

(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 C and D**

We refer to the Part C response dated 25 May 2017 and the updated Part D response dated 28 March 2019 submitted by the Congregation of Christian Brothers in response to the section 21 notice dated 25 January 2017.

Following our letter in relation to Parts A and B, the Congregation also wish to update their previous responses in light of the evidence the Inquiry has heard during this case study. As previously, the Congregation sought to prepare the original Parts C and D (and updated Part D) with diligence with reference to the archive material and other evidence. Once again the Congregation recognise that in light of the evidence heard by the Inquiry, and due to the passage of time, some of their previous responses require amending or updating.

Part C, 4.1(iii)

In relation to whistleblowing, the Congregation accepts that while there is no evidence of the term being used in the period St Ninian's was operational, it was the responsibility of brothers to report any allegations or suspicions of abuse to the Superior. Reference is made to the Constitutions and Statutes of the Congregation of Christian Brothers [CBR.001.001.1231] at paragraph 84.

In relation to record retention, the Congregation is still not able to provide an explanation for the missing log book for the period 1976 to 1983.

In relation to record retention, the Congregation is still not able to provide an explanation with regards to a log book for the period 1976 to 1983. The Congregation became aware that there was not a log book for this period in 2013. This was following on from enquiries from the Scottish police regarding St Ninian's. The Congregation were asked by the police about a log book for this period and were not

able to locate one. It is not part of the St Ninian's archives. This was followed by the execution of a warrant by members of An Garda Síochána on 4 December 2014 [see CBR.001.001.2930].

The last entry in the log book covering the period 1968 – 1976 is [REDACTED] 1976 [see CBR.001.001.2193]. There is no entry in the log book after that date even though there are remaining blank pages. It is not clear to the Congregation if another log book was started at any stage from [REDACTED] 1976 until the school closed in 1983.

The Congregation has made attempts to search for a log book for this period. The Congregation's archivist has searched the archives for any reference to this log book. There are references (dating to 1998 and 2008) which note that there are only three log books. Searches were made in the full St Mary's Province England archive in case a log book for St Ninian's was placed with a collection for a different school at any stage. No further log book for St Ninian's has been found there.

The Brothers' houses which were used as the Provincialate, and where the archives would have been situated between 1983 and 1992 (in Bath and Liverpool), are no longer occupied by the Christian Brothers. Requests were made for searches in the remaining Brothers' houses in Liverpool. No records relating to St Ninian's have been found. Further, the Congregation has requested a search be made by the Congregation's English solicitors who borrowed the collection in 1998. This search did not locate a log book for 1976 – 1983.

In relation to reviewing a child's continued residence at St Ninian's, the Congregation accepts that the assumption that decisions were reached following a consultation between the local authority and St Ninian's is not supported. The Inquiry has heard evidence that MBV [REDACTED] [REDACTED] in the latter years of St Ninian's operation; however there has not been clear evidence to support the presumption that consultations took place for each child, nor can this be discerned from the records.

Part C, 4.1(iv)

The Congregation accepts that there is not sufficient information in the records to demonstrate that national policies and guidelines were followed. Evidence has been heard of events that clearly demonstrate that this cannot be the case. While there is no direct evidence to the contrary in the records (that being evidence in the records that national policies and guidelines were explicitly not followed) the Congregation does not stand by its previous statement.

Part C, 4.1(v)

Reference is made to the additional comments above for Part C, 4.1(iv).

Part C, 4.1(vi)

The Congregation wishes to clarify that, where there were policies, and these were not followed, they should be held accountable for that failing.

Part C, 4.2(vi)

The Congregation also accepts that it had a responsibility to be aware of local policies, if such policies did exist at the time. The Congregation should have liaised with local authorities. There is no positive evidence as to whether this did or did not occur.

Part C, 4.3(a)(i)

The Congregation acknowledges that it would have been beneficial for the brothers to know the background of the boys that were admitted. Evidence has been heard from some brothers and former brothers that they deliberately did not seek to enquire into the background of the boys as they wanted to *take them as they found them* (to paraphrase the evidence). While the Congregation understands this approach, the Congregation accepts that it would have been of greater benefit to the children, brothers, and lay staff if further information was provided in relation to backgrounds. This would have helped the brothers and staff provide more tailored care, informed by their knowledge of each individual child. The Congregation is not in a position to say with any degree of certainty whether any steps were taken in this regard, however the evidence that has been heard would suggest that it was not and the Congregation accepts that this was a failing.

Part C, 4.4(a)(iv)

In relation to schooling and education, the Congregation acknowledges the evidence heard by the Inquiry that there was a lack of formal curriculum at St Ninian's. The Inquiry also heard evidence that the quality and standard of the schooling was less than should have been expected. The Congregation acknowledges that the failure to offer an appropriate level of education with clear measures of attainment was a major failing.

In relation to discipline, the Congregation accepts that while the visitation reports refer to the good discipline and atmosphere at St Ninian's, this has not been supported by the evidence heard by the Inquiry. While punishments have been recorded in the log books the frequency of such references decreases in later years. The Inquiry has heard evidence of discipline and corporal punishment in this later period which would indicate that there was not consistent recording in the log books. The Inquiry has also heard evidence of discipline and punishment that the Congregation can only describe as excessive, inhumane and inexcusable.

Part C, 4.4(b)(ii)

In relation to schooling and education, the Congregation refers to its comments above regarding Part C, 4.4(a)(iv).

Part C, 4.5(a)(i)

In light of evidence heard at the Inquiry, the Congregation accepts that it is not possible to say that all children were well cared for. While this may be an inference from the visitation reports, this does not tally with evidence heard from the applicants. The Congregation has previously – and continues to – acknowledged with deepest regret that some children at St Ninian's were abused. The Congregation accepts that to insist that all children were well cared for would be contrary to that acceptance and the apology it has unreservedly made.

Part C, 4.5(b)(i)

The Congregation accepts that, in light of the evidence heard at the Inquiry, it cannot be said that all of the brothers at St Ninian's adhered to the Congregation's policies. For example, the Inquiry has heard evidence from applicants and brothers that children would sleep on the floor of a brother's room. This is in stark contrast to the requirements of the Congregation's constitutions. Reference is made to the Constitutions of the Brothers of the Christian Schools of Ireland (Christian Brothers) [CBR.001.001.0668] at paragraph 134.

Part C, 4.5(b)(ii)

The Congregation acknowledges the evidence heard by the Inquiry that would demonstrate that it did not always adhere to its practice in relation to these issues. Though there are no documented policies, *per se*, on child protection there are a number of elements of the constitutions and rules that could properly be characterised in today's parlance as "safeguarding" or "child protection". The Congregation accepts that the Inquiry has heard evidence that shows that these policies were not adhered to. For example, we refer to the additional comments regarding Part C, 4.5(b)(i).

Part C, 4.6(a)(vi)

The Congregation accepts that there was not a clear and professional approach in relation to the recruitment of staff.

Part C, 4.9(a)(i)

While there are no recorded policies in place regarding the reporting of complaints during the period St Ninian's was operating, the Congregation would expect that – in any era – a child or children should have a means of being heard, whether that was to a brother or someone independent of the home. While the Inquiry has heard evidence from brothers and former brothers that they would have listened to any complaints, the Congregation accepts the evidence of applicants that they did not feel that they could talk to the brothers. Regardless of whether that feeling was misplaced by any applicant, the Congregation accepts an environment and system should have been in place to allow any child in its care to report concerns or make a complaint.

Part C, 4.12(a)(i)

The Congregation accepts that it cannot be said that record keeping did take place in compliance with national standards. The Inquiry has heard evidence that there was not a punishment book. The Congregation notes the evidence of LNC [REDACTED] ("Peter") on 13 June 2019 but this evidence is not supported by any other witness. Further, the implication from LNC [REDACTED] evidence was that he thought there was a punishment book, though he did not see it himself. In light of this the Congregation accepts it is likely that there was not a punishment book. This alone would be a breach of the record keeping requirements at the time.

Part D, 5.2(i)

The Congregation has heard evidence at the Inquiry that can be categorised as, at times, representing a culture of abuse at St Ninian's. Particularly during the tenure of Brothers Ryan, Farrell and Kelly the Congregation accepts that the extent of abuse was intolerable, unacceptable, and reprehensible. There has been evidence of punishments, such as being hit on the soles of the feet, that goes well beyond acceptable levels of corporal punishment.

The Congregation accepts the convictions of John Farrell and Paul Kelly. The Congregation is not in a position, and nor would it be right for them to comment in such a way, to determine whether other specific allegations of abuse did or did not occur. That is a matter for the criminal courts. The Congregation accepts that for some applicants, and in relation to some allegations, that route is no longer open to them. However the Congregation respects the fundamental features of natural justice and, even in cases of abuse by deceased individuals, it would not be appropriate for the Congregation to comment on a specific level.

Nevertheless it is the Congregation's position, and indeed the position of the Catholic Church, that survivors of abuse are to be believed. The Congregation accepts that abuse occurred at St Ninian's and the Congregation once again repeats its unreserved apology for that.

Part D, 5.2(v)

In addition to the brother being transferred from St Ninian's in 1962, there are records to suggest that Frank McCue suffered a physical assault at the hands of Brother BHD

Part D, 5.2(vii)

The Congregation also notes that there were a number of applicants who made allegations of abuse occurring on trips to other locations in Scotland; and to England, Wales and Ireland.

Part D, 5.8(ii)

The Congregation does not suggest this list is an exhaustive list of all of the brothers or staff members against whom allegations were made during the case study.

Part D, 5.8(v)

The Congregation accepts that the movements of Brother MCE and Brother Farrell were inappropriate and wrong. There is a dearth of records in relation to the reasons behind Brother Farrell's move from Pretoria. The Congregation accepts the evidence of Brother O'Neill (21 June 2019) that the "*victim was the first one that should be looked after, not the one who had caused the trouble*".

Part D, 5.8(vi)

The Congregation notes the evidence of Brother O'Neill in relation to the movement of Brother Farrell from Pretoria in 1972, however it would not go so far as to suggest that the correspondence that took place following that movement could be properly classified as "monitoring/supervision".

Yours faithfully



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