

**ROYAL COMMISSION INTO INSTITUTIONAL
RESPONSES TO CHILD SEXUAL ABUSE**

**Public Hearing - Case Study 50
(Day 246)**

Level 17, Governor Macquarie Tower
1 Farrer Place, Sydney

On Friday, 10 February 2017 at 10am

Before:

The Chair:	Justice Peter McClellan AM
Before Commissioners:	Justice Jennifer Ann Coate
	Mr Bob Atkinson AO APM
	Mr Robert Fitzgerald AM
	Professor Helen Milroy
	Mr Andrew Murray

Counsel Assisting:	Ms Gail Furness SC
	Mr Stephen Free

1 MS FURNESS: Your Honour, the witness today is Ms Teresa
2 Devlin.

3
4 <TERESA BERNADETTE DEVLIN, sworn: [10.03am]

5
6 <EXAMINATION BY MS FURNESS:

7
8 MS FURNESS: Would you tell the Royal Commission your full
9 name?

10
11 MS DEVLIN: Teresa Bernadette Devlin.

12
13 MS FURNESS: Your occupation?

14
15 MS DEVLIN: I'm a social worker. My current role is Chief
16 Executive Officer of the National Board for Safeguarding
17 Children with the Catholic Church in Ireland.

18
19 MS FURNESS: Prior to your position as chief executive
20 officer of the board, what was your work?

21
22 MS DEVLIN: I have been a child protection social worker
23 since 1981 in England, in Northern Ireland. I then moved
24 to work for the Children's Commissioner's Office
25 immediately prior to joining the National Board in 2009.
26 I first took up the post as Director of Safeguarding and
27 then took on the role as CEO three years ago.

28
29 MS FURNESS: Had you worked for the Catholic Church before
30 the position with the board?

31
32 MS DEVLIN: Never.

33
34 MS FURNESS: The board was established in 2009; is that
35 right?

36
37 MS DEVLIN: Between 2006, they initial board was
38 established and set up the national office in 2008, and
39 I came into the role in 2009.

40
41 MS FURNESS: The board followed or its establishment
42 occurred at the time of various commissions of inquiry in
43 Ireland; is that right?

44
45 MS DEVLIN: Yes. We have had several inquiries, public
46 inquiries, in Ireland into institutional abuse of
47 children - the Ryan Report, and then, more recently, into

1 diocesan clergy abuse, the Murphy Commission in Dublin, the
2 Murphy Commission in the Diocese of Cloyne, and then, just
3 reported very recently, the Northern Ireland Historical
4 Inquiry.

5

6 The board came into the role as the Archdiocese of
7 Dublin abuse inquiry was about to report, so in
8 anticipation of the outcome of that.

9

10 MS FURNESS: Was there any recommendation from any inquiry
11 in relation to either establishment or in some way dealing
12 with the operation of the board?

13

14 MS DEVLIN: No. The board was set up by the Irish
15 Catholic Bishops, the Conference of Religious and the Irish
16 Missionary Union as the anticipated outcome from those
17 inquiry reports, but it wasn't a recommendation of the
18 inquiry reports.

19

20 MS FURNESS: I'll take you to some of the detail of the
21 board. Perhaps if we can have, first of all, tab 59 on the
22 screen. Perhaps if the witness can have the relevant
23 tender bundle. This document, Ms Devlin, is your response
24 to the Royal Commission setting out briefly the role of the
25 board; that's right?

26

27 MS DEVLIN: That's correct.

28

29 MS FURNESS: You provided various documents. The next
30 document, tab 60, is the memorandum of association of the
31 company. So it was established as a company limited by
32 guarantee?

33

34 MS DEVLIN: That's correct.

35

36 MS FURNESS: If we just scroll down, it refers in
37 paragraph 2, in the second paragraph of paragraph 2, to
38 "the Constituents". Now, the 26 dioceses of the Church on
39 the island of Ireland - is that every diocese?

40

41 MS DEVLIN: There are 26 dioceses. That's every diocese.

42

43 MS FURNESS: And members of the Conference of Religious?

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45 MS DEVLIN: About 147 in total.

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47 MS FURNESS: And they're all part of the scheme?

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MS DEVLIN: They are, yes.

MS FURNESS: Members of the Irish Missionary Union?

MS DEVLIN: About seven of those, that's correct, yes.

MS FURNESS: And such other congregations, organisations, associations, et cetera, with the prior agreement of the members of the company. Anybody else?

MS DEVLIN: There will be Prelatures like Opus Dei. There will be some agencies of the Church who have joined the scheme - for example, the Legion of Mary and other agencies of the Church - that recognise that they need to implement standards, so they have joined and they have signed memorandums of understanding with the National Board and follow the policies and procedures of the Church in that regard.

MS FURNESS: Is there any significant Catholic Church entity that's not part of the scheme?

MS DEVLIN: No. They're all part of it.

MS FURNESS: Then there's reference to the "Sponsoring Bodies", and that's the Irish Episcopal Conference, the Conference of Religious and the Irish Missionary Union. What does "Sponsoring Bodies" mean in terms of how the board operates?

MS DEVLIN: They provide the funding for the board. Members of the sponsoring bodies are members of the company - so the four archbishops, the episcopal secretary and members of the two other agencies, the Conference of Religious and the IMU, which are now amalgamated into one as of last week, they're members of the company - so they have legal liability and they fund the work of the office.

They appoint the board members in the first instance - they appointed the board members in the first instance, who are largely laypeople, although there is a canon lawyer and a couple of religious on the board, and it is the board who employ the national office staff - myself and the other national office staff.

MS FURNESS: In terms of the funding, do you know how it's

1 determined between each of the bodies which are the
2 sponsoring bodies, as to who pays what?

3

4 MS DEVLIN: Yes. I don't know the detail of it. I can
5 access that. But the budget is probably split -
6 75 per cent the bishops fund it and 25 per cent it is
7 funded by the religious.

8

9 MS FURNESS: Is that based on numbers of members or --

10

11 MS DEVLIN: Probably ability to pay.

12

13 MS FURNESS: I see. Are there provisions for one or more
14 of the sponsoring bodies to exit the scheme?

15

16 MS DEVLIN: Yes. When we developed our first standards in
17 2009, we expected that all members, all constituent
18 members, would sign up to work to those standards, which
19 indeed is what they did.

20

21 We revised the standards in 2015 and we asked them to
22 re-engage and engage in a new memorandum of understanding
23 so that we wanted their renewed commitment to working with
24 the National Board. We are in the process of getting all
25 of those 190-odd members to now sign up. We haven't
26 completed that, but if one or other chooses not to, they
27 can do that.

28

29 MS FURNESS: Do you anticipate that that will happen?

30

31 MS DEVLIN: I anticipate there will be some difficulties
32 around aspects, which I'm sure we'll talk about later on,
33 in relation to data protection and data sharing, which is
34 probably the biggest challenge between someone signing up
35 to work with us, because we are not a statutory body and
36 they have some concerns about sharing confidential
37 information with a non-statutory body. That's the only
38 difficulty I anticipate.

39

40 MS FURNESS: You say there's a board that has been
41 selected by the sponsoring bodies?

42

43 MS DEVLIN: In the first instance, the chair was appointed
44 by the sponsoring bodies. It is now self-renewing, so if
45 a board member leaves, the chair and the members of the
46 board select new members.

47

1 MS FURNESS: And the chair is a layperson?
2
3 MS DEVLIN: He's a corporate lawyer. He's a layperson.
4
5 MS FURNESS: What's the composition of the board?
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7 MS DEVLIN: He's a corporate lawyer. We also have another
8 lawyer, we have a psychologist, a family therapist,
9 a social care worker, a statutory manager of social
10 services, two priests and a senior nurse manager.
11
12 MS FURNESS: The statutory manager of social services -
13 that is somebody who is otherwise employed by the state?
14
15 MS DEVLIN: That's absolutely correct. We also have
16 a retired police officer. Yes, she is currently employed
17 by the state, but she also does this work with our board as
18 well.
19
20 MS FURNESS: Presumably with the approval of the state?
21
22 MS DEVLIN: Yes.
23
24 MS FURNESS: You're not on the board?
25
26 MS DEVLIN: No. I report to the board.
27
28 MS FURNESS: Do you consider yourself independent from the
29 Church?
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31 MS DEVLIN: We have to fight hard to maintain our
32 independence, and there are challenges to that because we
33 are funded by the Church. So we protect our independence
34 greatly, and we do that through the process of our work,
35 which I'm sure we'll talk about quite a lot today, but
36 there can be a perception, because we are funded by the
37 Church, that we are not independent.
38
39 The Church would think differently, because when we
40 are critical of them, they see that we are very independent
41 and they perhaps don't like that.
42
43 MS FURNESS: Can you think of another structure whereby
44 the reality and perception might be different in terms of
45 independence?
46
47 MS DEVLIN: The only other way to be completely

1 independent is to be funded outside of the Church, by the
2 statutory authorities, but that's unlikely to happen.

3
4 MS FURNESS: Has that been explored at all?

5
6 MS DEVLIN: No, not as yet, although we are exploring with
7 the government in the Republic of Ireland - Ireland has two
8 jurisdictions, as you're probably aware. All of the
9 dioceses, all of the 26 dioceses, with the exception of
10 one, are in the Republic of Ireland or share a border with
11 the Republic and the north of Ireland - there's only one
12 diocese in the north of Ireland. So quite a lot of our
13 work is with the Republic of Ireland Government.

14
15 So we are about to engage with the Minister for
16 Children around the government providing regulation or
17 statutory powers to the board - not funding, but
18 regulation, so that the data protection issues might be
19 overcome.

20
21 But we've never sought funding from outside of the
22 board. However, we do charge for our services as well, so
23 if we provide training, we charge for those services, and
24 if we run conferences - so there's an element of
25 self-funding or self-resourcing as well, but the core
26 funding comes from the Church.

27
28 MS FURNESS: Are you, as a board, subject to any state
29 regulation as to how you operate?

30
31 MS DEVLIN: All of our work is guided by national
32 legislation, not just childcare legislation, other aspects
33 of legislation, including the Constitution of the Republic
34 of Ireland, and that's significant, and again we might talk
35 about that. But, yes, we are governed, and we have
36 governance regulations ourselves. We report to government
37 on liability, on charity laws - all of those sorts of
38 things.

39
40 MS FURNESS: And you report because you're a company
41 limited by guarantee?

42
43 MS DEVLIN: Correct.

44
45 MS FURNESS: You talked about the Constitution, you were
46 subject to the Constitution. How significant is that?

47

1 MS DEVLIN: Well, within the Irish Constitution there is
2 a right to privacy, and when we are dealing with
3 allegations of abuse, we have to be mindful of that right
4 to privacy. So, for example, in some of our work, when
5 allegations emerge and a priest or religious is removed
6 from ministry, there has to be some discussion about how
7 public you make that information, bearing in mind the
8 constitutional rights to privacy.

9
10 So those matters influence how we would guide Church
11 authorities, bishops or provincials, in determining whether
12 they make a public statement or not. Now, we don't do it
13 ourselves because we are an advisory body in that regard,
14 but we advise the Church authorities on those matters.

15
16 MS FURNESS: So coming to what it is the board does, if we
17 can have tab 59 back up - this is your letter - on the
18 second page you refer to the advisory role. Can you tell
19 us what the advisory role comprises?

20
21 MS DEVLIN: I will. The largest aspect of our work which
22 attracts attention, rightly, is the case management part of
23 our work. So when we began our work, a number of bishops
24 and provincials, Church authorities as we call them, were
25 managing cases, or not, on their own.

26
27 MS FURNESS: By "cases", you mean allegations?

28
29 MS DEVLIN: Allegations and complaints, concerns,
30 suspicions - there's a whole category.

31
32 MS FURNESS: Just before you go on, this is in relation to
33 child abuse generally?

34
35 MS DEVLIN: Child abuse only. Not vulnerable adults.

36
37 MS FURNESS: And obviously it includes child sexual abuse?

38
39 MS DEVLIN: Our remit is mostly child sexual abuse,
40 although we don't ignore or discount allegations of
41 physical and emotional abuse, but our remit is really child
42 sexual abuse.

43
44 MS FURNESS: Thank you.

45
46 MS DEVLIN: So in the early days, a number of the church
47 authorities, the bishops in particular, did have advisers -

1 laypeople or priests and religious - advising them how to
2 manage allegations. Each bishop, provincial, of which
3 there's almost 200, had a different way of managing it.
4 There was no consistency. There was no standard of
5 practice.
6

7 So one of the early developments of the National Board
8 was to introduce standards. One of those standards relates
9 to the management of allegations, how to report
10 allegations, what to do with someone who has been accused,
11 how to support complainants, and I'll talk a wee bit more
12 in detail about that because we've just renewed all of
13 those standards.
14

15 So, in particular, individual bishops would contact
16 the national office to seek advice and guidance on how to
17 manage an allegation of abuse, and myself and the former
18 CEO are both qualified social workers, so more often than
19 not we would have given case management advice.
20

21 As that developed - and we keep very detailed records
22 of all the advice we give and we write back to the bishop
23 or the provincial with the advice that we give - as that
24 developed, we became aware that actually it's quite risky
25 to give advice on your own, so we established a national
26 case management committee.
27

28 That national case management committee is there -
29 church authorities opt in to that, so you're not naturally
30 a member of that committee. Twenty-three of the
31 26 dioceses are members of that committee and probably
32 about 50 or 60 religious congregations are members of that
33 committee.
34

35 MS FURNESS: Is that the major congregations and major
36 dioceses?
37

38 MS DEVLIN: The major ones are all in there. The other
39 100 are the little small ones who probably no longer have
40 ministry with children and are not managing allegations.
41 But they all still have access to myself, as the CEO, for
42 advice.
43

44 The case management committee, which I think is
45 probably one of the most successful aspects of our work, is
46 chaired by a High Court judge. We have a canon lawyer --
47

1 MS FURNESS: Current or former?

2

3 MS DEVLIN: He has just retired. A canon lawyer, a civil
4 lawyer, a religious sister whose role was to support
5 complainants/survivors of abuse, a religious sister who is
6 a therapist, two lay social workers in addition to myself,
7 a probation officer, and the judge. So that's the body of
8 people.

9

10 The expectation, when people join that case management
11 committee - members join it and they sign a separate
12 memorandum of understanding to engage with that work - is
13 that they will disclose all of the information to us. We
14 will not offer advice on the basis of partial information
15 or anonymised information, because that's only half the
16 story.

17

18 So we expect, if someone is coming for advice and they
19 have already sought an assessment, for example, that we
20 have access to the full assessment. Now, that is unique in
21 the Catholic Church in Ireland.

22

23 MS FURNESS: When you say you expect you will have access,
24 I take it that the memorandum of understanding and the data
25 processing deed that you enter into require them to give
26 you that access?

27

28 MS DEVLIN: Absolutely, and it states that very, very
29 clearly.

30

31 The advice that is given is given to the church
32 authority. So it is not an advisory body who advises
33 complainants; it is not an advisory body who advises
34 respondents. This is about the management of the case, so
35 our advice is to that person.

36

37 There are some who would say, well, we're not hearing
38 the whole story, we're not hearing the story of the
39 complainant and we're not hearing - but we're not a court
40 process, we're not making findings of fact. We are simply
41 offering advice.

42

43 MS FURNESS: You're not adjudicating the complaint?

44

45 MS DEVLIN: Absolutely not. And that body exists to offer
46 advice on each stage of the process, so from the point of
47 receipt of the allegation, if they need advice; through to,

1 following the criminal investigation, what Church or
2 canonical action should be taken; to the point of, whenever
3 those reports are concluded, what information should be
4 submitted to the Holy See in Rome.

5

6 MS FURNESS: So the standards you apply in giving that
7 advice are standards that the board itself has created and
8 promulgated; is that right?

9

10 MS DEVLIN: That's absolutely correct. That national case
11 management committee has its own separate terms of
12 reference setting out - and I think I might have sent them
13 to you; I'm not sure if I did or not.

14

15 MS FURNESS: Yes.

16

17 MS DEVLIN: But, yes, and they are based on our standards,
18 which I know you have and which we have recently reviewed.

19

20 MS FURNESS: How does canon law fit into the work you do
21 in an advisory capacity?

22

23 MS DEVLIN: I'm not a canon lawyer and I wouldn't assume
24 to have an in-depth knowledge of canon law. I have some
25 experience now of working alongside canon law, and in terms
26 of the management of allegations, I actually have found it
27 very helpful. I wouldn't have said that three years ago,
28 but I now actually find it very helpful.

29

30 Our experience is that very few allegations of abuse
31 result in a prosecution, a criminal prosecution - because
32 of the passage of time, because of lack of corroboration;
33 you know the situation. So what happens is, then, when we
34 first started our work and we began to also conduct review
35 work of cases in dioceses and religious congregations, we
36 found allegations sitting on file for years with no
37 resolution. So the complainant was distressed and
38 dissatisfied that they had not received the justice that
39 they had wanted. The respondent, the accused priest or
40 religious, felt angry and distressed that they had been
41 placed out of ministry without any kind of natural justice
42 approach, and because the church authority, the bishop or
43 provincial, didn't really know how to progress the case
44 beyond the criminal investigation.

45

46 So what the national case management committee has
47 been able to do is help unblock some of those cases that

1 have sat around for years and guide people in the next
2 steps, which is the canonical process.

3

4 What should happen once the criminal investigations
5 have been completed - now, excuse me if I tell you things
6 that you already know.

7

8 MS FURNESS: No, no.

9

10 MS DEVLIN: But once the criminal state agencies, the
11 police, conduct their criminal inquiries - in the Republic
12 of Ireland, the Gardai will only conduct an investigation
13 if the complainant comes directly to them. The Church
14 still has to make the allegation, but only the
15 complainant - it's logic. The complainant has to make
16 a statement of complaint.

17

18 MS FURNESS: Can I stop you there and go back a step. An
19 allegation is received by a church authority.

20

21 MS DEVLIN: Correct.

22

23 MS FURNESS: They choose to seek the advice of the
24 committee. What are the stages that the complaint goes
25 through after that stage?

26

27 MS DEVLIN: Okay, I'll go back. Experience has developed
28 and knowledge has developed that most church authorities
29 now don't need to go to the committee to seek advice on
30 reporting an allegation. Most allegations that reach the
31 threshold of a semblance of truth, which is a very, very
32 simple, low threshold, "He was there, she was there, it is
33 possible", so they report that allegation. They don't
34 really need to go to the committee for that.

35

36 MS FURNESS: Report it to whom?

37

38 MS DEVLIN: To the civil authority agencies, to the police
39 and to social services.

40

41 It is only whenever matters become more complex, and
42 these are very complex matters, that they then seek the
43 advice of the national case management committee, on
44 matters such as, "Should I step this person aside from
45 ministry?", "the Complainant will not come forward with
46 details of the complaint - what do we do?", "The
47 complainant doesn't want to engage with the police, but

1 they do want justice", "The accused is in denial", "There
2 is a mishmash of information between the dates" - those
3 sorts of complexities, that the case management committee
4 can assist with offering guidance on.

5
6 MS FURNESS: After the bishop has reported to the civil
7 authorities, do they then wait until they hear a response
8 from those authorities before doing anything more?

9
10 MS DEVLIN: They have to make a decision at that stage
11 about whether or not to step the accused aside from
12 ministry. And at that point they'll either seek advice
13 from myself or from the case management committee.

14
15 Having made that decision, they cannot take any
16 further action until the criminal agency, the police, have
17 decided whether or not they're going to conduct an inquiry.

18
19 The job of the police state agencies is to investigate
20 whether a crime has been committed. The job and the work
21 of the social services is to assess risk to children.

22
23 A number of the allegations relate to between 1950 and
24 the year 2000. If that accused person is still alive,
25 there is current risk. So the decision - it doesn't matter
26 how old that person is. There is current risk. People
27 often talk about "these are historic allegations". We only
28 refer to historic allegations when someone is dead.
29 Otherwise, we think it is current risk.

30
31 MS FURNESS: What principles do you apply when you give
32 advice as to whether a person should step down from
33 ministry?

34
35 MS DEVLIN: Is there a semblance of truth to the
36 allegation, first of all; is it possible that it could have
37 happened? What is their current role? Is it a public
38 role? Is their role with children? If their role is
39 public and if their role is with children, it is advised
40 that they step aside from ministry, if there is a semblance
41 of truth to the allegation.

42
43 It is only in cases where there is some doubt about
44 the allegation or where their role is perhaps in archives
45 or they're in a nursing home or something like that that we
46 say, well, you do not need to step them aside from their
47 role, because it is not public and it is not with children.

1
2 However, in all circumstances, irrespective of whether
3 the role is public or not, there is a requirement for the
4 church authority to put in place what is called a precept,
5 which is like a restriction saying, "You must not have any
6 contact with children. You must not approach the
7 complainant. You must not present yourself as a priest or
8 religious." So there are a series of restrictions that are
9 placed, irrespective of whether the person steps aside from
10 ministry or not.

11
12 MS FURNESS: Why does it matter whether the person is in
13 a public role?
14

15 MS DEVLIN: Because if they're not in a public role and if
16 their ministry is an administrative role, then they are not
17 ministering as a priest or religious, so there is no need
18 to take them out from that role. But if they are
19 ministering as a priest or religious in a public capacity,
20 then there is a requirement to step them aside.
21

22 Let me give you an example. Perhaps that's easier.
23 I always think it's easier for people in religious life
24 than it is for diocesan priests. People in religious life,
25 on the whole - not exclusively - live in communities with
26 other people of religious life. They have faculties to
27 minister from their provincial or major superior within
28 that community. For them to minister outside of that
29 community, in public, they require faculties from the
30 bishop.
31

32 So if they are stepped aside from ministry and can
33 still minister in private - so they can say mass for
34 themselves or for their brothers or sisters in that
35 community - they cannot say mass for the public. That's
36 quite an important point. So we will have examples of
37 a number of priests and religious - religious vowed,
38 non-ordained, don't say mass, of course, and their role
39 increasingly is not with children.
40

41 We have an aging profile of priests and religious in
42 Ireland - it's probably true here, too; most of our
43 religious are quite elderly and don't have any public role
44 any more. So when allegations emerge from them, there has
45 to be some kind of checking out, what do they do and who do
46 they have contact with?
47

1 Clearly, all of these people are family members, and
2 that has to come into consideration as well. How can they
3 have contact with their own family members, with their
4 nephews and nieces? So all of those issues have to be
5 addressed and managed as well.
6

7 MS FURNESS: So you advise the bishop as to the principles
8 that he should follow, and he makes the call?
9

10 MS DEVLIN: It's his decision. We can only offer advice,
11 and it's his decision. However, when the case management
12 committee offers advice, we always ask them, in a follow-up
13 letter, to let us know if they have followed our advice.
14 If they don't follow our advice, we ask them for an
15 explanation as to why they have not followed our advice.
16

17 MS FURNESS: In writing?

18
19 MS DEVLIN: In writing.
20

21 Now, I could tell you that 99 per cent of the time,
22 they follow our advice. On the rare occasion when they do
23 not follow our advice, they will write to me or ring me and
24 follow it up in writing with an explanation, and it usually
25 is reasonable, I have to say. They do respect the views of
26 the case management committee greatly.
27

28 MS FURNESS: Do they pay for your advice?
29

30 MS DEVLIN: They pay - by your standards it is a very
31 small amount of money. They pay 600 euro a year to get
32 that advice, and they can attend monthly, they can attend
33 once a year - it doesn't really matter, same price.
34

35 MS FURNESS: So you've given advice as to whether the
36 person should remain in ministry. The bishop has decided
37 there's a semblance of truth. What happens next?
38

39 MS DEVLIN: Okay. At that point, once an allegation
40 emerges, under canon law a preliminary investigation has to
41 be initiated and suspended to allow the civil inquiries to
42 be conducted. Because, as I've already said, the Gardai in
43 the Republic of Ireland will not pursue an investigation
44 unless they get a direct complaint, and as we know, most of
45 the allegations that are received in Ireland are from
46 adults who were abused as children. We have very few
47 allegations from children now. Clearly in the 1950s and

1 1960s there were lots of allegations that were ignored.
2 But now that is the case.

3
4 So it could take some time for the complainant to have
5 the courage and the confidence, first of all, to come to
6 the Church and tell them that they've been abused, and then
7 to go to the civil authority agencies, and it is not
8 uncommon for people to say, "I don't want to talk to the
9 police", and particularly in the north of Ireland where
10 there are challenges around Catholics and nationalists
11 engaging with the police service. But that doesn't exclude
12 it. People have to find the confidence. So it doesn't
13 always happen.

14
15 So it could take six months, up to two years, for
16 there to be a police investigation, and during that time,
17 if the accused priest or religious is out of ministry,
18 they're out of ministry for six months or two years.

19
20 Now, six months is probably the shortest time, I would
21 have to say, and we do encourage the church authority to
22 try to engage with all parties to, as far as possible, get
23 that process done within six months, because it is a very
24 long time for anybody to wait two years.

25
26 When the police determine, through the Director of
27 Public Prosecutions or the Crown Prosecution Service, that
28 they are not going to take a case, there will be no
29 criminal prosecution, they write to the respondent, the
30 accused, to say there will be no further action. Obviously
31 if there is further action, it results in a court process
32 and there may be conviction or not.

33
34 Whichever process - either at the conclusion of the
35 criminal investigation or at the conclusion of the court
36 process - there has to be a canonical procedure.

37
38 MS FURNESS: Regardless of whether or not the fellow was
39 convicted?

40
41 MS DEVLIN: Irrespective. Irrespective. The
42 investigation which the bishop or provincial initiated at
43 the very beginning and which was suspended restarts.

44
45 There are two courses for this. For ordained priests
46 and religious, it is Canon 1717. For vowed religious, it's
47 Canon 675 - I might have got that wrong; 695 perhaps it

1 is - and they are slightly different.

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In our guidance, which supports our standards, we set out in detail what those processes are. Basically what it entails is the church authority appoints someone to conduct an investigation, because you've already had a finding, or not, of guilt in the criminal proceedings. The civil authorities, the social services, have determined risk or not. And of course there is the possibility of civil litigation. But the Church process does not need to wait for any litigation. It can proceed, because it doesn't interfere with the litigation.

What we are developing is a body of expertise in conducting preliminary investigations. We're very keen to develop consistency across the island of Ireland. There are 5 million people in Ireland, 5 and a half million people, 26 dioceses and 140-something religious. We're very small by comparison to Australia, and there is a body of expertise growing up in this area.

When we have found, however, is that there is inconsistent practice in relation to preliminary investigations.

MS FURNESS: Inconsistent between dioceses and religious?

MS DEVLIN: Between those who conduct them, because the person who conducts them - the bishop or the provincial appoints an independent person to conduct that preliminary investigation. Traditionally, it was a canon lawyer. It doesn't need to be a canon lawyer. They need to have access to canon law advice, but it doesn't need to be a canon lawyer.

Increasingly, it is a social worker, someone who has a knowledge and experience of child abuse, assessments, skills in those sorts of analysis of information, or a police officer, for example.

So the bishop may come to the national committee or to myself and say, "Can you advise on someone to conduct this preliminary investigation", and I would offer a body of names. We don't choose for them; they choose whoever that is.

The process is very clear. If the complainant is

1 willing to talk to them, they take a statement or they read
2 the earlier statement from the complainant. They take
3 a statement from the respondent, the accused person, and
4 they identify any corroboration.
5

6 It is the job of that person, then, to present the
7 information back to church authority, the bishop, not with
8 the finding of fact but with supporting evidence to
9 suggest, yes, this meets the threshold for a further
10 canonical or penal process. So, "It was in 1964, on
11 4 July. It was in a blue room" - with detail; there is
12 evidence, there is detail. The more you do these, the more
13 skilled you become at them. "Yes, it is highly likely that
14 this is a credible allegation."
15

16 There may be an admission - rarely, but there may be
17 an admission. More than likely, there is more than one
18 allegation, so from two different people in two different
19 parts of the country, and that establishes that this is
20 probably a credible allegation.
21

22 So then the bishop receives that information back. He
23 can - I was going to say "she" there. Maybe.
24

25 MS FURNESS: I think you can stick with "he" for the time
26 being.
27

28 MS DEVLIN: The provincial can be a "she", of course.
29 They may come back to the case management committee for
30 further advice. If it meets the threshold of there being
31 a case to answer, they are required at that point to send
32 it off to the Congregation for the Doctrine of the Faith in
33 terms of ordained priests, and to the Congregation of
34 Clergy - or Religious Life, if it's the religious. So
35 they're two different paths.
36

37 The Congregation for the Doctrine of the Faith hear
38 all of the cases against ordained priests, both diocesan
39 and religious order priests. The bishop is required to
40 complete a very detailed form with his votum, with his
41 view.
42

43 There is where I have a bit of a difficulty, because
44 when it goes to Rome, it sits there for a very, very, very
45 long time. My experience of the Congregation for the
46 Doctrine of the Faith, who deal with this aspect of
47 discipline - there are 12 of them, and they hear cases from

1 every country in the world. They understand the gravity of
2 these situations, so they all read every single case that
3 is presented, and they deliberate between them. So it
4 takes a very, very, very long time. And that is not
5 justice for anybody. That is not justice for the
6 complainant --

7
8 THE CHAIR: What sort of time is a "very, very, very long
9 time"?

10
11 MS DEVLIN: Two years, minimum.

12
13 THE CHAIR: And average sort of time?

14
15 MS DEVLIN: Two to three years. Two to three years.

16
17 Now, I think that is something that we - I don't
18 think; I know - that we have asked them to consider
19 alternatives. That's a matter for them, but I don't think
20 it's justice for the accused. It is not justice for the
21 complainant. But it does not stop the church authority,
22 the bishop, from continuing to put in place restrictions
23 and a monitoring plan. It doesn't stop that.

24
25 Now, some people might think that it does, but it
26 doesn't, because at the end of the day the bishop, the
27 provincial, the church authority is the final
28 decision-maker.

29
30 When it goes to Rome - now, my advice obviously
31 always - always - to a bishop or provincial - they know my
32 name quite well in the CDF and I don't think they like me
33 particularly well - my advice to them is, "Go there.
34 Physically take yourself to Rome and sit outside their door
35 and ask them to expedite this case." On some occasions
36 that actually works.

37
38 We had a particularly difficult situation, which is in
39 the public domain so I can share this, where an accused
40 priest - there were a number of allegations against this
41 particular accused priest. There was no criminal
42 conviction. There was a criminal investigation and there
43 was no criminal conviction. There was a preliminary
44 investigation under Church law. It went to Rome. There
45 followed then - the CDF, the Congregation in Rome, directed
46 a penal process under canon law.

1 Don't ask me the detail of the penal process, but
2 I know that it's where three canon lawyers sit and there's
3 a judge - it's a bit like an adversarial court process and
4 evidence is presented. And they found the priest guilty.
5 The finding resulted in the priest's dismissal from the
6 clerical state.

7
8 He appealed that, and the appeal goes to Rome. In the
9 meantime - now, he was out of ministry all of this time.
10 In the meantime, the survivors were becoming increasingly
11 distressed because they thought oh, goodness, this man is
12 going to get off with this, he's going to get back to
13 ministry. And I think it was exacerbated by the fact that
14 the appeal process took a very, very long time.

15
16 So there needs to be some mechanism for expediting
17 that fairly and justly.

18
19 MS FURNESS: Do you have any informal mechanism that you
20 use to improve the speed at which the CDF deals with
21 diocesan matters?

22
23 MS DEVLIN: Only through personal contact. There are
24 a number of people in the CDF - they're all priests, some
25 of whom are Irish - whom I would know. They will not deal
26 with the cases and certainly wouldn't give me the
27 information, but on occasion I have contacted them and
28 said, "Can you ask the case manager to look at this case?"
29 Now, he's not going to come back to me and tell me whether
30 he did or he didn't, but I know that he did.

31
32 MS FURNESS: Because it is quicker?

33
34 MS DEVLIN: Yes, but that's not reasonable, really. There
35 should be a better way of doing it than personal contact.

36
37 MS FURNESS: Is there anything you think the Church in
38 Ireland can do to improve those processes?

39
40 MS DEVLIN: I think the hierarchy could engage with the
41 CDF in Rome, and I think they have done this already,
42 actually, to ask for - I'm not sure what the word is -
43 a satellite, a branch, a part of the CDF to be moved to
44 hear those cases, because there is a backlog of them. Now,
45 we don't have the numbers, thankfully, any more, that you
46 have, but at the height we had a huge number of cases.

47

1 So the CDF needs to review - if they are looking at
2 every country in the world, it is not reasonable for those
3 12 men to be sitting and hearing. They must be emotionally
4 drained by it, anyway, so they need to look at a better
5 mechanism for that.

6
7 MS FURNESS: Do you know what the response was from the
8 CDF?

9
10 MS DEVLIN: Well, nothing has happened as yet, so I can
11 only assume they are still considering it.

12
13 MS FURNESS: How long ago did the Irish hierarchy make the
14 request?

15
16 MS DEVLIN: I couldn't be confident about that, and that
17 was probably - that was either hearsay or me thinking they
18 did it, or I actually heard that; I can't on oath say that
19 they definitely did do that. But I know there is
20 a keenness on their part for this to be moved along much
21 quicker.

22
23 MS FURNESS: So at any stage of that process, a Catholic
24 Church authority who signed up to the committee can ask
25 your advice?

26
27 MS DEVLIN: Absolutely, yes.

28
29 MS FURNESS: And the advice you give is based either on
30 understanding of canon law or, to the extent it doesn't
31 conflict, your standards?

32
33 MS DEVLIN: Yes. I think I mentioned we have
34 a canon lawyer who sits on that committee, and a civil
35 lawyer, so we get canon law advice. It's actually becoming
36 easier to offer advice, because we have dealt with so many
37 of these cases now. But, yes, we always relate to the
38 standards and to the law of the land and to canon law as
39 well.

40
41 MS FURNESS: Can we turn to tab 61. These are, I think,
42 the terms of reference that you referred to earlier?

43
44 MS DEVLIN: That's correct.

45
46 MS FURNESS: There's reference on page 2 to fitness for
47 ministry.

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MS DEVLIN: Yes.

MS FURNESS: I take it that's what you were referring to before, when you give advice as to whether the person should stand down from ministry?

MS DEVLIN: And at the next stage, when an allegation has not been proven or disproven, then we have to consider, in spite of there being some concern, should that priest return to ministry or not?

MS FURNESS: When you say "proven or disproven", in the civil courts or canon law?

MS DEVLIN: Both. Both. There have been - now, it is not unusual for there to be no finding of guilt in the criminal proceedings. If you look at some of our statistics, which would be similar to here - and it's similar to life in general - there are this number of allegations and there are this number of successful prosecutions (indicating), so we have very few successful prosecutions.

I said at the beginning or earlier on that I actually find the framework of canon law for conducting preliminary investigations really helpful. In the early stages, when I first started this job with my predecessor, we didn't understand canon law and we didn't work it. So the advice that we often would have given would have been, "Send them for an assessment."

We didn't really understand what kind of an assessment we were sending them for - a psychological assessment. I now understand, because I work with this, that the tools that people use in Ireland for those kinds of assessments, those kinds of risk assessments, determine future risk. They don't determine guilt or innocence of someone. They determine future risk. So you have to establish, in the first instance, that the risk exists.

Now, if you or I went for a risk assessment today, the best that we could hope for is low risk.

MS FURNESS: Yes.

MS DEVLIN: There is no-one that is no risk. It doesn't happen. No-one would say you're no risk. So if someone

1 comes back with a low risk assessment, what do you do?

2

3 It actually isn't helpful in any way, shape or form,
4 because we're all hopefully low risk - some of us will be
5 medium or high risk, but at the best we'll be low risk. So
6 those kinds of assessments are not helpful.

7

8 You have to first determine: is the allegation true?
9 Having established that the allegation is true, then you
10 determine the level of risk that is presented and the type
11 of management plan that is required.

12

13 So the fitness for ministry - in the early days, we
14 certainly got a number of those "low risk" assessments; the
15 respondent was in denial; the complainant said it's true.
16 So there was no determination of guilt or innocence. So it
17 was those kinds of fairly complex and difficult situations
18 that we had to offer some guidance on.

19

20 Ours is only advice. It is only advice. The bishop,
21 the provincial, makes the decision at the end of the day.

22

23 MS FURNESS: The assessment was from a psychologist?

24

25 MS DEVLIN: Yes.

26

27 MS FURNESS: And a psychologist separate from the Church?

28

29 MS DEVLIN: A number of psychologists are laypeople who
30 work independently in Dublin or in other parts of Ireland.
31 The Church has used significantly establishments in
32 England, St Luke's assessment centre; St Luke's in the US
33 or Southdown in Canada, and they may be a mixture of lay
34 and religious.

35

36 MS FURNESS: Do you still seek assessments now?

37

38 MS DEVLIN: To determine risk.

39

40 MS FURNESS: You do?

41

42 MS DEVLIN: Yes. I actually think the better way of doing
43 it is the canon law process. In lay terms, it's like any
44 kind of disciplinary process following a criminal
45 investigation. So as a layperson, if I was accused of
46 something and stepped aside from my role and the police
47 were not taking any action, my employer would still be

1 required to go through some kind of disciplinary process.

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10 MS FURNESS: Have you found over the years that the
11 assessments have become more sophisticated?

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MS DEVLIN: Yes, and I'm not a psychologist. There may be people here who are psychologists. There are tools that are used, stable and acute. There are all sorts of frameworks that are used that I don't understand because I'm not a psychologist. I think, like everything, the more you use these tools, the more skilled and able you are. The better understanding that you have of Church life and of religious life, the better the resulting assessment report, and we have a number of fairly skilled psychologists who do this very well.

MS FURNESS: In addition, again turning back to this page, you refer to management of risk. You have spoken about that already in terms of the assessment and dealing with the church authority about that.

MS DEVLIN: That's correct.

MS FURNESS: In public or access to children.

MS DEVLIN: That's correct.

MS FURNESS: Then the next item on this page is record-keeping. What do you do about record-keeping?

MS DEVLIN: I'm the minute-taker for that committee. People submit in writing the presenting difficulty. So we have this data protection deed which allows the exchange of information between the church authority and ourselves for the purposes of giving advice, so we expect them to submit the full advice, full information to us, including identifying information of the respondent, the accused priest or religious, the complainant, the details of the allegation, what action has been taken already, and specifically what advice are they looking for.

1
2 Then the process is that the committee meets in
3 advance of anybody coming to present to us, and we have
4 a discussion together on what we think, based on the
5 evidence that's presented before us. If there is an
6 assessment report, we expect to receive that. It's written
7 in the terms of reference. We expect to receive that
8 assessment report.

9
10 Then we invite the church authority and their
11 designated person - I think it's called a delegated person
12 here - to give us more information. I then record the
13 discussion and the advice that is offered, and that is
14 returned to the church authority.

15
16 We say that that information can be shared with the
17 respondent. It is usual that they ask for advice on the
18 respondent, the accused priest or religious. It isn't that
19 often that they ask us for advice on how to manage and
20 support complainants. But we say the information can be
21 shared.

22
23 And it isn't uncommon for accused priests and
24 religious to be unhappy with the advice that we have
25 offered and to feel that their voice has not been heard in
26 the advice-offering process, but we're not there to
27 adjudicate. We're simply there to offer advice on the
28 management.

29
30 We keep a copy of that record and we expect the church
31 authority, in their file, to keep a copy of that record as
32 well.

33
34 As an aside, again when we first started this work in
35 2009 and we were beginning to look at Church records, they
36 varied between coffee-stained backs of envelopes through to
37 very detailed letters, so we developed a recording
38 template, a guidance for what should be recorded and what's
39 in and what's out; what's third-party information; what's
40 relevant information. When we conduct reviews, we comment
41 on the recording.

42
43 Now, by itself the guidance is useless. We have to go
44 around and train people in recording and how to record, and
45 most Church authorities now have professional staff who
46 work with them, advisers, and recording has got better.
47 Definitely. Files are in good shape now compared to what

1 they were before. We had to seek legal advice in relation
2 to all of that, but the case management records that we
3 give go on that file.
4

5 MS FURNESS: So you have before you all of the material
6 the church authority has given you, plus your written
7 advice. Is that material able to be accessed legally by
8 any party?
9

10 MS DEVLIN: Certainly the church authority's lawyers
11 probably could see it. The Congregation in Rome can have
12 access to all of that. It is not unusual for the advice
13 that we give to go along with the bishop's votum to Rome,
14 and that does guide their thinking quite a bit.
15

16 Now, if you ask me can the lawyer for the respondent -
17 anything that we write we give them permission to see,
18 because we're into openness and transparency.
19

20 MS FURNESS: What about the survivor?
21

22 MS DEVLIN: If it relates to them. Now, you're going to
23 say, "It all relates to them, of course it relates to
24 them." The outcome relates to them. The detail may not.
25 So, for example, it is possible, in the course of the
26 information that's presented to us, to have other
27 information which may or may not be relevant to the
28 complainant. Under the Constitution and under data
29 protection privacy laws, they probably would not be
30 entitled to have access to that.
31

32 But if a complainant - it has never happened, I have
33 to say, but if a complainant was aware that the case
34 management committee was reviewing a priest who abused
35 them, if they asked for access to the records, I would
36 speak to the chair and we probably would select the
37 relevant bits and share that with them.
38

39 MS FURNESS: Do you consider that there's any part of
40 canon law that imposes any particular secrecy on the
41 material that you have collected?
42

43 MS DEVLIN: I was present the other day when there was
44 a lot of discussion about secret archives. The National
45 Board expects complete openness. We're not a statutory
46 body. Everything is by consent. When someone invites us
47 in to do a piece of work for them, we have a data

1 processing deed in place, and it is our view that they
2 disclose full information to us.

3
4 So when we conducted reviews, we moved our way around
5 the country - and at that stage I was doing the reviews
6 with my predecessor; we no longer do reviews because we're
7 no longer independent, we engage independent reviewers.
8 And I have read more files than I've had hot cups of tea.
9 I can tell you, some fairly distressing stuff along the
10 way. We ask the church authority to clarify in writing
11 that he or she has given us everything. Everything.

12
13 There was one occasion when we had completed a report,
14 and, in the report - it's only ever happened once - we made
15 a reference to not being able to comment on something
16 because there were no records, and they said, "But, yes, we
17 do have records." We said, "We didn't see them." So we
18 had to go back. So it is our expectation that there are no
19 secret archives as far as we are concerned, and I think
20 increasingly in Ireland - I don't know about the Vatican,
21 but increasingly in Ireland - it is recognised that child
22 protection records cannot be secret to bodies like
23 ourselves and to statutory bodies.

24
25 Now, I picked up an interesting point when I was
26 listening earlier in the week about the secret archives in
27 the Vatican. It would be my expectation, when someone
28 notifies the Vatican of an allegation and is seeking advice
29 from the Vatican or direction from the Vatican, that
30 whatever is held in Ireland are the records that are held
31 in the Vatican. I don't know what additional records there
32 might be in the Vatican. So I would expect, and I'm sure
33 it's true, that the church authority in Ireland has on
34 their records everything that the Vatican holds as well.
35 So from that point of view, they aren't secret because we
36 have them on our records, but I don't know if that is true
37 for other countries.

38
39 MS FURNESS: So coming to the next role that the board
40 plays, policy and guidance - so you create policies and
41 give guidance as to how the church authorities should
42 follow those standards?

43
44 MS DEVLIN: That's correct.

45
46 MS FURNESS: How did you develop the standards?
47

1 MS DEVLIN: There has been guidance in place since 1996 in
2 Ireland. We had a framework document. That was followed
3 by a document called Our Children, Our Church. Our
4 Children, Our Church recommended the development of the
5 National Board. The first CEO came into place. He and
6 I worked together previously with an organisation called
7 the NSPCC, the National Society for the Prevention of
8 Cruelty to Children, in both the north of Ireland and in
9 England, and he approached them as an expert body to help
10 write the first standards.

11
12 The first standards, which were in 2008, were written
13 largely under their direction but with Church personnel as
14 well.

15
16 We operated those first standards until we'd completed
17 most of our reviews, so they were already in place, as it
18 were, when I joined the organisation, and there were seven
19 standards.

20
21 As we began our work, in looking at aspects of this
22 work, we realised there were deficits to those standards,
23 so we redrafted them - and I think you have a copy of the
24 redrafted standards which came into play - in 2015, March
25 2015. The way that we redrafted those standards was
26 through a significant and vigorous and long consultation
27 process.

28
29 I've already said Ireland is very small. Dioceses
30 cross legal borders. There's two different sets of state
31 legislation, and the standards have to take on board - it's
32 much worse here; you have several states, so two was easy
33 for us, but we had to take on board two different pieces of
34 legislation.

35
36 So we wanted consistency across the island of Ireland.
37 It is not appropriate that someone in Cork, at the very
38 bottom of Ireland, is dealt with differently from somebody
39 in Derry at the top of Ireland. It's a small country.
40 There should be consistency of practice. So we wrote and
41 we recommended one policy for the entire Catholic Church in
42 Ireland, and that policy is set out in the document that
43 you have before you.

44
45 That policy is based on civil law, the UN Convention
46 on the Rights of the Child, canon law and the gospel
47 values. The gospel values are that children should be

1 safeguarded and protected in the Church. People often
2 quote bits of the Bible to me, but the particular aspect of
3 the Bible is the bit about where Jesus said, "Far better to
4 put a millstone around your neck than to harm a child." So
5 that's the basic principle: children should not be harmed
6 at any level in the Church. The people we are working with
7 are people of God who observe the gospels.

8
9 So the policy is based on that, on all of those four
10 basic principles.

11
12 MS FURNESS: So in relation to those policies and
13 standards, are the Church authorities who are part of the
14 board, who have signed up to the board, required to follow
15 those policies and standards because of their membership of
16 the board?

17
18 MS DEVLIN: That's correct. I think I said we are in the
19 process of getting them to sign up again. So almost all of
20 them have signed up again.

21
22 Can I just briefly say that when we developed the
23 standards, we recognised from the previous standards that
24 we actually did not have a standard in relation to the care
25 of the complainant. It was loosely captured under an old
26 standard about advice, but we didn't have a standard, and
27 that's the biggest deficit in our practice, I have to say -
28 care of the complainant.

29
30 We did not have a clear standard in relation to
31 managing respondents, so we developed two new standards.
32 The other standards are largely based on the old standards.

33
34 What we did, myself and my team, we talked to
35 everybody that it was possible to speak to. We spoke to
36 survivors of abuse, we spoke to children, we spoke to
37 accused priests and religious, we spoke to internal Church
38 people, external state bodies, and, from that, we developed
39 the standards.

40
41 Now, because we are a voluntary body and everything is
42 by agreement, getting agreement to the adoption of these
43 standards and policies was not an easy job. I present
44 every quarter to the Bishops Conference. The bishops meet
45 quarterly, and I present to them, with my chair. So we
46 presented these standards to them and gave them a period of
47 time - there were several drafts.

1
2 Anyway, the long and the short of it is everybody then
3 agreed that the policy and the standards were good and
4 acceptable and we were trying to achieve the best possible
5 practice.
6

7 The standards are only good if they're implemented,
8 and there is a series of indicators with each standard
9 which you have to put into practice to demonstrate that
10 you're meeting the particular standard. So, for example,
11 in the standard under creation of safe environments, we
12 have a series of indicators about recruitment, selection,
13 codes of behaviour, vetting, all of those sorts of things.
14

15 What was clear to us was, to enable a consistency of
16 practice, they needed written guidance as well. So we
17 wrote about 300 pages of guidance. We would never have got
18 agreement on those 300 pages of guidance. One would have
19 said, "Turn left", the next would have said, "Turn right".
20 So we decided that the policy and standards are the policy
21 and standards of the Church. The guidance is the National
22 Board's guidance. And no-one should ever need 300 pages of
23 guidance, but you go into it when you need it.
24

25 So I gave you a piece of guidance that I'd forgotten
26 about that we wrote on the seal of confession, and at any
27 time if you need a particular piece of guidance, you go
28 into the website, click on it and find it. You don't have
29 to follow it. But on the whole, people follow the
30 guidance.
31

32 MS FURNESS: In addition to policy and guidance work, you
33 also have a monitoring practice?
34

35 MS DEVLIN: That's absolutely correct.
36

37 MS FURNESS: One part of it is to make sure that the
38 church authorities have reported to the civil authorities,
39 and then you have something that's unusual - the child
40 safeguarding reviews. Tell us about that.
41

42 MS DEVLIN: Okay. Can I just mention the monitoring,
43 because that is where one of the challenges comes in.
44

45 MS FURNESS: Certainly.
46

47 MS DEVLIN: The expectation is that when an allegation

1 emerges, the church authority reports to the civil
2 authorities and to ourselves simultaneously. Increasingly,
3 there are challenges to us having access to the identifying
4 information. So they will share the information,
5 "Father Joe Brown accused Mary Green". We don't need the
6 identity of the complainant. We do need the identity of
7 the accused, because we have a role in monitoring how that
8 person is managed.

9
10 So if I have "Father X abused MB", I have no way of
11 monitoring when Father X pops up somewhere else. The
12 Constitution and the data protection laws forbid some
13 people - all people, to be fair - from sharing that
14 information with us, so we have entered into a data
15 processing deed.

16
17 Because there are challenges to that information being
18 shared with us - and I would hope that you would clarify
19 some of this in your recommendations, because this is
20 really, really important for a monitoring body - you have
21 to have the information. We have people who are out of
22 ministry who pop up, who come from other countries and who
23 pop up here and there and they minister.

24
25 We have some ability to gate-keep that through vetting
26 and through visiting priest regulations, but not always.
27 So if I'm a priest and I'm going home on my holidays and
28 I know who the parish priest is and he doesn't ask me for
29 my celebret, my letter of good standing, and I'm out of
30 ministry, nobody knows, so I could minister. So we learn
31 by default that people are moving around.

32
33 Bishops in Ireland and provincials cannot share the
34 information, under the data protection laws, with each
35 other, because they are separate legal entities. The only
36 legal way in which that information can be shared is
37 through the state authorities, through the police and
38 social services. The police cannot share the information,
39 and social services don't always share the information. So
40 the only body that can systematically do that would be
41 ourselves.

42
43 So we are currently engaged in trying to find ways in
44 which we can legally receive the information and share the
45 information, and the easiest way to do it is through
46 consent. So you have the consent of the data subject, the
47 respondent, for the information to be shared with the

1 National Board. They may or may not give that consent.

2
3 Under European legislation, which the Republic of
4 Ireland still is; the north of Ireland will not be for much
5 longer - but under European legislation, the data
6 protection laws are very tight, but they require what is
7 called a privacy impact assessment. So what is the impact
8 on an individual's privacy of sharing that information?
9 And there's a process that you have to go through to say,
10 well, actually, the rights of the child to protection are
11 greater than the privacy of the individual. But it's very
12 complex. So we're going to go and see the minister in the
13 hope that she will give us some regulation.

14
15 We monitor that, we report on that annually in our
16 annual report. I was interested in your statistics. We
17 haven't completed any kind of research into the information
18 like you have presented, but we average now about 170 to
19 200 new allegations every year. These allegations relate,
20 on the whole, to 1950 to 2000, when the abuse took place.
21 There are some after the year 2000. There was one when the
22 abuse took place in 2011 and there was one when the abuse
23 took place in 2015.

24
25 To be fair, there is a sharp contrast in how the
26 allegations are now dealt with in 2011 and 2015 than they
27 were in the 1980s.

28
29 MS FURNESS: Of the 170 to 200 allegations, how many
30 accused?

31
32 MS DEVLIN: I don't know.

33
34 MS FURNESS: Is it generally the case that people make
35 allegations, firstly, again more than one accused and,
36 secondly, against somebody whom you already know?

37
38 MS DEVLIN: Yes, it is rare - I'm racking my brain because
39 I do have the information at the back of my head somewhere.
40 It probably is about 80 or 90 accused of those. Yes, it is
41 rare that there is one allegation. And if there is only
42 one allegation - and again I hope I'm not teaching people
43 what they already know, but for someone to commit an
44 offence against a child, they have to overcome a whole
45 series of inhibitors, and so when they're getting to the
46 point of abusing, they have already overcome their own
47 inhibitors, so they're not probably going to stop at one.

1 They're probably going to - those of you who are
2 psychologists will know all of this. They will have
3 received the satisfaction from one, and then they're not
4 scared any more, so they go to the next one. So it's very,
5 very rare that there's only one allegation.
6

7 But they may not come forward. Sometimes - and this
8 is where the public announcement is important - sometimes,
9 if it is clear that someone has been accused of child abuse
10 and their name is placed in the public domain, it can give
11 confidence to someone else to come forward. But we have to
12 be mindful, and there's a lot of discussion in England at
13 the moment about celebrities being named before they've
14 been found guilty and we have to be very careful about
15 saying someone is guilty before they have been --
16

17 MS FURNESS: So when does it come in the public domain?
18

19 MS DEVLIN: I think I mentioned earlier on that there has
20 to be determination at the early stages of whether or not
21 to put that person's name in the public domain, if their
22 ministry is public - if they're in a public profile.
23

24 What usually happens is that the bishop would turn up
25 at the parish on a Sunday morning and say, "I'm here to
26 share with you that your priest has asked for a period of
27 leave to allow a safeguarding matter to be addressed."
28

29 MS FURNESS: Is that code for, "There's been an allegation
30 of child sexual abuse"?

31
32 MS DEVLIN: Yes. Yes.
33

34 MS FURNESS: Does the congregation know that's code?
35

36 MS DEVLIN: Everybody knows that. That's generally - the
37 people know that. The people know who their priest is, and
38 it's usually a child safeguarding matter. Everybody - the
39 language that we use, there's a huge amount of work done
40 with the lay faithful around child safeguarding, so
41 everybody understands that that is a child safeguarding
42 matter, an allegation of abuse. And then the papers might
43 carry it.
44

45 What is important and what we're getting better at is,
46 once that is said, there is someone available for the lay
47 faithful to come up in case there are other allegations,

1 and that's sometimes when it happens. And there are other
2 mechanisms which are put in place to allow people to come
3 forward, having heard that an allegation has already been
4 made. It isn't unusual for someone to come forward and
5 say, "Am I the only one?"

6
7 MS FURNESS: Come forward to the church authority?

8
9 MS DEVLIN: Yes, and ask are they the only one. There has
10 to be some discussion about whether or not they can share
11 the information, but generally they are told, "No, you're
12 not", or, "Yes, you are."

13
14 MS FURNESS: Do you get complaints directly to the board?

15
16 MS DEVLIN: Yes.

17
18 MS FURNESS: And you share them with the church authority,
19 and the process is the same?

20
21 MS DEVLIN: Yes, yes. Under civil legislation, everybody
22 has a requirement to report. However, we ensure that it
23 goes through the diocesan or the church authority.

24
25 MS FURNESS: Can we now turn to the child safeguarding
26 reviews. Tell us how they work?

27
28 MS DEVLIN: The reviews were initiated following the
29 public inquiry into the Diocese of Cloyne. We had the
30 Archdiocese of Dublin, which had an horrific number of
31 abusers. The matters were not addressed properly. And
32 then we had another inquiry into the Diocese of Cloyne,
33 where significant failures were found.

34
35 At that point, the then Primate of all Ireland,
36 Cardinal Brady, asked the National Board to conduct reviews
37 of all of the dioceses and religious. There were three of
38 us in the early stages who, after we agreed the terms of
39 reference, systematically moved our way around the dioceses
40 and religious. We had to be invited, there had to be
41 a data processing deed.

42
43 The process was that, for the first day, depending on
44 how large the diocese was, the number of allegations, we
45 sat down and we read every file of every living priest or
46 religious against whom there had been an allegation, and we
47 sampled the deceased. Our focus was an current risk.

1
2 Because of the terms of reference of the Ryan
3 institutional abuse inquiry, we were not allowed,
4 state-wise, to access any of that data. That was
5 a legislative imperative that we couldn't read that data.
6 So we didn't read the data relating to all of the
7 institutions where there were allegations of physical,
8 emotional and sexual abuse. We could only read the
9 information relating to those accused of abuse, mostly
10 sexual abuse, outside of that framework.

11
12 So we read all of those reports, all of the files, and
13 then we interviewed a series of people. We interviewed
14 anybody who had a role in the child safeguarding
15 structure - the church authority, the designated person,
16 those appointed to support complainants, those appointed to
17 support accused priests, those whose role it is in the
18 parishes to keep children safe.

19
20 And while we didn't stipulate it in the terms of
21 reference, whenever someone knew that we were in a diocese,
22 a complainant or an accused priest, they may have asked to
23 see us, and we met with them as well.

24
25 Our expectation was that the bishop announced publicly
26 that we were coming in, so they put a notice on their
27 website and in their newsletters that the National Board
28 were coming in to conduct a review of child safeguarding.

29
30 So we gathered all that data, we went off and we
31 analysed it and we wrote a draft report. It was sent back
32 for factual correction and then it went to our lawyers for
33 legal proofing.

34
35 We then, as a quality assurance mechanism for
36 ourselves, had a reference group made up of three people -
37 a professor at Trinity College, Dublin, who's an expert in
38 child safeguarding; a statutory social work manager from
39 the north of Ireland; and a statutory social work manager
40 from the Republic of Ireland - and they got copies of the
41 report and they would scrutinise me on the quality of the
42 report and the evidence for what was found there. So I
43 presented it to them. Then they signed them off, they
44 would make recommendations for change. It then went to my
45 board and the board approved them.

46
47 Significantly, at that point, they went back to the

1 church authority and they became their document at that
2 stage. They no longer were the National Board reports, and
3 we decided that because we needed ownership by the church
4 authority of the report.

5
6 So we didn't think it was appropriate for us to make
7 recommendations and send them down to them, because they
8 may or may not have been followed at that stage. We felt
9 it better for them to own it and to accept the
10 recommendations.

11
12 MS FURNESS: Was it a matter for the authority to
13 determine whether the report was published?

14
15 MS DEVLIN: Absolutely. We said to them, "We expect you
16 to make your report public." And every single one of them
17 has done so.

18
19 I have to say, not that it's my job to defend the
20 Church in any way, shape or form, that I think they found
21 that, in the beginning, very, very challenging because it
22 attracted huge media interest. Huge media interest. And
23 those that came forward in the early days were probably
24 quite far-thinking in doing that. But they did.

25
26 So it is now common practice that whenever we
27 produce - we give the report back, that they put their
28 report on their website. Some of them hold press
29 conferences. Others just simply put it on the website.

30
31 They also give me permission to talk about the reports
32 in the public, so I would be interviewed on the radio and
33 on the television talking about the reports.

34
35 I produced an overview report. We produce them in
36 batches, because the "drip, drip, drip, drip" is very
37 difficult for anybody who is part of this whole very sad
38 situation that we're in. And the counselling agencies
39 would have been available to deal with any new allegations
40 or anybody who felt traumatised by the production of the
41 reports.

42
43 MS FURNESS: Is this state-paid-for counselling services
44 or Church-paid-for?

45
46 MS DEVLIN: Church, Church counselling. There are also
47 state. What we do is we notify them of the date that the

1 reports are coming out - and both the state, but
2 particularly the Church-paid counselling agencies.

3
4 And I would write an overview of the themes, what we
5 found. They were based on an assessment of the standards
6 at the time, and there were a series of criteria, and we
7 used to say whether the criteria had been met or not met.

8
9 MS FURNESS: Perhaps at this stage if we could put one of
10 those reports on the screen. This is one that we accessed,
11 after you advised us that we could, from the website. It's
12 in relation to the Christian Brothers. I think it's behind
13 tab 2 of the Commissioners' copy. Do you have a hard copy
14 of that?

15
16 MS DEVLIN: I have, yes.

17
18 MS FURNESS: This is dated September 2013.

19
20 MS DEVLIN: That's correct.

21
22 MS FURNESS: This is obviously a public report?

23
24 MS DEVLIN: That's correct.

25
26 MS FURNESS: It's an example of one of your reviews. So
27 we can see that you set out in "Background" who you are and
28 who the Christian Brothers are. There's reference in the
29 second-last paragraph to it being an international
30 religious congregation, and the Oceania Province is
31 referred to, which I think includes Australia, but your
32 work was solely in relation to the Irish?

33
34 MS DEVLIN: That's correct.

35
36 MS FURNESS: If we turn over, you'll see page 8, you set
37 out what the standard is, and then the subcomponents of the
38 standard and whether or not they're met?

39
40 MS DEVLIN: That's correct.

41
42 MS FURNESS: You do that in relation to each of the
43 standards?

44
45 MS DEVLIN: And we also write a narrative about the
46 findings.

1 MS FURNESS: That's right, and if we go to page 12, there
2 are some statistics, and they're provided, I take it, to
3 you by the Christian Brothers?
4

5 MS DEVLIN: They gave us this information, that's correct.
6

7 MS FURNESS: Just looking at the third item, it says:
8

9 *Number of allegations reported to An*
10 *Garda ...*
11

12 Is that the police or the child protection?
13

14 MS DEVLIN: That's the police.
15

16 MS FURNESS: And the next one, "HSE"?
17

18 MS DEVLIN: That's social services.
19

20 MS FURNESS: Then continuing on, there are various
21 references to standards and whether or not they're met.
22 Then at the end there's a series of recommendations?
23

24 MS DEVLIN: That's correct.
25

26 MS FURNESS: These are typical of the sorts of
27 recommendations you'd make, obviously depending upon your
28 findings?
29

30 MS DEVLIN: Yes. And a number of the recommendations in
31 the early days related to policies and procedures, and in
32 the latter reports there was no need to write
33 recommendations in relation to those policies and
34 procedures, as each church authority adopted those written
35 by the National Board. At one time, everybody had their
36 own, and there were some deficits or flaws in them. So
37 increasingly they're not about policies and procedures.
38 But, yes, that's typical.
39

40 MS FURNESS: Now, in terms of following up whether the
41 recommendations have been implemented, do you have a role
42 in that?
43

44 MS DEVLIN: Yes. About six months after the report has
45 been made public, I write to each church authority and ask
46 them to provide me an update on where they are with the
47 recommendations. I then gather them all together and again

1 I write an overview report of those and I ask them to place
2 their update report on their website, and they've all done
3 that to date.
4
5 MS FURNESS: So just turning, then, to tab 4 of the volume
6 that the Commissioners have, that's an overview report
7 dated May 2016?
8
9 MS DEVLIN: Yes, that's correct, in relation to those
10 reports that were produced in 2016.
11
12 MS FURNESS: That's similar to what you do each year?
13
14 MS DEVLIN: Every three or four or six months, depending
15 on how many reports we do.
16
17 MS FURNESS: You set out in that report themes and key
18 findings?
19
20 MS DEVLIN: That's correct.
21
22 MS FURNESS: And how the reviews were carried out?
23
24 MS DEVLIN: That's correct.
25
26 MS FURNESS: Then at page 4, you refer to the key
27 findings?
28
29 MS DEVLIN: Yes.
30
31 MS FURNESS: And that's the number of allegations,
32 convictions and the like, so various statistics?
33
34 MS DEVLIN: That's right. Just for those who don't have
35 a copy of this in front of them, in this particular tranche
36 report, of the 288 allegations, there were 90 accused, so
37 that kind of equates to what we said earlier on.
38
39 MS FURNESS: And also the relatively few criminal
40 convictions?
41
42 MS DEVLIN: Ten. Out of those 288 allegations,
43 10 criminal convictions.
44
45 MS FURNESS: This is on the screen, so anyone listening to
46 this has access to it.
47

1 MS DEVLIN: Okay.

2

3 MS FURNESS: You refer to that in some orders, child
4 safeguarding has not been given sufficient priority. Was
5 that surprising? You had been operating for some
6 seven years at this stage and all the major congregations
7 and dioceses had signed up.

8

9 MS DEVLIN: Absolutely. I could understand how the early
10 review reports would identify significant deficits, but
11 after seven years of operation of the standards and the
12 considerable work that everybody engaged in, not just the
13 National Board, it was disheartening to see that there were
14 still significant flaws in some of the practices.

15

16 MS FURNESS: And poor monitoring and record-keeping you
17 refer to as well?

18

19 MS DEVLIN: Yes. Now, this particular one - and it's in
20 the public domain, so I can say it - there were serious
21 concerns about the management of one particular priest,
22 which - you know the story - unfortunately was a known
23 abuser and he was moved around, and the chaos that he
24 created and the damage. It was shocking to read.

25

26 Now, this man is dead, so he is no longer a risk to
27 children. But it highlighted again the serious poor
28 practice in the early 2000s. So we're not talking about
29 the 1950s, and that was distressing for everybody to read.

30

31 MS FURNESS: With the key findings, you publish this
32 document, I take it, as well?

33

34 MS DEVLIN: Yes.

35

36 MS FURNESS: The detail behind these key findings has been
37 provided to the authorities, and they have published their
38 response and their progress?

39

40 MS DEVLIN: That's correct.

41

42 MS FURNESS: So that all of the key findings and what's
43 behind them are in the public domain?

44

45 MS DEVLIN: Yes, it's all in the detail of the report.

46

47 MS FURNESS: I take it that when you do this exercise, you

1 look at the way in which you're engaging more generally
2 with dioceses and orders, and if you need to perhaps push
3 record-keeping a bit more firmly with them?
4

5 MS DEVLIN: Yes. What was helpful when the staff in the
6 office were undertaking these reviews, before we became -
7 we became too familiar with the people who were in roles.
8 What was helpful was that when we saw deficits, we
9 ourselves could put in place corrective action and
10 supportive action. But we're not engaged in the reviews
11 any more. They're all conducted - I have a body of
12 independent people, social workers mostly - they're
13 consultants and they work to me, so I rely on them
14 informing me, and then we have to offer support.
15

16 We have a very small but helpful team of staff.
17 I have a very good training and support manager, and it's
18 quite often that when we identify deficits, it's around
19 training and support. Training is greater than support, so
20 training is delivered about what are policies, what are
21 procedures, what are your roles, but it's also about how do
22 you internalise and deal with a lot of these issues? How
23 do you offer a compassionate response? How do you manage
24 the emotions?
25

26 So it's a bigger - and the more we develop, the more
27 we're understanding about how we need to do that, because
28 we know people can't do this. People are put in roles of
29 leadership that don't really understand how to do this, so
30 we have to offer support in doing some of that work with
31 them.
32

33 MS FURNESS: Just turning over to tab 5, which is the
34 August 2016 review, do you have that in front of you?
35

36 MS DEVLIN: Yes, that's the review of the recommendations,
37 implementation of the recommendations.
38

39 MS FURNESS: That's right. If we can turn to the last
40 page of that, in the second-last paragraph you identify new
41 challenges, for example:
42

43 *... ensuring child protection through*
44 *internet use, and ensuring that viewing*
45 *child pornography does not take the place*
46 *of contact abuse.*
47

1 You have identified that in allegations coming forward?

2

3 MS DEVLIN: Yes. We know that the number of allegations
4 is decreasing. We know that because of the regulations and
5 the rules, people don't have the same amount of access to
6 children and contact with children. So if you have an
7 interest in abusing - a sexual interest in a child and
8 you're still a member of the Church, well, the only other
9 place to go was to the internet.

10

11 We have had a few examples of allegations emerging
12 about downloading child pornography. We have no idea of
13 the scale of that. We don't really know about it until
14 someone's computer is checked. But we have to familiarise
15 ourselves with the risk, and I think the Church - and we
16 haven't yet developed good enough guidance in relation to
17 this, but I'm saying to them, "This is the next threat.
18 You really need to be ahead of the game and you need to
19 look at this, and we will work on guidance for you and with
20 you."

21

22 MS FURNESS: Thank you. I tender that volume,
23 your Honour.

24

25 THE CHAIR: Yes. Where are we up to?

26

27 MS FURNESS: I'm told 50-005.

28

29 THE CHAIR: Yes, we are. It will become 50-005.

30

31 **EXHIBIT #50-005 NATIONAL BOARD FOR SAFEGUARDING CHILDREN IN**
32 **THE CATHOLIC CHURCH IRELAND (NBSCCI) DOCUMENTS**

33

34 MS FURNESS: You have also provided us with a copy of your
35 annual report, which is behind tab 67 of the hearing
36 bundle.

37

38 MS DEVLIN: Yes, that's correct.

39

40 MS FURNESS: In relation to your annual report, you refer
41 to statistics on allegations. You also refer to statistics
42 on training and support. This begins at page 15 of the
43 document.

44

45 MS DEVLIN: Yes.

46

47 MS FURNESS: I think you indicated earlier that you charge

1 for the training you offer?

2

3 MS DEVLIN: That's correct.

4

5 MS FURNESS: And that training is to everyone within
6 a church authority, I take it?

7

8 MS DEVLIN: We have two systems of training. I have
9 a training and support manager who trains trainers to
10 deliver training across the Church. Those people engage in
11 a training the trainer program, which their bishop pays
12 for, and they become an accredited trainer with the Church.
13 They're not accredited with any other body, just with the
14 Church, and they deliver training locally. So they deliver
15 training on all aspects of child safeguarding and how to
16 prevent abuse, create safe environments, respond to
17 allegations, et cetera. We call that the basic awareness
18 training.

19

20 Centrally, the national training director and myself
21 and other experts run role-specific training in Dublin for
22 those who have particular needs. My training manager was
23 running a program, for example, yesterday for support
24 people - that's those people who support complainants of
25 abuse - and looking at what their role is and how they
26 engage, because that can be a very confusing role. People
27 don't really know what their role is, whether they're
28 advocates or whether they're support people. So he ran
29 a program on that yesterday.

30

31 We then may also bring in expertise from outside on
32 child pornography, on risk assessment - a whole raft of
33 things. That specific, detailed training we manage
34 centrally, but the network of trainers around the country
35 do the local delivery of training, and that's not charged.
36 They do that in their own parishes and their own
37 communities.

38

39 MS FURNESS: So training is available, regardless of who
40 pays for it, to all those within the Church and externally
41 that are involved in child safeguarding activities?

42

43 MS DEVLIN: Yes, that's correct, for anybody who has
44 a role in the Church, and the lay faithful if they wish to
45 engage in it, and the centralised training that we do is
46 charged for and it is only for role holders.

47

1 MS FURNESS: Because you follow canon law in respect of
2 the processes you follow, I take it you haven't needed any
3 approval from the Vatican for the work of the National
4 Board more generally?

5
6 MS DEVLIN: No. This is set up by the sponsoring bodies,
7 the Irish bishops and the Conference of Religious. There
8 are a couple of similar bodies across the world, but
9 there's no approval needed for that.

10
11 However, in 2010, the CDF did ask for a copy of the
12 policies and procedures of every country in the world, and
13 we submitted ours. Of course they've changed since then.
14 They did make a number of observations in relation to them,
15 but we didn't need their imprimatur for them in any way.

16
17 MS FURNESS: What observations did they make?

18
19 MS DEVLIN: Interestingly, they suggested that we identify
20 further that the complainant should have a role in the
21 canonical penal process. Our guidance wasn't detailed
22 enough on that. They also asked us to include references
23 to *Graviora delicta* in some of the guidance. There were
24 only two things, really, that they asked us to look at. We
25 haven't submitted our new guidance to them. They haven't
26 asked for it.

27
28 I know in other parts of the world, so, for example,
29 in the United States, they have sought and got what is
30 called a *recognitio* from the Vatican, so they recognise
31 them. We chose not to go down that route because it would
32 mean that if you wanted to change them, you would have to
33 go back. We would rather control and manage it ourselves.

34
35 MS FURNESS: Perhaps you might help with what you said in
36 Latin earlier - they asked you to include references to
37 *Graviora delicta*?

38
39 MS DEVLIN: *Graviora delicta* - serious crimes, grave
40 crimes, against the child. I'm not a canon lawyer, and
41 there may be some in the room who may tell you chapter and
42 verse on it. But, yes, it is to detail what that actually
43 means. It's one of the gravest crimes in the canon law.

44
45 MS FURNESS: From your knowledge of what else is happening
46 in the world, there's a Secretariat of Child and Youth
47 Protection in the United States?

1
2 MS DEVLIN: Yes.
3
4 MS FURNESS: And that was established by the United States
5 equivalent of the Bishops Conference?
6
7 MS DEVLIN: That's correct, yes.
8
9 MS FURNESS: And there's a person who is effectively in
10 charge of that secretariat?
11
12 MS DEVLIN: Yes.
13
14 MS FURNESS: Do you know who that is?
15
16 MS DEVLIN: Yes. I think it's Deacon Bernie - I can't
17 pronounce his second name - Nojadera.
18
19 MS FURNESS: As a deacon, he's part of the Church, I take
20 it?
21
22 MS DEVLIN: Yes, he is. It's not a prerequisite, clearly.
23 His predecessors were not. The first secretariat was
24 a former member of the FBI. The second one, who now works
25 for the Pontifical Commission, was a member of the Chicago
26 Police. He's a deacon.
27
28 We have discussed and looked at whether or not some of
29 our child safeguarding people should be members of the
30 Church or laypeople. In the very early days, I was very
31 adamantly against anybody with a collar being in the child
32 safeguarding structure because I thought that would be very
33 difficult for survivors. Since then, survivors have said
34 to me, "I actually want to talk to a priest", so we now
35 have a mixture, but most of our designated people, those
36 people who deal with allegations of abuse, are laypeople.
37
38 MS FURNESS: Were you required to seek approval of anyone
39 to come here and give evidence?
40
41 MS DEVLIN: No. Out of courtesy, we informed the bishops
42 and the Conference of Religious that we would be here, but
43 we are an independent body and we didn't need their
44 approval and didn't seek their approval.
45
46 MS FURNESS: Thank you. Your Honour, I have nothing
47 further.

1
2 COMMISSIONER ATKINSON: I have about five minutes,
3 your Honour.
4
5 MS FURNESS: I note the time, your Honour.
6
7 THE CHAIR: Well, five minutes. Ms Needham, do you have
8 any questions?
9
10 MS NEEDHAM: I don't think so, your Honour, no.
11
12 THE CHAIR: We might sit on, then, I think.
13
14 COMMISSIONER MURRAY: I have a question, yes.
15
16 COMMISSIONER ATKINSON: I just have two things.
17 Thank you. The first was just in terms of the matters that
18 are referred to the CDF, is there any sense of how many of
19 those come back from the CDF expressing a different view to
20 the view that existed in Ireland by a bishop or provincial?
21 Does that question make sense?
22
23 MS DEVLIN: Yes, I only have anecdotal evidence of that.
24 On the whole, the CDF, in my experience, will accept the
25 votum of the bishop. However, I am aware of particularly
26 one situation where they did not, and they felt that the
27 evidence presented did not warrant the outcome, which was
28 dismissal from the clerical state. The particular bishop,
29 I have to say, was a very, very strong bishop and he did
30 not follow the advice of the CDF. He ensured that that
31 person remained out of ministry. But I don't really have
32 detailed knowledge of that.
33
34 COMMISSIONER ATKINSON: Okay, thanks. The second one is
35 perhaps a little bit unfair, but if I could just ask if you
36 want to express a view about it, and part of it comes from
37 some of our public hearings, so if I could just put to you
38 a hypothetical. I take it there are large private schools
39 in Ireland?
40
41 MS DEVLIN: Owned by religious?
42
43 COMMISSIONER ATKINSON: Yes.
44
45 MS DEVLIN: Less and less so. At one stage, there were.
46
47 COMMISSIONER ATKINSON: Are there boarding schools?

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MS DEVLIN: There are one or two.

COMMISSIONER ATKINSON: Thank you. The hypothetical, then, is that there is a boarding school with a large population of students and a large number of staff, and they have all of the policies, procedures and training that you would recommend. At the end of a 12-month period, in terms of assessing, with performance indicators, the effectiveness of those policies, procedures and training, the sorts of things you might look at - and can I just ask this: apart from allegations of child abuse, child sexual abuse, is there a sense, as well, in a school of what we might call here boundary violations?

MS DEVLIN: (Nodding).

COMMISSIONER ATKINSON: So if, in assessing a school, you went in to look at their performance over a 12-month period and the headmaster or principal of that school said to you, "There have been no boundary violations and there have been no allegations of child sexual abuse", in a large school, I mean, is that reasonable, do you think, or should we be looking for some complaints, even if it's only boundary violations?

MS DEVLIN: I would be very, very shocked, in the course of running a school or a boarding school, that there were not some concerns of some nature against other children or against adults. I think it would be remarkable and I would want to interrogate it a bit further.

Now, in reality, we have no remit over schools because schools are governed by state laws, but if we had, I would be very nervous.

COMMISSIONER ATKINSON: And is it possible, do you think we're at a point yet where we can say, in terms of performance indicators, with absolute confidence and comfort that the policies, procedures and training are working?

MS DEVLIN: I think in Ireland there is undoubtedly a significant change. The state wouldn't openly say this, but they would tell me that our policies and procedures are better than theirs. The litmus test for me is the media. An article was written in an Irish paper last year which

1 complimented the Catholic Church on improving practice.
2 Now, that was a big thing for the media.

3
4 There is no doubt that children are safer today in the
5 Catholic Church in Ireland than they have ever been. The
6 regulations are very tight. There are still allegations.
7 We will not remove everybody who seeks to harm a child from
8 the priesthood, but we can put in place safeguards to
9 prevent the likelihood of that happening.

10
11 It's really important that we do work - and we've
12 started to do this - in formation of priests, and I know
13 there was reference to this yesterday. Our office every
14 year does work with priests in training, students in
15 training, but I actually think we need to work with the
16 formators, not the priests themselves.

17
18 So we are in a better place. My worry is complacency.
19 I am really nervous about us thinking that it's over, that
20 the worst is - and I hope the worst is over, but I don't
21 want anybody to think that they can stop being vigilant.

22
23 And back to your earlier point of going into a school
24 and if somebody says to you, "We have no allegations and we
25 have no concerns or suspicions or boundary violations", the
26 approach that I probably would take in that instance is to
27 ask the children directly. Find a mechanism for focus
28 groups or other questionnaires, or whatever mechanism.

29
30 I was once criticised for saying that children should
31 have a voice in this whole child safeguarding process. We
32 know, we all know, in the 1950s onwards, when children came
33 forward with allegations, they were either further abused
34 or they were dismissed and put down and they were treated
35 like pieces of dirt. The UN Convention on the Rights of
36 the Child is very clear in stating that children should
37 have a voice in things that happen to them.

38
39 So if there are no official records, then you need to
40 ask: are the children being given a voice? Are they freed
41 up to share their concerns? And it might be that - maybe
42 it's a lovely school and it is possible that children are
43 cared for without any fear or concern. But you would need
44 to drill down, and the way to do that is to go directly to
45 the children.

46
47 COMMISSIONER ATKINSON: Yes, and that issue you raised

1 about complacency, which of course leads to slippage, or it
2 can, and then later the need for reform, I think is
3 something that's being experienced in many areas. Do you
4 have any other thoughts you want to share with us about how
5 to avoid slippage?
6

7 MS DEVLIN: Yes. Each Church authority, Church body, in
8 Ireland has been reviewed by the National Board and we have
9 now identified clearly those that continue to have ministry
10 with children. I mentioned earlier that we have an aging
11 population of priests and religious, and a large number of
12 those no longer have ministry with children. We're
13 rewriting, reviewing, our review methodology and we will go
14 back.
15

16 For some people, I've been once described as the most
17 hated woman in Ireland in the Catholic Church, but we're
18 going back. On the one hand, people really do appreciate
19 the work that we do - actually, they all appreciate the
20 work that we do. I have very few people who hate me,
21 really. But they are fearful.
22

23 But sometimes that's okay. As a social worker,
24 I hated the inspectors, I hated them coming back, but it is
25 an important and integral part of the work that we do, and
26 there's nothing more important than making sure that
27 children are safe. So we'll go back.
28

29 COMMISSIONER ATKINSON: Thank you.
30

31 COMMISSIONER MURRAY: Ms Devlin, you've indicated, and it
32 is the case in Australia, that canon law is a major part of
33 the institutional response by the Catholic Church to
34 incidents of child sexual abuse and it's very much part of
35 your process.
36

37 The evidence before us in Australia is that the
38 principles and practice of canon law in Rome differ in
39 material respects from the principles and practice of civil
40 law in Australia, and I would expect that to be so in
41 Ireland.
42

43 You have made one major criticism of canonical
44 process, and that is the time lapse. Are there, however,
45 other aspects of canon law as exercised in Rome, in your
46 experience, that either increase risk or produce unjust
47 outcomes?

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MS DEVLIN: Goodness, that's a very challenging question. For me to give a quick response probably wouldn't do any of it justice, and I don't know the detail of canon law. I know those canons that we work with, particularly in relation to preliminary investigations. I think those canons are very clear. Those canons set out the process, and the more you work with them and the more you use them, the better and easier it comes.

There probably are aspects of canon law which relate to child safeguarding - actually, what I'm about to say doesn't make any sense - which aren't there. What I should say is that there are probably further canons that are needed to clarify aspects of child safeguarding, so there are probably some deficits.

One of those that you spoke about yesterday when I was in the room is the aspect of the seal of confession, and I went and I looked last night at our guidance in relation to the seal of confession. Interestingly - and I'm going to have to refer to your barrister here for the particular canon because I don't remember what it is, but in our guidance we have quoted the --

MS FURNESS: Canon 964(2). Would you like me to read it?

MS DEVLIN: Please.

MS FURNESS:

- 1) *The proper place to hear sacramental Confessions is a Church or oratory;*
- 2) *The conference of bishops is to establish norms regarding the confessional; it is to take care, however, that there are always confessionals with a fixed grate between the penitent and the confessor in an open place, so that the faithful who wish to can use them freely.*

MS DEVLIN: Okay. What our guidance does is - and it's only guidance - offers guidance on how to manage situations when a child comes in to confession. Actually, after yesterday, I'm going to clarify this even further. When a child comes in to confession, our guidance describes them as a penitent. What was very, very clearly said yesterday

1 was they are not confessing a sin, and we need to make that
2 clear. I think the canon law could make that even clearer.
3 So that's an aspect which I think there could be greater
4 clarification on.

5
6 The child is not confessing a sin of someone having
7 harmed them, in confession; that's not their sin.

8
9 COMMISSIONER MURRAY: You collect data. Have you any
10 knowledge that any allegation has come to you as a result
11 of information provided or a confession made in the
12 confessional?

13
14 MS DEVLIN: Actually, no. I am aware internationally of
15 those situations, but in Ireland I am not aware of anybody
16 having either abused in the confessional or someone
17 disclosing outside of the confessional.

18
19 COMMISSIONER MURRAY: You mentioned gospel law, I think,
20 as a guiding principle and I think you quoted Jesus
21 earlier. Do you find it chilling that some people regard
22 the seal of the confessional as more important than saving
23 the impact on a child of continual or continued abuse?

24
25 MS DEVLIN: Anything that interferes with the safety of
26 children is chilling. Again, I am not defending anybody
27 here. This is a huge institution, which takes a very long
28 time to change. The best that I can do, and the people in
29 my office can do, is to provide awareness and guidance and
30 support to bring to the fore the safety of children and, on
31 occasion, to help them manage their requirements around
32 canon law which should not interfere.

33
34 That's a very longwinded way of saying it's there, we
35 can't stop the canon law, so we have to support people in
36 ensuring, in spite of that - for example, in the
37 confessional - in spite of that, they have to do what's
38 right and seek support for any child who may have been
39 harmed by a priest or religious.

40
41 I've learnt something, actually, over the last - well,
42 you learn something every single day in life, but while you
43 may have wanted to hear from me, I actually learned
44 yesterday that we need to go away and provide better
45 guidance in relation to the confessional.

46
47 COMMISSIONER FITZGERALD: Just in relation to that, am

1 I correct that your own guidance material, firstly,
2 indicates that you must report a crime of sexual abuse to
3 the civil authorities, but in the footnote you then say
4 "except in the case of confession". So notwithstanding the
5 law of Ireland - and I'm not sure if it's Northern or the
6 Republic - where you are required to report, your own
7 guidance says that you can ignore that and must ignore
8 that, because of the seal of confession; is that correct?
9

10 MS DEVLIN: Yes. Let me explain. There is no mandatory
11 reporting in the Republic of Ireland at the moment. It is
12 in legislation, but it is not yet enacted. There is
13 mandatory reporting in the north of Ireland. So when this
14 guidance was being developed, we - there is mandatory
15 reporting in the Church.
16

17 As a layperson, I cannot overrule the canon law in
18 relation to the seal of confession, so it had to be
19 inserted, but the guidance then that we wrote afterwards
20 assists people in managing that. But I'm going to change
21 it even further.
22

23 COMMISSIONER FITZGERALD: The second thing is just a point
24 of clarification. In your earlier evidence, you indicated
25 that where a criminal matter either proceeds to conviction
26 or doesn't proceed - in other words, the Garda or the
27 police have determined there is insufficient evidence to
28 proceed - you said, in all cases, a canonical process must
29 commence - that is, an investigation. Is that because of
30 canon law?
31

32 MS DEVLIN: It's natural justice. It's natural justice.
33 There has to be a process following any criminal or civil
34 investigation. And usually if there is not a finding of
35 guilt, you cannot allow a complainant to be left at that
36 point. You cannot allow a respondent to be left at that
37 point. There has to be another process of natural justice.
38

39 COMMISSIONER FITZGERALD: So in Ireland if a bishop or
40 a provincial leader, a religious member or a priest, were
41 to be investigated by the local authority, and that
42 authority came to the conclusion that there was
43 insufficient evidence in respect of one or a number of
44 complainants, in Ireland that matter would be subject to
45 further investigation by the Church, irrespective, and that
46 would apply to all church authorities irrespective of
47 status within the Irish Church?

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MS DEVLIN: That is exactly what should happen, and if it comes to our attention in the National Board, we advise that it should happen, because there are different levels of burdens of proof.

Within the criminal court, it is beyond all reasonable doubt. It's very hard to prove. Within civil law, it is on the balance of probability. Within Church law, it is moral certainty.

So someone can be found guilty of a crime under canon law, with different levels of burdens of proof than in the criminal court.

COMMISSIONER FITZGERALD: So going back to my question, and it may be that you can't answer this: is it the case that it is required by canon law that that canonical investigation take place and that there is no discretion in relation to church authorities to in fact not hold such an investigation?

MS DEVLIN: They don't automatically do it, no. You're absolutely correct. Certainly in the past - I think I said that when we looked at cases they were drifting and there had not been the subsequent canonical preliminary investigation.

Only this week, somebody wrote to me and said, "Can you recommend a psychologist?" I said, "What do you want a psychologist for?" They explained that it had been through the criminal process. I said, "No, no, you're not at that stage yet. You have to conduct a preliminary investigation." They don't all do it.

COMMISSIONER FITZGERALD: If you became aware that a particular bishop or diocese or church authority failed to conduct such matters, would that be something, one, that you would become aware of and, two, that you would report on?

MS DEVLIN: Report to whom?

COMMISSIONER FITZGERALD: Well, that's a good question.

MS DEVLIN: Yes. I would advise them that they need to do it. Now, a preliminary investigation does not have to be

1 a mammoth task. If there is clear evidence that, for
2 example, someone has made an admission, then that's your
3 preliminary investigation done. Now, that's rare.
4

5 A preliminary investigation can be much more complex
6 and drawn out when you have to gather the evidence. All
7 I can do is advise them that the interests of natural
8 justice are that they should conduct this investigation
9 under canon law.

10
11 COMMISSIONER FITZGERALD: The natural justice to which you
12 refer is the natural justice of the victim and of the
13 accused?

14
15 MS DEVLIN: Both parties.

16
17 THE CHAIR: Can you tell us how you propose to amend the
18 advice in relation to the confessional?

19
20 MS DEVLIN: Yes. I think I'm going to make it absolutely
21 clear that the child is not confessing a sin, and
22 therefore - and I'm going to have to seek canon law advice
23 on this as well, obviously - that information that the
24 child has shared is not, from my understanding yesterday,
25 captured under the seal of confession. The advice - and
26 you won't have seen it because I only gave it to your
27 barrister this morning - sets out if it is a child who is
28 the penitent, what should happen, and if it is the accused
29 who is the penitent, what should happen, and there are
30 differences.
31

32 But we haven't made it clear that the child is not
33 confessing a sin, and I find that actually quite helpful
34 and I'm able to then expand on that.
35

36 THE CHAIR: Do you know what the present practice of
37 priest confessors would be in Ireland if someone, an adult,
38 comes and confesses to having sexually abused a child? Do
39 you know --
40

41 MS DEVLIN: Again, it's only anecdotal from training that
42 we do. I think they all would not breach the seal of
43 confession. However, they have said to me that they would
44 refuse to give absolution, and they would encourage that
45 person to go and report.
46

47 The advice that we give is that you cannot deal with

1 a child protection situation in confession, that you must
2 ask the person - the child or the adult - to talk to you
3 about it outside of the confession. That choice is theirs.
4 You obviously have to deal with it differently if it's
5 a child and you have to explain to the child that something
6 has happened to them, and they need help, and that, as
7 a confessor, you need to be able to get them help. That's
8 the advice that we give. At the minute, under canon law,
9 they can't do that outside of the confession. So that's
10 the advice that we give to priests, and they've found that
11 helpful. But I think - I don't know any priest who would
12 breach the seal of confession.

13
14 JUSTICE COATE: Ms Devlin, thank you for your assistance
15 to us. Can I ask you just two matters. The first relates
16 to the evidence that you've given with respect to the
17 records that you have. What do you do with your records
18 once your processes are complete?

19
20 MS DEVLIN: That's really important because of the
21 legislation around data protection. The National Board is
22 not a data controller, so we don't own and control the
23 data. We are data processor. Anything that we have the
24 church authority has too. So we are required, and it is
25 set out under the terms of our safeguarding reviews, to
26 destroy that data when the review report is completed, on
27 the understanding that the church authority also has it.

28
29 So what I am required to do is to purge the records
30 every year, to check with the church authority, do they
31 have a copy of this, in which case we can destroy our
32 records. That relates to those reviews that we do.

33
34 In the course of offering advice, I'm entitled to keep
35 those records, because we're offering advice. If someone
36 makes an allegation to us, we obviously pass it on, but we
37 keep those records. So we have different processes
38 depending on what aspect of the processing of the data is
39 involved.

40
41 JUSTICE COATE: So have you experienced to date, for
42 example, a complainant coming to your agency indicating
43 that he or she proposes to take civil action with respect
44 to a complaint that has been made and seeking documents
45 from your agency in support of that civil action?

46
47 MS DEVLIN: Not in relation to civil action, litigation,

1 no, but it is not unusual for the police to come to us and
2 to access our records or to ask us to make a statement if
3 the complainant has come to us in the first instance.
4

5 JUSTICE COATE: Thank you. On a separate issue that
6 relates to something you said earlier about - I think this
7 might be my language rather than yours - your struggle to
8 maintain the independence that you seek from the Church
9 body generally, can you assist us to understand a little
10 more about how that struggle has played itself out?
11

12 MS DEVLIN: We're entirely financially dependent on the
13 Church for our work, and if the Church is struggling
14 financially, then our budget may or may not be cut. Now,
15 it hasn't happened to date, but that's a possibility.
16

17 Probably more crucially is everything is by consent
18 and agreement, so because we have no statutory powers, we
19 cannot tell them to do something. We have to offer advice
20 and guidance. So when we produce, for example, guidance -
21 we knew that we would never get the agreement of all 180,
22 200 Church bodies, so we decided, therefore, it couldn't be
23 a core part of the policies and procedures because it just
24 would take forever. So we decided, well, this is our
25 guidance to you and therefore it is optional. So they may
26 choose, or not choose, to follow the guidance of the
27 National Board.
28

29 But if the path that they choose to follow, in our
30 judgment, isn't as good as what we have written, then we
31 can comment on that. But there are all sorts of things.
32 We are a relatively new body, although we've been in
33 operation for 10 years. We are getting better at what we
34 do. We're learning, we're developing. We have to balance
35 a very fine line between having the trust and the
36 confidence of the church authorities, because we offer them
37 advice, and being sufficiently independent to criticise
38 when criticism is necessary.
39

40 So we've had to have demarcations around roles and
41 responsibilities, which is why I no longer conduct reviews.
42 And it is not easy. It is not easy for me to offer advice
43 one day to a church authority and to go on television the
44 next week and to criticise their practice, but that has to
45 be done because we are there to monitor and to scrutinise.
46 And it can be personally fairly challenging at times.
47

1 It is also quite rewarding as well, and there are
2 aspects of the work - because you can see change, you can
3 see significant improvements, and it has not always been
4 easy, but it is important that they see the National Board
5 as being helpful, as being competent, as having the skills
6 to support them in their work, but also having the
7 confidence to stand up when they don't do things well, to
8 be able to say that. And that's what we do.

9
10 JUSTICE COATE: So it hasn't manifested itself in, for
11 example, threats or warnings that have come from some
12 aspect of the funding, that, "If you, for example, speak
13 publicly, we'll have to reconsider our position with
14 respect to funding"?

15
16 MS DEVLIN: Absolutely not. There has been no threat to
17 the funding. It can manifest itself in other ways. The
18 hierarchy are very Church-focused people, and we have
19 debates, discussions, arguments, yes. It can be very
20 challenging at times.

21
22 I have a board, and the board are very, very
23 supportive of me. I'm the public face of the national
24 office and I have a very strong group of people who work
25 with me, a small number of people, but it isn't always
26 easy. So I rely on the support of the board. And there
27 are challenges from bishops and provincials who will write
28 to my chair to criticise what we do, and we have to be
29 confident enough to present our case.

30
31 Now, if we're wrong, we have the confidence to say
32 that, too. And we're dealing with mostly a male-dominated
33 institution. I personally think it is very helpful that
34 I am a woman, that I am a mother, that I have children, and
35 I do have good working relationships with almost all - not
36 all, almost all - of the church authorities, only through
37 hard work and through evidencing that we do have the
38 knowledge and expertise to support them in their work. But
39 it hasn't been easy. It has been a long nine years,
40 really.

41
42 COMMISSIONER MURRAY: Following that line of questioning,
43 this Commission has had to confront the power of culture.
44 You described yourself earlier as the most hated woman in
45 Ireland.

46
47 MS DEVLIN: In the Catholic Church.

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COMMISSIONER MURRAY: Well, that says to me that there's tremendous cultural resistance to your work and to you personally. Can you tell us where the source of that hatred rests?

MS DEVLIN: Yes, I did say that tongue in cheek, I have to say. There are people who are quite anxious about me because they consider that I have a lot of power. I have very little power, but they consider that I have a lot. When I say "me", I'm talking about the whole board. Because we have an ability to go in and scrutinise their practice, and we require them to make that information public, that is a huge, huge cultural shift for the Catholic Church in Ireland, when everything was dealt with internally.

If I'm being absolutely honest, most people quite like me. Most people quite appreciate the work that I do. There are a small handful who don't. They resent the work of the National Board. They are not always the hierarchy and they are not always the priests and religious. They are sometimes the professional staff that they engage. So there are jealousies.

I think the culture is shifting. I cannot claim any credit, the National Board cannot claim any credit, for a shifting culture. I think that is due in large part to the lay faithful and to the media where there has been significant concern expressed publicly about the child abuse situation in the Church. We had the production of an inquiry report only two weeks ago in the north of Ireland, and yet again we heard of the cruelty to children in the care of the Church.

I don't know, you have to be a very hard person in the Church not to allow that to affect you. So I don't claim any credit for the shifting culture. I think there is an opening up. There is significantly an opening up of all of the child safeguarding issues. There is an increasing reliance on the National Board and other people, professionals. There is a decreasing reliance on the lawyers. No offence intended here, but that's a good thing. You should not be going to lawyers for child protection advice. You go to lawyers for legal advice. There's a decreasing reliance on that. And there is an increasing energy around trying to make it better,

1 alongside a nervousness on my part that they're tired of
2 this as well, that there's a weariness coming in.

3
4 Then when they saw the 300 pages of guidance that we
5 produced, they thought it was overkill. I suppose we have
6 a job of work to do in going around and helping them
7 implement that and explaining what that guidance actually
8 is.

9
10 So I can't be a monitor without helping them along the
11 way. I'm a mammy to an awful lot of bishops, I have to
12 say.

13
14 MS FURNESS: Nothing further, your Honour.

15
16 THE CHAIR: Ms Needham, nothing arising?

17
18 MS NEEDHAM: No, thank you, your Honour.

19
20 THE CHAIR: Thank you, Ms Devlin, for your contribution
21 and your preparedness to travel. We very much appreciate
22 it and we wish you well in your work in the future.

23
24 **<THE WITNESS WITHDREW**

25
26 MS FURNESS: Just before we adjourn, your Honour, I need
27 to tender a bundle of documents, which we've described as
28 the final report documents. They're documents that won't
29 be the subject of evidence in this hearing but will
30 nevertheless be used in the final report. They have been
31 provided to the Truth, Justice and Healing Council.

32
33 THE CHAIR: Do we have them?

34
35 MS FURNESS: No, you don't. You will, but, no, you don't.

36
37 THE CHAIR: We'll allocate them the number exhibit 50-006.

38
39 **EXHIBIT #50-006 FINAL REPORT DOCUMENTS**

40
41 MS FURNESS: Finally, there were three witnesses proposed
42 for today. As I indicated earlier, the deacon from the
43 United States protectorate indicated very recently that he
44 was not coming, having accepted some months earlier. The
45 second witness is Ms McCormack from the Pontifical
46 Commission, who is an Australian. A medical certificate
47 was recently received from her and I understand your Honour

1 has excused her attendance on the basis of that
2 certificate.

3
4 THE CHAIR: Yes, I have. Very well. Nothing further?

5
6 MS FURNESS: 10 o'clock, I think, your Honour.

7
8 THE CHAIR: We will adjourn until 10 o'clock on Monday.

9
10 **AT 12.05PM THE COMMISSION WAS ADJOURNED TO**
11 **MONDAY, 13 FEBRUARY 2017 AT 10AM**

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