

(Emailed)
Scottish Child Abuse Inquiry
PO Box 24085
Edinburgh
EH7 9EA



Our Ref:
GDW/CD/K0700.00019

Date:
1 July 2019

Dear Sirs

**Congregation of Christian Brothers - Scottish Child Abuse Inquiry
Addendum to Parts A and B**

We refer to the Parts A and B response submitted by the Congregation of Christian Brothers, dated 26 April 2017 in response to the section 21 notice dated 25 January 2017.

In light of the evidence the Inquiry has heard during this case study, there are certain aspects of the Parts A and B responses which the Congregation would wish to revise. The Congregation sought to prepare the original Parts A and B responses with diligence and with reference to the archive material available to them. However they recognise that in light of the evidence heard by the Inquiry certain answers were either incomplete or inaccurate, despite their best endeavours. There are also some answers where the Congregation considers further information could be added to best assist the Inquiry in its work.

Part A, 1.1(iv)

The Congregation's response sets out that there is no evidence that any of the brothers working at St Ninian's in the early years had any specific training in caring for children in residential care homes apart from their academic qualifications, teacher training, and teaching experience. The Inquiry has heard evidence (such as from Harry Harrington on 13 June 2019) that he had not received any childcare training at all. Harry Harrington was at St Ninian's for one month in 1973 and thereafter between 1976 and 1980. The Congregation therefore accepts that, at least in the case of Harry Harrington, it cannot be said that the lack of specific training in caring for children in residential care homes was limited to the "early years".

The Congregation acknowledges the evidence of Michael Madigan [TRN.001.001.4360] that, by today's standards, it was a "facile presumption" that brothers with experience of managing day schools could also manage residential schools without specific training.

Part A, 1.1(xii)

The Congregation has not run any residential establishment in Scotland since the closure of St Ninian's in 1983. During phase 1, Michael Madigan was asked whether the Christian Brothers are still involved in providing care elsewhere in the world [TRN.001.001.4437]. Mr Madigan was not able to answer the question. To the best knowledge of the leadership team of the European Province of the Congregation, the Congregation do not provide residential care anywhere in the world.

Part A, 1.2(ii)

The Congregation accepts that, at times, the staffing level at St Ninian's was insufficient. The Inquiry has heard evidence (such as from LNC [REDACTED] ("Peter") on 13 June 2019) that the staffing levels were insufficient and that, on occasions, this made working at St. Ninian's very difficult. The Congregation cannot say with any certainty that this understaffing was a manifestation of underfunding, however it can be implied.

Part A, 1.4(a)(iv)

While the Congregation understands that government departments and local authorities had responsibility for the children they placed in the Congregation's care, the Congregation wishes to make clear that their answer to this question was not in any way intending to indicate that they themselves did not also have a legal responsibility for the children at St Ninian's. Reference is also made to Part A, 1.4(a)(v).

Part A, 1.5(a)(i)

The Congregation has referred to its Constitution [CBR.001.001.0720] and the Acts of Chapter from 1972 [CBR.001.001.0654] in its answer to this question. For completeness, the Congregation also refers to the following as setting out its function, ethos or mission in terms of the provision of residential care.

1. The Acts of Chapter 1972 [CBR.001.001.0654], including:

"60(G). During recess periods the pupils are to be guarded, as far as possible, from moral as well as from physical danger. In residential schools special vigilance is required in guarding the morals of the pupils."

"61 (P). It must be the aim of every Brother to reduce corporal punishment to a minimum. Frequent recourse to corporal punishment indicates a bad tone and ineffectual discipline. In administering it the following rules must be strictly observed:

- (a) Corporal punishment should be administered only for serious misconduct;*
- (b) The principal teacher only, or such members of staff as are delegated by the Headmaster, shall inflict corporal punishment. In primary departments the principal teacher only may administer corporal punishment. Entry should be made in a punishment book;*
- (c) Only the approved leather strap may be used for inflicting corporal punishment. Not more than two strokes on the palm of the hand shall be administered. If it is considered that the occasion requires further punishment the matter must be referred to the Headmaster;*
- (d) the boxing of pupils' ears, the pulling of their hair, and similar ill-treatment are absolutely forbidden."*

"62(P). [...] 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."

2. Constitutions and Statutes of the Congregation of Christian Brothers [CBR.001.001.1231], including:

"3. By their vocation the Brothers undertake to live the Christian life fully, dedicating themselves wholly to the service of God. [...]"

"7. The particular apostolate of the Brothers is that of Christian education, in which they should exercise a special care for the poor and underprivileged. Besides educational work, the Brothers undertake other activities that promote this end."

Chapter 3 – Chastity, including:

"28. Respecting all his pupils as temples in which the Holy Spirit dwells, the Brother should be gentle and courteous towards them, in imitation of the divine Teacher. By his own manliness and strength of character the Brother will be a model to his pupils as they grow towards full Christian maturity."

Chapter 6 – Apostolate of the Christian Brother, including:

"67. The Brothers should respect all their pupils as children of God and aim to create in their schools an atmosphere of freedom and charity in the spirit of the gospel."

"69. The Brothers should lead their pupils towards a harmonious development of their spiritual, mental, physical, and aesthetic powers and direct them in such a way that they will become men of character and right judgement."

"84. A Brother who becomes aware of a matter of serious consequence, especially when there is danger of others being scandalized or corrupted, should report it to the Superior if he considers that his private advice is or would be ineffectual."

3. Constitutions of the Brothers of the Christian Schools of Ireland (Christian Brothers) [CBR.001.001.0668], including:

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

"134 In conversation with externs Brothers must be very careful not to disclose the internal affairs of the houses and of the Congregation; if questioned on such subjects they must refer the enquirer to the Superior."

4. Constitutions of the Brothers of the Congregation of the Brothers of the Christian Schools of Ireland usually called Christian Brothers [CBR.001.001.0720], including:

"91. Whilst the Brothers should cherish an affection for all their pupils, especially the poor, they are forbidden to manifest a particular friendship for any of them. They must not

fondle their pupils; and unless duty and necessity should require it, a Brother must never be alone with a pupil."

5. Directory and rules of the Congregation of the Brothers of the Christian Schools of Ireland [CBR.001.001.0769], including at page 169:

"13. Whilst they should cherish a tender affection for all their pupils, especially the poorest, out of love for our Lord Jesus Christ Whom they more closely resemble, they shall not manifest a particular friendship or inclination for certain pupils, for such affections are most dangerous snares of the devil, and might easily be followed by fatal consequences, which would bring dishonour on Religion, and even render the guilty one liable to severe penalties under the civil law. How awe-inspiring are the words of Holy Scripture: "He that shall scandalize one of these little ones that believe in Me, it were better for him that a millstone should be hanged about his neck, and that he should be drowned in the depth of the sea."

These passages are referred to give context to the updated Part C and D responses. The Congregation acknowledges that abuse occurred at St Ninian's against a background of it having happened in the face of identification of there being a risk.

The Congregation also acknowledges that there has been evidence (such as from Harry Harrington on 14 June 2019) that some brothers, though having an awareness of certain aspect of the Constitution, did not have a real understanding as to what this meant or to the importance of adherence to and implementation of the Constitutions.

Part A, 1.5(a)(v)

The Congregation referred in its response to the appointment of a [REDACTED] in 1974.

The Inquiry also heard evidence from [REDACTED] MBV ("John") on 20 June 2019. Mr [REDACTED] MBV gave evidence that he [REDACTED] as a brother between 1968 and 1972. Despite being referred to as a [REDACTED] on his [REDACTED] Mr [REDACTED] MBV confirmed that he did not qualify as a [REDACTED] until after 1983.

Part A, 1.7(xiv)

Reference is made to the additional comments above regarding [REDACTED] MBV.

Part A, 1.8(a)(v)

Reference is made to the additional comments above regarding Part A, 1.1(iv).

Part A, 2.2(iv)

The Congregation accepts, having heard the evidence from both applicants and other witnesses at the Inquiry hearings, that it cannot be said that in every case the level of care received by the children at St Ninian's was in keeping with the Congregation's culture, policies and procedures.

Reference is made to the additional comments below regarding Part A, 2.2(v) and also the separate addendum to parts C and D.

Part A, 2.2.(v)

In its response, the Congregation noted that there was nothing in the visitation reports or Annals to suggest that the home was run other than in accordance with the culture, policies and procedures of the Christian Brothers. In light of the evidence heard during the case study the Congregation accepts that this statement requires clarification.

First, the Congregation accepts that, at least on one occasion, there is evidence within the logbooks that demonstrates that Frank McCue was subject to a punishment that was far beyond what would be acceptable in accordance with Congregation's culture, policies and procedures.

Secondly, there has been other evidence given to the effect that the house was not run in accordance with culture, policies and procedures of the Congregation. Reference is made to the separate addendum to Parts C and D.

Part A, 2.3(i)

Following the evidence, the Congregation accepts that there were occasions where one particular brother or brothers played a dominant role in how St Ninian's was managed and led. In particular, the Congregation accepts that it is clear Brother G Ryan had a significant influence and power over the management of the home.

Part A, 2.3(ii)

There is an error in the list of superiors of St Ninian's. It should be noted that Brother McNamara was superior in St. Ninian's from August 1970 to July 1973 (not 1973 to 1976). Brother Forde took over from him and was appointed superior in September 1973 but it appears that he did not arrive in Falkland until April 1974 because of illness (the Annals state that he arrived on 04 April 1974). Brother Forde was Superior until July 1976.

Part B, 3.2(i)

The Congregation previously stated that: "*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.*"

The Congregation acknowledges that its own Constitution [CBR.001.001.1231], at paragraph 26 of page 29, provides a clear indication that the Congregation recognised that risks existed. The Congregation accepts that, by its own acknowledgement of this risk, there should have been an awareness on the part of the Provincial Council.

The Congregation also accepts the visitation reports demonstrate that it was identified there was a requirement for special training in order to care for children in a residential care setting. Reference is made to CBR.000.001.2326. Further, the Congregation notes a visitation report [CBR.001.001.2326] which identifies that an educational psychologist is an "*essential...not a luxury*".

Part B, 3.2(iii)

The Congregation also accepts that another basis for accepting there were systemic failures at an organisational level is that two brothers with previous allegations of inappropriate behaviour towards children were transferred to work at St Ninian's.

Yours faithfully



Clyde & Co (Scotland) LLP