at General Chapters which comprised delegates from provinces in various parts of the world, including Provincials from each of the provinces as ex officio members. General Chapters took place every six years. It was normal practice for a Provincial to seek approval from the General Council before opening a new establishment.

Apart from the official Visitation carried out by him or one of his consultors, the Provincial could visit, at his discretion, any establishment within his Province at any time.

- iv. Within the organisation, who had senior management/corporate/ organisational responsibility for the managers/management teams/leadership teams who managed the establishment on a day-to-day basis?**

Within the organisation, the Provincial had senior corporate responsibility for those that managed the establishment on a day to day basis – the local Superior, the Sub-Superior, the Bursar and the Headmaster, if the Superior was not also Headmaster.

- v. What were the reporting arrangements between the establishment and the organisation?**

The Superior reported to the Provincial or a member of his council at the annual Visitation on religious community and establishment matters. Otherwise, the Superior was obliged to contact the Provincial about matters of consequence to the establishment, particularly in regard to undergoing expenditure that exceeded the guidelines that pertained at a particular time.

- vi. Within the establishment itself, who had managerial responsibility for, or was in overall charge of, those employed there, including in particular those who were involved in the day-to-day care of children, and any other persons who had contact with the children?**

Within the establishment the Superior had overall managerial responsibility, including responsibility for those who were involved in the day to day care of children and any other persons who had contact with children.

- vii. To whom were child care workers within the establishment directly responsible?**

Child care workers within the establishment were directly responsible to the Superior. If a Brother other than the Superior was Headmaster, this Brother was responsible to the Scottish Education Department for the quality of teaching and learning in the establishment.

- viii. Who, within the organisation, took decisions on matters of policy, procedure and/or practice in relation to the establishment?**

Matters of policy, procedure and practice in relation to the day to running of the establishment appear to have been left to the local Superior, in consultation with the Headmaster, if the Superior was not Headmaster, the community of Brothers and other employees. These procedures and practices were observed and commented upon, favourably for the most part, by the Provincial or member of his council who carried out the annual Visitation.

- ix. Who, within the organisation, was responsible for the implementation of, and compliance with, the organisation's policies, procedures and/or practices at the establishment?**

There is no indication in the records that the organisation had particular policies or procedures in place in regard to residential care homes for children. Apart from the general exhortation to Brothers to make residential schools 'as much as possible resemble a home', successive Acts of Chapter for the English Province provide no particular guidelines for those in charge of children's care homes such as St. Ninian's, Falkland. By today's standards, there would appear to have been a lack of awareness on the part of the organisation of the need for the sort of protocols and practices that obtain now in regard to persons who care for or have contact with children.

Present

- x. With reference to the present position, are the answers to any of the above questions different?**
xi. If so, please give details.

Questions x and xi are not relevant.

2.6 External Oversight

Past

- i. What were the arrangements for external oversight of the organisation and the establishment?**

Insofar as there was external oversight of the organisation, this was carried out by the General Council of the Congregation. Oversight of the establishment was

exercised by the Provincial and his Council. The annual Visitation described previously was the main vehicle for exercising this oversight.

ii. Who visited the organisation and/or the establishment in an official or statutory capacity and for what purpose?

The Provincial or a member of his Council visited the establishment in an official (not statutory) capacity for the purpose of observing how the community of Brothers were attending to their prayer life and their apostolic work of ministering to the children. There are occasional references in the records to visits from Scottish Education Department or H.M. inspectors and one can assume that these inspections had statutory status. However, reports of these inspections are not held in the Brothers' archives in Marino. There are frequent references in the Log Book to local authority child welfare or care officers visiting St. Ninian's and engaging with the children from their jurisdictions. These visits were in accordance with the provisions of the Children (Scotland) Act 1948 and the 1968 Act which replaced it. The 1968 act restated the principles of the 1948 act that local authorities should assume parental rights if:

- The child's parents were dead;
- The child had no guardian; or
- The parents or guardians couldn't care for the child for reasons that the law explained. (See **Shaw**, 2007, p.67)

iii. How often did this occur?

Visitations from the organisation occurred once a year. Visitations from local authority child care officers occurred frequently.

iv. What did these visits involve in practice?

In practice, visits from the organisation which lasted for a number of days involved the Visitor receiving a report from the Superior on all aspects of life in the establishment. The Visitor also spoke with each Brother in the community about their vocation and various aspects of their apostolic work. While the Visitor may have interacted with the children and employees at Falkland House, there is little or no reference to these interactions in the Visitation reports. The records indicate the frequency of the visits from local authority child care officers but give little detail of what they involved or their duration. There are references to invitations to child care officers to stage performances and prize giving and to the occasional attendance of officers at these events.

- v. What involvement did local authorities have with the organisation and/or the establishment in respect of residential care services for children?**

Welfare or care officers from local authorities visited children from their jurisdictions at regular intervals and many of these visits are referenced in the Log Book for Falkland House. They met and spoke with the children and occasionally took them off the premises for a meal (MF, 2/3/2017).

- vi. What involvement did local authorities have with the organisation and the establishment in respect of the children at the establishment?**

The local authorities involvement with the establishment seems to have had to do with (a) assigning children who were orphaned or at risk to the establishment, (b) visiting these children from time to time to check on their welfare, and (c) taking the children away from the establishment when their background circumstances had improved sufficiently for them to be re-integrated into the community, or when they had reached the age to leave Falkland House.

- vii. If the establishment was run by a Catholic religious order, what actual involvement and/or responsibility, whether formal or informal, did the Catholic Hierarchy/Bishops' Conference have, either directly or at diocesan level, in the creation, governance, management and/or oversight of the establishment?**

While the Archbishop of St. Andrew's and Edinburgh was the initiator of the Christian Brothers involvement in setting up the residential home care for children at Falkland House, neither he nor the Bishops' Conference were directly involved in the governance or management of Falkland House. Canon Law entitled the Archbishop to exercise oversight of all Catholic schools in his diocese and visit them as he saw fit. The Archbishop provided a non-resident chaplaincy service for the Brothers and children of St. Ninian's. This chaplaincy service provided for the celebration of mass some days each week for the community and children who wished to attend as well as the opportunity to receive the sacraments.

- viii. What was the nature and extent of any pastoral care provided to the establishment, if it was run by a religious order?**

As well as attending to the spiritual needs of the children, the Superior endeavoured to meet their medical needs by arranging visits to the local doctor or dentist as necessary - at times arrangements were made for the doctor to visit Falkland House where he would carry out a brief medical examination of all or most of the children. A matron was employed to be at the service of the children for minor ailments and she also listened to their stories about matters that were of concern to them (MF, 2/3/2017). This appears to have been an informal part of her role as there are no references in the records as to her exact functions as matron. Whatever other counselling took place was also of an informal nature and would have to have been done on a voluntary basis by Brothers or other staff members.

Present

- ix. With reference to the present position, are the answers to any of the above questions different?**

Not relevant

- x. If so, please give details.**

Not relevant

Part B – Current Statement

3. Retrospective Acknowledgement/Admission

3.1 Acknowledgement of Abuse

- i. Does the organisation/establishment accept that between 1930 and 17 December 2014 some children cared for at the establishment were abused?**

The organisation (Christian Brothers) acknowledge with deepest regret that some children cared for at St. Ninian's, Falkland, between the years 1950 and 1983, were abused.

- ii. What is the organisation/establishment's assessment of the extent and scale of such abuse?**

For the Christian Brothers, the abuse of a single child is an abuse too many. The congregation's assessment of the extent and scale of the abuse is that, while a very small proportion of the total number of adults who had access to children are known or alleged to have abused children, the fact that any abuse occurred is a serious blemish in the life and history of the St. Ninian's establishment. Instances of abuse of children at St. Ninian's are reflected by the conviction of two former Christian Brothers [REDACTED]. These former Brothers are now serving prison sentences. Allegations made against [REDACTED] other staff members [REDACTED]. Allegations have also been made against [REDACTED] deceased members of the Christian Brothers and [REDACTED] Christian Brothers who is now deceased. Examination of records relating to St. Ninian's suggests that between 1950 and 1983 about 52 Brothers spent periods of time at St. Ninian's, many of these providing cover for Brothers who were on vacation or on retreat. As for lay staff and chaplains, about 60 people, both male and female, are estimated to have had access to children between 1970 and 1983. Due to incomplete records from 1950 to 1970, it is difficult to arrive at an accurate estimate of lay staff and chaplains who served during that period but it is probably safe to assume that, apart from Christian Brothers, at least 40 other adults had access to children at St. Ninian's between 1950 and 1970. Hence, a conservative estimate would suggest that not less than 150 adults had access to children during the life-time of St. Ninian's. While re-iterating that any level of abuse in a residential care home for children is totally unacceptable, the percentage of adults having access to children during the life-time of St. Ninian's who have been convicted of abuse or against whom allegations have been made is in the mid-single figure range.

iii. What is the basis of that assessment?

The basis of that assessment is the convictions referenced in (ii) above as well as the allegations that are known to the congregation. Reference to the small number of known abusers at St. Ninian's or to the small number of adults against whom allegations have been made is not intended to detract in any way from the gravity of the pain and suffering suffered by victims or survivors of abuse both in their childhood years and since they have entered adulthood.

3.2 Acknowledgement of Systemic Failures

- i. Does the organisation/establishment accept that its systems failed to protect children cared for at the establishment between 1930 and 17 December 2014 from abuse?**

The fact that two people convicted of abuse were Christian Brothers at the time they perpetrated the abuse reflects systemic failures both within the organisation, the English Province of the Christian Brothers, and the manner in which the establishment was managed by the local Superior or Superiors at the time of the abuse. While **Shaw** (2007, p. 97 - 104) points to a variety of systemic failures in the regulatory and inspection framework relating to residential care for children, the Christian Brothers recognise that the successive Provincial Councils responsible for St. Ninian's ought to have been much more specific in conveying to Superiors and staff the practical implications of the aspiration in their Acts of Chapter regarding residential schools, i.e. 'to make them as much as possible resemble a home'. While various Visitation Reports written by members of the Provincial Council make positive references to the relations between the Brothers and the boys, there is nothing in these reports to suggest that, prior to the 1970s, any in-depth discussion took place about how the boys ought to be treated or how the quality of care being provided for them could be improved. From today's perspective, it would seem that it ought to have been a fundamental requirement at Provincial Council level to provide the Brothers assigned to St. Ninian's with special preparation. There is no evidence, however, of awareness on the part of the Provincial Council that Brothers living in very close contact with children in a residential home needed special screening and special training. It could also be stated that some of the Superiors at St. Ninian's showed a lack of awareness of the situational dangers in which some of the Brothers were operating, particularly those who supervised dormitories on their own at night time. The prescript in the Constitutions of the Congregation (1946) that 'a Brother must never be alone with a pupil' ought to have alerted Superiors to the need to be vigilant about how night time supervision was conducted.

ii. What is the organisation/establishment's assessment of the extent of such systemic failures?

With the benefit of hindsight and the knowledge of the protocols that exist today in regard to the protection and safeguarding of children, it is not difficult to see that systemic failures were prevalent during the existence of St. Ninian's as a residential care home for children. The preparation and induction of both Brothers and lay staff who worked at St. Ninian's were clearly inadequate. In the early years in particular, this was due to a general lack of awareness, throughout all of the agencies involved in residential care for children, of the need to train staff in child psychology, to establish standards and protocols about child-care, to ensure adequate record keeping and to provide clear guidelines for those involved in inspection and oversight. Even though there are numerous references in the St. Ninian's Log Book to welfare officers and carers from the various local authorities visiting children, there are no references to

any feedback being provided by these visitors to the Superior, matron or other staff members. With regard to record keeping at St Ninian's, one can identify the Register, the Log Book, the House Annals and the Visitation Reports as providing various, if incomplete, insights into aspects of children's backgrounds, daily routines, problems and difficulties that arose, interactions between staff and children, punishments and rewards, work and holidays. Entries to the Log Book are rather scant from 1973 to 1976 and there are no entries available from 1976 to 1983. As the entries in the House Annals for the same period tell us very little, the poor record keeping for the later period of St. Ninian's existence must also be included among the systemic failures. A further source of information about St. Ninian's is the corpus of correspondence that exists, but this has to do mainly with the foundation years and the decisions leading to up the closure of the establishment in 1983.

iii. What is the basis of that assessment?

The basis for the recognition of systemic failures is that, both at organisation and establishment levels, there was a lack of awareness, on the part of people responsible, of the need for in-depth examination or analysis of the needs of the children in their care. For example, when boys absconded or committed thefts or other petty crimes, punishment was often meted out without much time or effort being expended in trying to find out what psychological or human needs drove them to abscond or engage in petty crime. This lack of awareness of the needs of children, many of whom felt unwanted or unloved, could have been pre-empted or remedied only by adequate preparation in child care. It was not until the early 1970s that the organisation recognised this need and took practical steps to meet it. The basis for other systemic failures that have been mentioned is the apparent lack of awareness of the need to screen both Brothers and other staff who were employed at St. Ninian's and, particularly in the case of Brothers, not taking cognisance of the situational dangers in which unaccompanied night-time supervision put them.

iv. What is the organisation/establishment's explanation for such failures?

As the Brothers with senior corporate responsibility for the running of St. Ninian's – Provincials and their Councils – are now deceased, it is obviously not possible to discuss with them why such systemic failures occurred. Explanations, therefore, have to be retrospective. Many of the deficiencies in the system have already been highlighted and, while the general intention or mission of the Brothers in question with regard to St. Ninian's was undoubtedly good, many practical things were overlooked. The Brothers assigned to St. Ninian's were professionally trained to teach but were not trained in child care.

Guidelines or protocols with regard to professional boundaries in a residential home care environment seemed to have been entirely absent. Not only is there no reference in the records to a code of conduct for the staff of St. Ninian's, there is no reference to a code of conduct for the children. A lack of procedures and policies means that too often re-actions to events occur on ad hoc basis, which tends to lead to poor decision-making.

3.3 Acknowledgement of Failures/Deficiencies in Response

- i. Does the organisation/establishment accept that there were failures and/or deficiencies in its response to abuse, and allegations of abuse, of children cared for at the establishment between 1930 and 17 December 2014?**

There is no record of any abuse complaint or allegation during the time that St. Ninians functioned as a residential home for children, i.e. between 1950 and 1983. If there were no complaints during that period of time there could not have been failures or deficiencies in response. Since historical complaints commenced in 1998, the Christian Brothers believe that they have taken all complaints seriously and have responded initially by means of pastoral outreach and later in accordance with protocols and practices that have been evolving over the past two decades. The first recorded complaint against any staff member of St. Ninian's dates from 27/09/1998. This was a complaint of sexual abuse against a former Brother, now deceased, who served in St. Ninian's from [REDACTED] 1960 to [REDACTED] 1962. Reference has already been made to this former Brother in 2.2 (vii) above to the effect that he was removed from St. Ninian's because 'he could not be trusted with children'. It is not clear whether this transfer from St. Ninian's was on foot of an allegation made against him by one of the boys or due to observation on the part of the Superior or other staff member. The Brother received ongoing treatment over a period of time from a psychiatrist after leaving St. Ninian's and, eventually, on the recommendation of the Provincial of the English Province, he was granted a dispensation from his vows and ceased to be a member of the congregation on [REDACTED] 1965. The person who made the complaint in September 1998 against the former Brother was living in [REDACTED] at that time and made his complaint by phone-call. A member of the Provincial Council of the English Province at the time of the phone-call offered support and counselling to the complainant over several phone-calls. The same complainant also made a physical abuse complaint against another Brother. The police were made aware of these complaints through Detective Constable Buchan.

On 30/10/1998 the records indicate that Detective Constable Buchan contacted the headquarters of the English Province of the Christian Brothers regarding an allegation he had received from a former pupil of St. Ninian's about sexual abuse he had suffered as a pupil in c.1973. The complainant indicated that this abuse was perpetrated by a Brother or priest who was on the staff at the time but seemed to be somewhat confused as to the nature of the abuse he had suffered and the precise identity of the perpetrator. The identity of the alleged perpetrator was clarified later as a specific Brother who was a member of the staff at the time of the alleged abuse. There appears to be no further reference to this allegation until 2010 after the English Province had been subsumed into the European Province. At this time, direct contact was established between the complainant and a member of the leadership team of the European Province who agreed to meet the complainant. This meeting took place on 14/02/2011. Correspondence between the complainant and the Province leadership team continued after that meeting and, eventually, another meeting took place between the complainant and a different member of the Province leadership team on 13/11/2015. Contacts between the complainant and the Province leadership team continued after that meeting in November 2015.

Items of correspondence on record at the European headquarters in Marino, Dublin, refer to an email received from a complainant on 01/09/2014 and a second email from the same complainant on 02/09/2014. The complainant made an allegation of severe physical punishment against a named Brother, now deceased, who worked in St. Ninian's in the early 1970s. A member of the Province leadership team replied by email on 19/09/2014. Receipt of the complaint was acknowledged and answers were provided in respect of issues that were raised. While the complainant received advice on how to process his complaint nothing further was heard from him. It is not clear if there is a connection between the subject matter of this complaint and an entry in St. Ninian's Log Book on [REDACTED] 1972 referring to an apology by a Brother, in front of the boys in the chapel, 'for the angry and unfair punishment meted out the night before'.

As indicated earlier, allegations regarding [REDACTED] members of staff at St. Ninian's [REDACTED] and have resulted in two prison sentences [REDACTED]. Allegations against two [REDACTED] people in question seem to have come to the attention of the Provincial Council of the English Province initially in June 2002. One or both of the parties against whom allegations were made contacted the English Province headquarters to indicate that Scottish police were filing criminal charges against them relating to physical and sexual abuse. A member of the Provincial Council of the English Provincial must have notified the Province's solicitors, Hill Dickinson, based in Liverpool, of this as there are a number of items of correspondence

between Hill Dickinson and a member of the Provincial Council relating to the matter in the course of 2002. In a letter dated 18th November 2002 from Hill Dickinson to the member of the Provincial Council, there is a reference to the effect that Mr. Russell, the Procurator Fiscal at Cupar, had indicated that it was not proposed to prosecute one of the parties against whom allegations had been made. Mr. Russell had further intimated that this did not mean that there never would be proceedings. There is no record that the second person against whom allegations had been made at the same time received similar notice. No further action appears to have been taken by the Scottish authorities at that time. Several years elapsed before the Christian Brothers European Province headquarters in Marino, Dublin, were contacted by Fife police in August 2013 about furnishing information in respect of the two people referenced above together with [REDACTED] others. The Christian Brothers have confirmed that they provided copies of all relevant files they had in their possession about the people in question.

The headquarters of the European Province of Christian Brothers have indicated that the Brothers are endeavouring to deal with all allegations in accordance with the protocols and practices that are now in place for well over a decade. When they are informed that there is a criminal investigation against a Brother, a former Brother or a former employee of an establishment run by them, they provide the police, either directly or through their solicitors, with copies of all relevant documentation held by them. When criminal charges are pressed, the Brothers feel that the legal proceedings have to take their course. Where a complainant contacts the Brothers directly, they engage in pastoral outreach which means that they offer the complainant support and counselling. They also notify the police and the relevant child protection agencies about the nature of the complaint received.

While the first historical abuse allegations that came to light on 27/09/1998 seems to have been handled sympathetically by the member of the English Provincial Council, records of the case are insufficient to lead to a conclusion that the complainant's issues were resolved to his satisfaction.

ii. What is the organisation/establishment's assessment of the extent of such failures in its response?

The current leadership of the organisation believe that the allegations of which they are aware have been treated in accordance with the procedures and practices that have now been adopted by the Catholic Safeguarding Advisory Service for England and Wales and by religious congregations involved in education. These procedures and practices underline the importance of

providing a sympathetic hearing for the complainant, informing police and agencies that are in a position to assist the complainant in processing his or her complaint and appointing a support person to maintain contact with and counsel the complainant. Certainly, the protocols and practices that have evolved over the past decade or more should ensure a much safer environment for all children, particularly those who suffer from neglect and deprivation. The current leadership of the Christian Brothers subscribe fully to these protocols and practices.

iii. What is the basis of that assessment?

The Christian Brothers have no desire to adopt a defensive attitude towards any adult who feels that he was abused or mistreated during his time at St. Ninian's. Any complaints or allegations that have come to the attention of the current leadership of the congregation have been treated seriously. The Christian Brothers are eager to co-operate fully with the Scottish Child Abuse Inquiry and to provide copies of any records that the Inquiry team deem useful.

iv. What is the organisation's explanation for such failures/deficiencies?

As explained in previous sections, the Christian Brothers recognise and acknowledge that instances of abuse occurred in St. Ninian's and that systemic failures contributed to these. However, since knowledge of these instances of abuse have come to the attention of the current leadership team of the Christian Brothers, the procedures and practices that have been adopted by the Catholic Safeguarding Advisory Service and religious congregations have been followed. It is important to state, in this context, that the assistance and expertise of lay people as well as the expertise among priests and religious have been employed in establishing these procedures and practices.

3.4 Changes

i. To what extent has the organisation/establishment implemented changes to its policies/procedures and practices as a result of its acknowledgment in relation to 3.1 – 3.3 above?

As indicated previously, the organisation (the Christian Brothers) has had no involvement with residential care for children in Scotland since 1983. In dealing with historical complaints, the Christian Brothers follow the procedures and practices that have been adopted by the Catholic Safeguarding Advisory Service for England and Wales and by religious congregations involved in education.