

Commission to Inquire into Child Abuse

Investigation Committee

Applicants: Congregations of Christian Brothers (St. Mary's and St. Helen's)

Ruling dated 27th March 2003

The Issue

The Investigation Committee has imposed a general deadline for compliance with requests issued pursuant to section 23(2) of the Commission to Inquire into Child Abuse Act, 2000 for Respondents' statements, the deadline being 2nd May 2003. A general extension of time for submission of Respondents' statements which are outstanding has been granted to and including 2nd May 2003. The Investigation Committee has determined to invoke the default procedure set out in its Rules of Procedure in relation to Respondents' statements which are not received within the extended period.

Recognising that, because of the volume of allegations made in Complainants' statements against the Applicants, the circumstances of the applicants required special consideration, the Investigation Committee decided that a derogation from the general deadline of 2nd May 2003 would be allowed to the Applicants and that, save in respect of Respondents' statements in relation to Artane Industrial School, the time for submission of Respondents' statements by the Applicants would be extended to an including 30th June 2003.

The Applicants have sought a variation of the deadline, and further time in which to submit Respondents' statements. Their application was the subject of a Procedural Hearing of the Investigation Committee held in public on 20th March 2003 at which Counsel for the Applicants and Counsel for the Investigation Committee made submissions.

Ruling

The Ruling of the Investigation Committee on the Applicants' application is as follows:

- (1) In the case of allegations relating to-
 - St. Joseph's Industrial School, Glin, Co. Limerick,
 - St. Joseph's Industrial School, Tralee, Co. Kerry, and
 - Carriglea Industrial School, Dun Laoghaire, Co. Dublin,

the time for submission of Respondents' statements by the Applicants is extended to and including 31st May, 2003.

- (2) In the case of allegations relating to Artane Industrial School, the time for submission of Respondents' statements by the Applicants is extended to and including 31st July, 2003, provided that the Applicants should give priority to the statements responding to allegations that abuse occurred in the 1940's and the 1950's over statements responding to allegations that abuse occurred in the 1960's. Statements should be submitted as soon as they have been completed during the period between the date of this Ruling and 31st July 2003.
- (3) In the case of allegations relating to St. Joseph's Industrial School, Letterfrack, Co. Galway, the time for submission of Respondents' statements by the Applicants is extended to and including 30th September 2003.
- (4) The time for submission of the balance of the Respondents' statements requested from the Applicants is extended to and including 30th November, 2003.
- (5) No further extension of time for submission of Respondents' statements in response to requests to the Applicants issued under section 23(2) of the Act of 2000 will be granted.

In fixing the foregoing periods the Investigation Committee has had regard to the following factors:

- (a) the volume of allegations by Complainants against the Applicants – allegations contained in 710 Complainants’ statements;
- (b) that in excess of 600 of the Complainants’ statements were furnished to the Applicants and Respondents’ statements requested in the five month period between the end of January 2002 and the end of June 2002;
- (c) the context in which the factors set out at (a) and (b) fall to be considered – that it has been a matter of public knowledge since May 1999 that an inquiry would be conducted into abuse of children in institutions in the State since 1940, that the inquiry has been established on a statutory basis since 23rd May 2000 and that the Applicants have been actively involved in the work of the Commission and the Investigation Committee since the immediate aftermath of the first Public Sitting of the Commission on 30th June 2000;
- (d) the complexity of many of the allegations made against the Applicants, in terms of the range of abuse alleged and the number of alleged abusers identified, cognisance also being taken, however, of frequently recurring elements and components in the allegations;
- (e) the desire of the Applicants to fully research the allegations and establish the facts with a view to submitting comprehensive and thorough statements;

- (f) the limited number of appropriate personnel within the Applicants' Congregations available to make statements and the age profile of the personnel; and
- (g) the pressing urgency for the Investigation Committee to complete its preparatory work and to schedule hearings.

The factor referred to at (g) has been considered against the background of the period of time which has elapsed since many of the allegations occurred, the age profile and state of health of the Complainants, and the age profile and state of health of individuals against whom allegations are made. It has also been considered in the context of the legal challenge by the Applicants to the Ruling of the Investigation Committee dated 18th October 2002 and to the constitutionality of provisions of the Act of 2000 made in proceedings in the High Court entitled "Michael Murray and David Gibson v The Commission to Inquire into Child Abuse, The Minister for Education & Science, Ireland and The Attorney General" (Record Number 2003/1998P) and the argument and reasoning on which the Applicants' challenge is founded.

Legal Costs

The entitlement of any party to be paid costs arising out of representation before the Investigation Committee is governed by section 20A of the Act of 2000, as inserted by section 32 of the Residential Institutions Redress Act, 2002. It is not within the

competence of the Investigation Committee to pre-determine any issue in relation to legal costs, having regard, in particular, to the provisions of sub-section(3) of section 20A.

In the circumstances it would not be appropriate for the Investigation Committee to express any view as to the entitlement of the Applicants to be reimbursed the costs of the retainer of any additional legal personnel at this juncture.