

## **Clerical Abuse in the Catholic Church in Ireland – Transparency, Accountability and Review**

The practice of safeguarding children in the Catholic Church has been the subject of four statutory inquiries in the Republic of Ireland. A further one is now underway in Northern Ireland. It is a sad history. It is a history that has caused much pain and anger to many, within and outside of the Church. Since taking up my present role as Chief Executive Officer for the National Board for Safeguarding Children in the Catholic Church, I have been in a position to directly witness the struggles to try to bring to an end any unsafe practices that may still remain.. Much has been achieved but more still needs to be done.

In 2007 and following the publication of the Commission of Inquiry Report into the Diocese of Ferns, the leaders of the Church in Ireland established the National Board and gave it a remit which involved monitoring safeguarding practice across the various parts of the Church. This was the first time a body at the centre had been given such a role. Previously any remit had been limited to advice giving and policy recommendations. However, for the first time a single board was to monitor compliance to agreed standards.

This development represents a major step forward for the Church as it strives to address the problem of clerical abuse. In this paper I want to examine the necessary ingredients for effective monitoring and also argue for a comprehensive acceptance of transparency in the process as a way of regaining trust and enhanced credibility for those involved in safeguarding in the Church.

It is important to state that some parts of the legislative framework in both jurisdictions are a significant hindrance to the independent monitoring of safeguarding practice in large, diverse organisations. The data protection legislation does not, in my view, facilitate the monitoring of safeguarding practice by anyone other than those agencies that are statutorily empowered to undertake it. The National Board found itself to be in that position when it accepted the request made to it by Cardinal Brady speaking on behalf of the Church as a whole, to undertake a comprehensive review of safeguarding practice across all of the Church. This request was made at the height of the crisis surrounding practice in the diocese of Cloyne which later resulted in that diocese being referred to the Commission of Inquiry chaired by Judge Yvonne Murphy. Such a review would entail us accessing and reviewing documentation held within diocesan files which would create a possible breach under data protection legislation, as the National Board was an independent third party.

This problem exercised lawyers on both sides for some time but eventually a mechanism was found that would allow the review process to go forward but under closely regulated circumstances. Through the signing of a deed drawn up and entered into by the Board and the Church authority that we would be reviewing, the Board could be appointed as a “nominated data processor” for the data held within the files. The Board could access the

data and no breach would have occurred and a report could be provided to the data controller, namely the bishop or religious superior. The report would be redacted and its distribution would be entirely a matter for the data controller or the bishop. The Board could not divulge or share any of the data with anyone else unless it was authorised to do so. This may seem a very complex approach but it is the only one that we have been able to devise that is compliant with the data protection legislation as it currently stands in both jurisdictions.

It is unfortunate that we have created a situation through legislation whereby the monitoring of practice across large and diverse organisations, such as the Catholic Church, is made more difficult and potentially litigious unless it is undertaken by the statutory agencies. In my view, they are not in a position where they can hope to provide that service. Therefore, it is entirely reasonable that organisations should seek to undertake it themselves. Where an organisation is striving to move away from previous problematic approaches and is looking to adopt uniform, national standards to underpin its current practice, being able to evidence compliance with those standards is essential. The fact that the body undertaking the monitoring is not indemnified by legislation leaves it and importantly the Church authority being reviewed, vulnerable to possible litigation unless care is taken to avoid a possible breach under data protection legislation.

The size of the organisation and its diversity is worth noting. The Catholic Church in Ireland has 4.3 million members . There are 1365 parishes with over 2000 churches, and many thousands of priests and others involved in religious vocations. In all, there are 188 Church authorities who minister on the island of Ireland. They are all separate with an authority structure linking to Rome, or, if they are a religious body, wherever their headquarters may be. Cardinal Brady is the most senior catholic prelate on the island but he is not in a position where he can direct his fellow bishops or the religious superiors to adopt a particular strategy. He does not have the power to do so although his views may be influential.

The bishops meet in conference four times a year but have no direct link to those involved in the religious orders or with the missionary societies. This structure makes the adoption of a single strategy in relation to the safeguarding of children very difficult to achieve. Indeed, one of the major achievements of the National Board since it was set up is the fact that it has helped the Church to adopt a single set of standards and to commit to a uniform compliance with those standards across all of the Church authorities resident on the island.

Another barrier to the monitoring of practice within the Church is the culture of secrecy in respect of Church affairs. It is not unusual to find a situation existing within a diocese or a religious community where members were unaware of the fact that an allegation had been made against someone within their body. The information may have been held by the bishop and not shared with others - perhaps through a desire to protect the good name of the accused priest. The widespread adoption of this approach contributed greatly to the difficulties that have been focused on through statutory inquiries. Today we are in a

different position. There is now a realisation that this practice was misguided and that timely reporting to the child protection agencies is an absolute necessity.

The media has played a significant part in shaping the public perception of the clerical abuse problem within the Catholic Church in Ireland. Some of the reporting has been balanced, well researched, and authoritative, but much of it has been sensational and unhelpful. It is not an easy subject to report on and in my view the Church could have done more to promote a better understanding of the efforts being made to address the problem and eradicate it. I very strongly believe that the adoption of independent monitoring of safeguarding practice and a willingness to openly share the findings, is a significant and critical step forward. It is essential to the rebuilding of credibility and trust so badly damaged through the revelations of the various Inquiries.

The media has an important role to play in helping to communicate the real position. This was amply demonstrated when the six bishops involved in the first round of reviews last year together decided to publish the reports that the National Board had provided for them. They did it jointly. On the same day. And endured a great deal of anticipatory anxiety beforehand. They believed the media would be hostile and that they would be savaged even though the content of the reports, which focused on current practice and management of risk, was largely positive. There was an acknowledgement of previous poor practice but in each of those dioceses a safeguarding structure was now in place and efforts were being made to establish best practice with the active support of the bishops.

The experience of publication proved to be extremely powerful and beneficial to each of the bishops involved and also to the argument for increased transparency with regard to these matters. Each of the bishops did a number of media interviews and were well received. They communicated current practice and acknowledged past errors if any had been identified by the review process. The willingness to be open and to be accountable for their practice appeared to be appreciated. After their launch, they all expressed a great sense of relief. They felt they had been heard and that their own people now had a better understanding of what the true position currently is. They would encourage others in authority who have not yet expressed a willingness to participate in the review process, to do so and to benefit as they have done.

The relationship between the adoption of uniform safeguarding standards, independent monitoring of compliance to those standards, and publication of the findings of any review is critical. The perception of being secretive and resistant to external scrutiny can be changed through the process of safeguarding reviews. They make an invaluable contribution to retrieving some of the ground lost through recent crises.

Through the establishment of the National Board and the recruitment of an increasing number of experienced and trained lay child protection personnel in dioceses and in religious orders, the Church has demonstrated its commitment to eradicate the horror of clerical abuse. The independent monitoring of practice against agreed standards and the publication of the findings must be embedded as an essential part of the safeguarding strategy of the Church.

The situation that developed here is by no means unique. The Catholic Church in America went through a similar crisis in 2004 -5 and difficulties have emerged elsewhere across the catholic world. The learning that has informed and shaped the strategy we followed on this island has relevance internationally. The adoption of policies and procedures in themselves is not sufficient to confirm that practice has changed. It needs to be externally verified and that fact communicated to all those involved. It is not enough simply to say that best practice is in place. It needs to be evidenced.

The basis for evidencing is also important. The methodology for the review must be made explicit so that a view can be taken of its robustness. The methodology can be shared without any concerns under the data protection legislation and this can help people to decide if it is sufficiently thorough. This will help to secure acceptance of the findings when they are published.

A further complication to the monitoring of practice within the Church is the Church's own legal system. The Code of Canon Law of the Church was promulgated in January 1983. It is a codified system comprising 1752 canons. These set down the disciplinary structure for the Church and cover a range of different issues including penal law.

The existence of canon law has caused concern for some with regard to the relative position of it as to civil law. Which legal system should be given precedence when responding to an abuse allegation against a priest? The answer has to be that civil law is preeminent but canon law must also be adhered to. This is reflected in Church policy where emphasis is now placed on suspending a Church inquiry into an allegation until such time as the civil process has been concluded. Only then would an allegation be investigated through a canonical inquiry.

Canon law can't be used as a basis for not reporting an allegation. Where previously there may have been a lack of clarity as to what is expected, none now exists. An allegation or disclosure of abuse involving a priest must be reported to the appropriate child protection authorities in a timely fashion. This is our expectation and if that has not happened then an essential standard has not been met.

It is interesting to note that the work of the National Board has had some surprising consequences not anticipated at the outset. The commitment of the Board to pursuing a transparent, standards based approach with a clear focus on the safety and wellbeing of the child has brought it moral authority and some degree of influence. Although we are under resourced and have no direct authority, we have facilitated significant change in a very difficult arena. We have tried to establish the safety of the child as being the primary concern for all and placed it above all other considerations such as personal reputations or that of the Church as a whole. This has happened as a consequence of our commitment to transparency and accountability in our work. The process of review is central to this. In my view, it represents the means by which those who are engaged in safeguarding within the Church today can ensure that their work is fully understood and appropriately judged

B.A.B.S.C.A.N Address – 18<sup>th</sup> April 2012

by others. Through time, the effectiveness of the safeguarding standards adopted in the Church in Ireland will become more apparent.

A handwritten signature in black ink, reading "Ian A. Elliott". The signature is written in a cursive style with a large initial 'I'.

Ian A. Elliott  
Chief Executive Officer  
National Board for Safeguarding Children  
in the Catholic Church