

Scottish Child Abuse Inquiry



Submission
of the
Congregation of Christian Brothers Trustees
on
St. Ninian's Falkland
2017

Parts C&D 25/05/2017

Part C - Prevention and Identification

4. Policy and Practice

4.1 National

Past

i. Was there national policy/guidance relevant to the provision of residential care for children?

Maltreatment or neglect of children was recognised as needing legal intervention in Scotland, both in Common Law and in the Poor Law, well before the 20th century. In the 20th century, laws began to focus more specifically on child welfare as exemplified in the Children Act 1908. The provisions for child welfare in this act were further enhanced under The Children and Young Persons (Scotland) Act 1937. This act established the basis for modern law in Scotland on child protection and welfare and increased the legal responsibilities on local authorities. The Children Act 1948 obliged local authorities to put children who were orphaned or deserted into care and to use their powers in a manner which advanced the best interests of the children. One of the ways in which a local authority could discharge its obligations was to arrange for a child to be placed in a voluntary home. The 1937 Act had provided for the inspection of voluntary homes and the provisions in this act were further extended in the 1948 Act, section 29 (9) of which included the right of the Secretary of State to have the accommodation and equipment of voluntary homes inspected as well as the medical arrangements for protecting children's health. Furthermore, the 1948 Act required that voluntary homes be registered with the Secretary of State. While the 1948 Act provided for regulations to be introduced on how voluntary homes were to be run and maintained, the first set of regulations were not introduced until 1959. It is not clear, therefore, what national regulations, apart from some guidelines for all residential care homes on the use of corporal punishment, governed the running of voluntary homes prior to 1959 (see **Shaw** 2007, p.53).

The Social Work (Scotland) Act 1968 restated the duties of local authorities to take into care any child

- who had no guardian or was abandoned
- whose parents were dead
- whose parents could not care for the child in terms of accommodation, maintenance or upbringing.

One of the most significant changes in the 1968 Act was the abolition of the Juvenile Courts in favour of children's hearings by members of a children's panel.

ii. If so, to what extent was the organisation aware of such?

Correspondence between Br. J.S. Roche, member of the Provincial Council of the English Province, and both the Scottish Home Department and the Scottish Education Department suggests that the organisation was aware of the existence of The Children Act 1948 as well as basic provisions set out by the Scottish Education Department. The records do not give us any worthwhile insights into whether the organisation had detailed knowledge of the provisions in the relevant acts and as indicated in 4 .1 (i) above, national regulations and guidance regarding the running of voluntary homes seem to have been largely absent until 1959.

Entries in the House Annals for St. Ninian's and in the Log Book make no reference to the 1959 regulations or to any national policies, regulations or guidelines that issued thereafter but one cannot definitively conclude from the absence of such references that knowledge of changing policies or regulations did not exist. There is a specific reference to the 1968 Act in the Visitation report of 29th March – 1st April 1971 and it would appear that the increased emphasis on child welfare in this Act prompted the authorities at St. Ninian's to review the quality of care being provided. There are references in the Log Book in the early seventies to the Superior and other Brothers attending seminars on child welfare and as previously mentioned a member of staff was sent for training in child care and a social worker was appointed to the staff.

iii. If there was national policy/guidance in respect of any of the following in relation to provision of residential care for children, to what extent was the organisation aware of such?

• Child welfare (physical and emotional)

Certainly, the organisation would have been aware in a general way of national policies and guidance on child welfare. From references to visits by the doctor, it is clear that children's physical health received a high priority. As regards emotional health, there is little reference to this aspect of the children's lives in the records but it appears that the matron who was employed to treat minor ailments also provided a sympathetic ear for boys experiencing emotional problems (MF, 2/3/2017).

• Child protection

Apart from guidelines on child welfare, there is no reference in the records to the concept of 'child protection' as understood today.

- **Complaints handling**

There is no indication in the records of St. Ninian's or in Visitation reports of an awareness of national protocols, if such existed, in connection with the handling of complaints.

- **Whistleblowing**

Again, there is no suggestion in the records of this term being used between 1950 and 1983 when St. Ninian's functioned as a residential care home for boys.

- **Management of residential establishments**

The organisation must have had general awareness of legislation and national guidelines on what was expected of managers of residential care homes for children. Correspondence between Brother J.S. Roche, member of the Provincial Council when St. Ninian's was established as a residential care home for children, and the relevant Scottish state departments would have been on file at Provincial headquarters. In all probability, members of the Provincial Council were informed by the Superior, at the time of the formal visitation, regarding changes in rules and regulations that were issued directly to the establishment.

- **Child migrants**

There are no references to child migrants in the records, so we have to assume that this issue did not arise in respect of St. Ninian's.

- **Record retention**

Keeping and updating a registration book and a log book were requirements in successive Scottish Acts governing the running of residential care homes for children. Why there are no log book entries available for the period 1976 to 1983 is somewhat mystifying as there are entries for every year up to then. It is possible that a log book, separate from the three log books in the Marino archives, was kept for this period but has been lost.

- **Recruitment and training of residential care staff**

Apart from the Scottish Education Department's requirements that teaching staff be appropriately qualified, the regulatory framework for the recruiting of general care staff in residential homes for children is described by Shaw (2007) as 'at best, vague on the need to select staff suitable for working with children . . . in terms of both character and temperament'. In the absence of clear national guidelines on recruitment, the organisation would have left the recruitment of staff to the discretion of the local Superior. We know from references in the House Annals that some staff members were let go because of unsuitability.

- **Requiring employers to divulge details of complaints etc. to prospective employers**

There is no reference in the records relating to St. Ninian's to any national requirements in this regard.

- **Reviewing a child's continued residence at a residential establishment**

We know from a small number of references in the Log Book and House Annals that some children's continued residence was reviewed. In some instances, this review had to do with children who had committed petty crimes in the local village or were involved in significant matters of indiscipline. A few of these children were transferred to approved schools. In other instances, where local authorities were satisfied that children's home circumstances had improved the children were allowed to return to their families. There were also instances of older children leaving St. Ninian's to take up work offers or to join the army. It is assumed that in regard to all of these instances, decisions were reached on the basis of consultation between the relevant local authority and the authorities at St. Ninian's.

iv. If the organisation was aware of such, did they give effect to that policy/guidance?

While there is very little reference to national policies or guidelines in the St. Ninian's records to which we have access, there is sufficient information in these records to suggest that national policies and guidelines were followed.

v. If so, how was effect given to such policy/guidance?

Where there were clear national regulations in regard to aspects of children's welfare in residential home, for example children's welfare, record retention,

reviewing of children's continued residence at St. Ninian's, the evidence suggests that these regulations were put into effect by those in charge of the establishment,

vi. If not, why not?

Where clear policies and regulations in regard to matters cited in 4.1 (iii) did not exist or came into existence after St. Ninian's was closed as a residential care home for children, neither the organisation nor the establishment can be accountable in those instances.

Present

vii. With reference to the present position, are the answers to any of the above questions different?

viii. If so, please give details.

As St. Ninian's is closed as a residential care home for children since 1983, these questions are not relevant.

4.2 Local Authority

Past

i. Was there local authority policy/guidance relevant to provision of residential care for children?

The Children Act 1948 obliged local authorities to provide homes for children in their care and if they themselves were not in a position to accommodate children they could make alternative arrangements. Among the alternative arrangements was the placing of children in a voluntary home. St. Ninian's voluntary children's home provided residential accommodation for children from a number of different local authorities. Apart from child care workers from local authorities visiting children from their jurisdictions, in compliance with the national legal framework, there is no record of particular policies or guidelines being issued by local authorities to St. Ninian's.

ii. If so, to what extent was the organisation aware of such?

Frequent references to visits by child care workers in the St. Ninian's Log Book reflect awareness on the part of the establishment and the organisation of the official nature of these visits. Both the register and the Log Book reflect the central role played by the local authorities in placing children in St. Ninian's and continuing to care for them on their departure from St. Ninian's. However, there is nothing to suggest in the records pertaining to St. Ninian's, in the Marino archives, that the local authorities communicated particular policies or guidance, other than those that existed at national level, to the organisation or those in charge of day to day running of the establishment.

iii. If there was local authority policy/guidance in respect of any of the following in relation to provision of residential care for children, to what extent was the organisation aware of such?

- **Child welfare (physical and emotional)**

We have no evidence that the organisation was aware of the existence of local authority policy or guidance in respect of the physical or emotional welfare of children, if such existed between 1950 and 1983. However, routines and practices pursued at St. Ninian's would suggest that there was awareness of national guidelines in respect of child welfare in residential care homes.

- **Child protection**

Protocols regarding child protection, as we understand the concept of child protection today, did not seem to exist at national or local level during the life-span of St. Ninian's.

- **Complaints handling**

There is no reference in the St. Ninian's records or in any correspondence between the organisation and St. Ninian's to local authority or national policy or guidance on complaints handling.

- **Whistleblowing**

Policies on whistleblowing are of recent origin and did not exist during the life-span of St. Ninian's.

- **Management of residential establishments**

There is no reference in the St. Ninian's records to any particular policy or guidance being issued by the local authorities with regard to the management of the establishment.

- **Child migrants**

There is no reference to child migrants in the St. Ninian's records.

- **Record retention**

A register and Log Book were kept in compliance with national guidelines - we do not seem to have a record of any particular requirement from local authorities beyond those issued at national level.

- **Recruitment and training of residential care staff**

We have no record of any policy or guidance being issued by local authorities regarding recruitment and training of staff.

- **Requiring employers to divulge details of complaints etc. to prospective employers**

We have no record of any policy or directive being issued by local authorities in regard to contact between prospective and current or previous employers.

- **Reviewing a child's continued residence at a residential establishment**

The fact that occasionally children who were residents at St. Ninian's were allowed to return to their families would suggest that a child's continued residence could be reviewed. However, we do not have any record of policies or guidelines regarding how reviewing a child's continued residence at a residential establishment was to be conducted.

iv. If the organisation was aware of such, did they give effect to that policy/guidance?

While the organisation seemed to have a general awareness of the national legislative framework, we have no indication that it was aware of local authority policies or guidelines – if such existed.

v. If so, how was effect given to such policy/guidance?

As indicated above, we have no record in the St. Ninian's files of the existence of local authority policy/guidance regarding the issues that have been identified in this section.

vi. If not, why not?

The organisation could give effect only to policies of which it was aware.

Present

vii. With reference to the present position, are the answers to any of the above questions different?

viii. If so, please give details.

Questions vii and viii are not applicable due to the closure of St. Ninian's in 1983.

4.3 Admissions

(a) Policy

Past

i. What policies and/or procedures did the organisation/establishment have in place in relation to admission of children to the establishment?

While we do not have written records of policies or procedures in relation to admission of children to St. Ninian's, some policy aspects can be deduced from references in correspondence relating to the founding of St. Ninian's and Visitation Reports written by members of Provincial Council of the English Province. From these references we know that (a) St. Ninian's was a residential home for 'orphans or other children who by neglect of parents had virtually no home' (letter from Brother J.S. Roche to the Superior General, 28th April 1947), (b) boys admitted to St. Ninian's, unlike those admitted to approved schools, would not be committed by the Juvenile Courts (letter from Brother J.S Roche, dated 31/3/1949, to Sir John McKay Thomson, Secretary Scottish Education Department), (c) St. Ninian's catered for boys of junior secondary school age (i.e. 11 – 16), (d) although some of the boys came to St. Ninian's from Nazareth homes, all of the boys were enrolled in St. Ninian's at the request of local authorities, (e) the Brothers reserved the right to refuse to admit pupils who were on remand (VR, 1971) and to ask welfare officers to remove boys who

were presenting them with serious discipline problems (Log Book, [REDACTED]/1959; [REDACTED] 1971; [REDACTED] 1972).

ii. Was there a particular policy and/or procedural aim/intention?

The particular aim or intention was to provide a residential care home for orphans or neglected children from a Catholic background.

iii. Where were such policies and/or procedures recorded?

Apart from references in correspondence relating to the founding intention of St. Ninian's and references in Visitation Reports, we do not have written records of specific policies or procedures relating to admission of children to St. Ninian's.

iv. Who compiled the policies and/or procedures?

It has to be presumed that whatever policies or procedures existed in relation to admission of children were likely to have been compiled by the Superior in consultation with the Provincial Council and the Brothers on the staff of St. Ninian's.

v. When were the policies and/or procedures put in place?

The policies identified in 4.3(a) i. seem to have been in place from the foundation of St. Ninian's.

vi. Do such policies and/or procedures remain in place?

As the St. Ninian's establishment was closed in 1983, this question is not applicable.

vii. Were such policies and/or practices reviewed?

We have no written references in the St. Ninian's files to policies relating to admissions being reviewed. However, Zwolinski (1998, p.16), states that after the Social Work (Scotland) Act, 1968, most referrals to St. Ninian's were made through the Children's Hearings which were established under the 1968 Act.

viii. If so, what was the reason for review?

The review or change of practice to which Zwolinski refers resulted from provisions in the Social Work (Scotland) Act, 1968.

ix. What substantive changes, if any, were made to the policies and/or procedures over time?

Apart from the changes referenced in vii and viii above, there is no record of any other substantive changes relating to admissions.

x. Why were changes made?

See viii above.

xi. Were changes documented?

If changes were documented, the records are no longer available.

xii. Was there an audit trail?

If an audit trail refers to a review of admission policies carried out by the authorities at St. Ninian's at a particular time, we have no record of any such exercise in the files relating to St. Ninian's in the Marino archives.

Present

xiii. With reference to the present position, are the answers to any of the above questions different?

xiv. If so, please give details.

As St. Ninian's is now closed questions xiii and xiv are not applicable.

(b) Practice

Past

i. Did the organisation/establishment adhere in practice to its policy/procedures in relation to the admission of children to the establishment?

While we have referred in 4.3 (a) i to aspects of policies that could be inferred from foundation correspondence and Visitation Reports, we have no documentation on file that sets out explicit admissions' policies or changes

thereto. Consequently, we cannot say whether there was adherence to policies or procedures in relation to the admission of children to the establishment.

ii. How was the adherence demonstrated?

We have no evidence of either adherence or non-adherence to admissions' policies.

iii. How can such adherence be demonstrated to the Inquiry?

Adherence or non-adherence to admissions' policies or procedures cannot be demonstrated due to lack of evidence from the available documentation.

iv. Were relevant records kept demonstrating adherence?

Relevant records do not seem to have been kept.

v. Have such records been retained?

No such records have been retained.

vi. If policy/procedure was not adhered to in practice, why not?

As already stated, we have no evidence of either adherence or non-adherence to admission policies.

vii. If policy/procedure was not adhered to in practice, what was the practice?

As we do not have specific policy/procedure details, it is not possible to say whether or not policy was adhered to in practice.

Present

viii. With reference to the present position, are the answers to any of the above questions different?

ix. If so, please give details.

Questions viii and ix are not applicable.

4.4 Day to Day

(a) Policy**Past****i. What policies and/or procedures did the organisation/establishment have in place in relation to the day to day running of the establishment?**

We have no records of policies or procedures relating to the day to day running of the establishment. Nonetheless, a day to day routine seems to have become established on week days as follows: morning rising, mass (optional), breakfast, morning household chores, morning prayer, classes, mid-morning break, more classes, lunch – main meal of the day, afternoon classes, outdoor games – football, rugby, cricket – when weather permitted, afternoon tea, study, evening meal, recreation and bed-time (MF,2/3/2017).

ii. Was there a particular policy and/or procedural aim/intention?

No particular policy or procedural aim/intention is documented in the available records. Insofar as one can infer such, there appears to have been a commitment to provide boys with a homely, healthy atmosphere and to meet their educational, spiritual and physical needs.

iii. Where were such policies and/or procedures recorded?

Any knowledge we have of policies or procedures is by way of inference from the files available to us rather than from documented records.

iv. What did the policies and/or procedures set out in terms of the following?

- **Activities for children**

While activities of children can be gleaned from the Annals of Falkland House and the Log Book, we have no record of formal policies or procedures in relation to these activities.

- **Off-site activities for children including trips, holidays and visits to family**

We know from the aforementioned records that many off-site activities occurred – regular trips to Perth Baths, camping holidays both in Scotland and abroad,

visits to Murrayfield for international rugby matches and to Glasgow for football matches, visits to other schools and local villages to play rugby and football matches, sledging on the local hills at times of snow, visits to parents or guardians particularly in later years when such visits occurred at Christmas, Easter and Summer. However, we do not have a record of policies or procedures setting out the purpose or terms of these off-site activities.

- **Schooling/education**

Again, we know that schooling/education took place at St. Ninian's and that some of the senior boys attended a local technical college for older pupils. The records indicate that occasional visits were made to Falkland House by inspectors from the Scottish Education Department. We also know from the records that a lot of the boys needed remedial attention. There is, however, no documentation in the available records which sets out broad educational aims for the boys or details on the kind of curriculum provided for them.

- **Discipline**

The Visitation Reports frequently refer to the good discipline and friendly atmosphere that prevailed at St. Ninian's. However, the House Annals maintained by the Brothers and the Log Book refer to instances of serious indiscipline, from time to time, such as boys absconding, petty crime in the local village, insubordination, boys hitting and kicking other boys. As obliged by the legislative framework, the corporal punishment administered for serious acts of indiscipline is recorded in the Log Book. References to such corporal punishment are less frequent in later years. There are also references in the Log Book to boys being rewarded by visits to Kirkcaldy or other places for good behaviour. On these occasions, it seems that boys whose behaviour was less than satisfactory were kept under supervision in Falkland House. We have no record of a written Code of Discipline for St. Ninian's, if such existed, setting out expectations about behaviour or a system of rewards and sanctions.

v. Who compiled the policies and/or procedures?

In the absence of documented evidence, we can only surmise that policies or procedures that existed were established through practice and routine during the early years, by the Superior and staff of St. Ninian's, and that unusual occurrences were treated on ad hoc basis.

vi. When were the policies and/or procedures put in place?

It would seem that certain ways of doing things became established in the early years of St. Ninian's and while patterns may have evolved over the years or may have been adapted to meet contemporary needs, the underlying culture or ethos remained the same.

vii. Do such policies and/or procedures remain in place?

This question is not applicable.

viii. Were such policies and/or practices reviewed?

We have no evidence that policies or practices relating to day to day life at St. Ninian's were reviewed in a formal way.

ix. If so, what was the reason for review?

As indicated in viii above, we have no evidence that policies or procedures were reviewed.

x. What substantive changes, if any, were made to the policies and/or procedures over time?

There are none on record.

xi. Why were changes made?

If changes were made, we have no record of why these may have occurred.

xii. Were changes documented?

Changes, if they occurred, were not documented.

xiii. Was there an audit trail?

There is no evidence of an audit trail being completed in respect of day to day policies or practices at St. Ninian's. A review of all available St. Ninian's files has been completed in response to the request for a submission relating to the Scottish Child Abuse Hearing.

Present

xiv. With reference to the present position, are the answers to any of the above questions different?

xv. If so, please give details.

Questions xiv and xv are not applicable.

(b) Practice

Past

i. Did the organisation/establishment adhere in practice to its policy/procedures relating to the day to day running of the establishment?

In the absence of documented evidence that the organisation/establishment had specific policies or procedures in place regarding the day to day running of St. Ninian's, it is not possible to state with any degree of certainty that policies or procedures were adhered to in practice.

ii. Did the organisation/establishment adhere in practice to its policy/procedures in terms of the following?

- **Activities for children**

It is not possible to say that practice reflected policies or procedures. On the basis of evidence gleaned from sources previously identified, one can infer that healthy and beneficial activities were provided for the children.

- **Off-site activities for children including trips, holidays and visits to family**

As indicated in 4.4 (a) iv, many off-site activities took place but due to lack of documented evidence we cannot say whether these activities reflected in practice compliance with particular policies or procedures.

- **Schooling/Education**

We do not know if the schooling or education programmes followed at St. Ninian's reflect adherence in practice to a pre-determined curriculum or programme of studies.

iii. How was adherence demonstrated?

Without documented evidence we cannot demonstrate such adherence.

iv. How can such adherence be demonstrated to the Inquiry?

The adherence in question cannot be demonstrated to the Inquiry.

v. Were relevant records kept demonstrating adherence?

No, relevant records do not appear to have been kept.

vi. Have such records been retained?

No such records have been retained.

vii. If policy/procedure was not adhered to in practice, why not?

Without documented evidence, we cannot say whether policy/procedure existed and if it did whether practice adhered to it.

viii. If policy/procedure was not adhered to in practice, what was the practice?

Examples of practice have been cited in 4.4 (a) but we do not know if these examples reflect the full spectrum of practices or if they reflect pre-determined policies or procedures.

Present**ix. With reference to the present position, are the answers to any of the above questions different?****x. If so, please give details.**

Questions ix and x are not applicable.

4.5 Children**(a) Policy****Past**

i. What policies and/or procedures did the organisation/establishment have in place in relation to caring for children at the establishment?

As in the previous section, we do not have records of what policies or procedures were in place relating to caring for children at St. Ninian's. We can infer from Visitation Reports that the children were well cared for.

ii. Was there a particular policy and/or procedural aim/intention?

Apart from the general aim of caring for homeless or neglected children that can be inferred from correspondence relating to the foundation of St. Ninian's, we have no documented evidence of an explicit procedural aim/intention.

iii. Where were such policies and/or procedures recorded?

Such policies or procedures do not appear to have been recorded.

iv. What did the policies and/or procedures set out in terms of the following?

- Safeguarding
- Child Protection
- Medical care
- Children's physical wellbeing
- Children's emotional and mental wellbeing

We do not have documented evidence of the existence of policies or procedures in relation to the areas identified. There are references in both House Annals and Log Book to medical care and physical wellbeing. A matron seems to have been employed for all or most of the life-span of St. Ninian's and there are frequent references to visits by the doctor, which seemed to be a weekly occurrence after The Social Work (Scotland) Act, 1968.

v. Who compiled the policies and/or procedures?

As stated, we do not have documented evidence of the existence of policies or procedures regarding child care. If policies or procedures existed on the basis of undocumented custom and practice, it has to be assumed that these were developed by Brother Nugent and his colleagues in the early years of St. Ninian's and were adopted, with occasional adaptations, by successive Superiors and staffs.

vi. When were the policies and/or procedures put in place?

We have to assume that certain good practices were put in place from the beginning of life at St. Ninian's and that these were continued, with adaptations to meet contemporary needs and requirements, over the ensuing years.

vii. Do such policies and/or procedures remain in place?

No, because St. Ninian's was closed as a residential care home for children in 1983.

viii. Were such policies and/or practices reviewed?

We have no documented evidence of their existence or of reviews taking place. The limited records would suggest that aspects of custom and practice would change. For example, references in the Log Book would suggest that the children visited their parents or guardians much more frequently in later years than was the case in the earlier years.

ix. If so, what was the reason for review?

We do not know if reviews took place but it is probable that the 1959 regulations and The Social Work (Scotland) Act, 1968, led to some changes in practice.

x. What substantive changes, if any, were made to the policies and/or procedures over time?

Even though we do not have documented evidence to confirm changes over time, it is reasonable to assume that the 1959 regulations and the 1968 Act (referenced in ix above) led to some changes in practice, substantive or otherwise.

xi. Why were changes made?

It is being assumed that they resulted from the 1959 regulations and The Social Work (Scotland) Act, 1968.

xii. Were changes documented?

No, changes were not documented.

xiii. Was there an audit trail?

There is no indication in the record that an audit trail on policies regarding child care was undertaken or completed. One cannot infer from the absence of such an audit trail that ways and means of improving the quality of child care were not considered at regular intervals.

Present

- xiv. With reference to the present position, are the answers to any of the above questions different?**
- xv. If so, please give details.**

Questions xiv and xv are not applicable.

(b) Practice

Past

- i. Did the organisation/establishment adhere in practice to its policy/procedures relating to the care of children at the establishment?**

No specific policy/procedures appear in the available St. Ninian's files but we cannot infer from these gaps in our information that good practice did not obtain.

- ii. Did the organisation/establishment adhere in practice to its policy/procedures in terms of the following?**
 - **Safeguarding**
 - **Child Protection**
 - **Medical care**
 - **Children's physical wellbeing**
 - **Children's emotional and mental wellbeing**

Apart from references in the House Annals, Log Book and Visitation Reports that suggest that the children's medical care and physical wellbeing received the necessary care and attention, we do not have documented evidence of procedures and policies in relation to the items listed.

- iii. How was adherence demonstrated?**

Seeing that we do not have documented evidence of the existence of policies or procedures regarding child welfare, it is not possible to demonstrate adherence or otherwise.

iv. How can such adherence be demonstrated to the Inquiry?

It is not possible to demonstrate such adherence to the Inquiry.

v. Were relevant records kept demonstrating adherence?

Relevant records that might demonstrate adherence either never existed or have not been retained.

vi. Have such records been retained?

No such records have been retained.

vii. If policy/procedure was not adhered to in practice, why not?

As we do not know what policy/procedure existed, we cannot say if there was adherence in practice.

viii. If policy/procedure was not adhered to in practice, what was the practice?

As stated in 5 (a), even though there may not have been written policies or procedures, many good practices relating to child care seem to have existed. Collating references in the House Annals, Log Book and Visitation reports, it can be inferred that a wide range of activities were designed to ensure that the regime in Falkland House helped to make the children feel 'at home' and not institutionalised. Visits from care workers, parents and siblings seem to have been welcomed and visits to families or guardians became much more frequent in later years. Many sporting activities were organised to ensure healthy exercise and frequent trips away from the campus were also a regular feature of life at St. Ninian's.

Present

ix. With reference to the present position, are the answers to any of the above questions different?

x. If so, please give details.

Questions ix and x are not applicable.

4.6 Staffing

(a) Policy

Past

- i. What policies and/or procedures did the organisation/establishment have in relation to staffing at the establishment?**

We have no record of the existence of policies or procedures in relation to staffing at St. Ninian's. We know that teaching and ancillary staff were recruited from time to time and, in one or two instances were dismissed, but no documented evidence of hiring or firing procedures seems to exist.

- ii. Was there a particular policy and/or procedural aim/intention?**

If such existed, it may have been undocumented.

- iii. Where were such policies and/or procedures recorded?**

If such policies existed, we do not have a record of them in the available St. Ninian's files.

- iv. What did the policies and/or procedures set out in terms of the following?**

- **Pre-employment checks**
- **Recruitment**
- **Induction**
- **Transfer of staff to or from other establishments within or outwith the organisation**
- **References**
- **Appraisal/supervision**
- **Training**
- **Personal/Professional development**
- **Disciplinary actions**
- **Dismissal**

While successive Superiors may have followed certain established practices in respect of the items listed above, we have no record or indication of what these practices might have been.

v. Who compiled the policies and/or procedures?

Apart from assuming that the recruitment of staff at St. Ninian's was a matter for the Superior of the day, we have no knowledge of who compiled policies or procedures in relation to staffing or, indeed, of the existence of such policies or procedures.

vi. When were the policies and/or procedures put in place?

No information in this regard is available.

vii. Do such policies and/or procedures remain in place?

This question is not applicable.

viii. Were such policies and/or practices reviewed?

We have no evidence of their existence or of them being reviewed.

ix. If so, what was the reason for review?

We have no knowledge of policy reviews relating to staffing matters.

x. What substantive changes, if any, were made to the policies and/or procedures over time?

If policies or practices existed in relation to staffing matters, we have no grounds for assuming that any substantive changes took place over time.

xi. Why were changes made?

We do not know if changes were made.

xii. Were changes documented?

Neither policies nor changes to policies were documented.

xiii. Was there an audit trail?

The audit trail pursued in preparing this submission provides us with no information on policies or procedures relating to staffing at St. Ninian's.

Present

- xiv. **With reference to the present position, are the answers to any of the above questions different?**
- xv. **If so, please give details.**

Questions xiv and xv are not applicable.

(b) Practice

Past

- i. **Did the organisation/establishment adhere in practice to its policy/procedures in relation to staffing at the establishment?**

Without knowledge of what the policy/procedures may have been, it is not possible to say whether or not they were followed.

- ii. **Did the organisation/establishment adhere in practice to its policy/procedures in terms of the following?**
- **Pre-employment checks**
 - **Recruitment**
 - **Inductions**
 - **Transfers to and from other establishments within or outwith the organisation**
 - **References**
 - **Appraisals/Supervision**
 - **Training**
 - **Personal/Professional development**
 - **Disciplinary actions**
 - **Dismissal**

We have no knowledge of policies or procedures in regard to the items listed, so we cannot say whether any, some or all of these items were considered in the recruitment of staff.

- iii. **How was adherence demonstrated?**

Adherence has not been demonstrated because the relevant documentation is not available in the St. Ninian's files at our disposal.

iv. How can such adherence be demonstrated to the Inquiry?

Such adherence cannot be demonstrated to the Inquiry.

v. Were relevant records kept demonstrating adherence?

No records demonstrating adherence to staffing policies are obtainable in the St. Ninian's files at our disposal.

vi. Have such records been retained?

Such records, if they ever existed, have not been retained.

vii. If policy/procedure was not adhered to in practice, why not?

Due to lack of information on record, it is not possible to say whether or not policy/procedure was adhered to in practice.

Present

viii. With reference to the present position, are the answers to any of the above questions different?

ix. If so, please give details.

Questions viii and ix are not applicable.

4.7 Visitors

(a) Policy

Past

i. What policies and/or procedures did the organisation/establishment have in place in relation to visitors to the establishment?

We know that many different people visited the establishment – local authority child care workers, Scottish Department of Education officials, Brothers on visitation from the Provincial and General Councils of the Christian Brothers,

parents, guardians, siblings and relatives of children, doctors and dentists, chaplains, nuns, priests, the Archbishop and Christian Brothers from other communities as well as past pupils. Apart from inferring from references in the records that all of these seemed to be made welcome, there is no record of any particular policy or procedures relating to visitors.

ii. Was there a particular policy and/or procedural aim/intention?

While the purpose of many of the visits is obvious, there is no reference to a procedural aim/intention in the records to which we have access.

iii. Where were such policies and/or procedures recorded?

No such policies or procedures seem to be on record.

iv. Who compiled the policies and/or procedures?

Visits by local authority officials were required by the legislative framework concerning the operation of residential care homes for children. Annual visitations by members of the Christian Brothers Provincial Council were required by Canon Law. We have, however, no documented evidence at local establishment level of the existence of any formal recognition of these visitations or indeed of the existence of policies or procedures relating to the many other visitors who called to St. Ninian's.

v. When were the policies and/or procedures put in place?

There is no indication in the records available to us that policies relating to visitors existed, so one has to presume that it was accepted as a matter of custom and practice that these many different types of visits simply took place.

vi. Do such policies and/or procedures remain in place?

There is no record of such policies or procedures existing in a formal manner, such as a written document.

vii. Were such policies and/or practices reviewed?

If there is no record of their existence, there is certainly no record of such policies or practices being reviewed.

viii. If so, what was the reason for review?

As stated above, there is no reference to review of policies in regard to visitors.

ix. What substantive changes, if any, were made to the policies and/or procedures over time?

We have no record of changes, substantive or otherwise, to policies/procedures or custom and practice relating to visitors.

x. Why were changes made?

As stated in ix above, we have no record of any changes being made.

xi. Were changes documented?

Neither policy/procedures nor changes, if such occurred, were documented.

xii. Was there an audit trail?

There is no evidence of an audit trail with regard to policy/procedures in respect of visitors.

Present

xiii. With reference to the present position, are the answers to any of the above questions different?

xiv. If so, please give details.

Questions xiii and xiv are not applicable.

(b) Practice

Past

i. Did the organisation/establishment adhere in practice to its policy/procedures in relation to visitors to the establishment?

We have no evidence of the existence of policy/procedures in relation to visitors to the establishment.

ii. How was adherence demonstrated?

Adherence cannot be demonstrated due to lack of evidence that the relevant policy/procedures existed.

iii. How can such adherence be demonstrated to the Inquiry?

Such adherence cannot be demonstrated to the Inquiry for reasons already cited.

iv. Were relevant records kept demonstrating adherence?

No records demonstrating adherence have surfaced in the course of our perusal of the St. Ninian's files at our disposal.

v. Have such records been retained?

Such records do not appear to have been retained.

vi. If policy/procedure was not adhered to in practice, why not?

There is no evidence that policy/procedure in regard to visitors existed and we have no reason to believe that custom and practice in this context underwent any significant changes.

Present

vii. With reference to the present position, are the answers to any of the above questions different?

viii. If so, please give details.

Questions vii and viii are not applicable.

4.8 Volunteers

(a) Policy

Past

i. What policies and/or procedures did the organisation/establishment have in place in relation to volunteers at the establishment?

Apart from the designation of St. Ninian's as a voluntary residential home for children in need, terms such as voluntary or volunteers do not otherwise appear in the records. Volunteers, in the sense of helpers who were not members of the St. Ninian's staff, may have provided assistance from time to time at the establishment but there is no record of the existence of policies or procedures relating to volunteers or voluntary work.

ii. Was there a particular policy and/or procedural aim/intention?

If there was a particular policy or procedural aim/intention in respect of volunteers, it is unlikely that this was documented.

iii. Where were such policies and/or procedures recorded?

We have no evidence that such policies or procedures were recorded.

iv. Who compiled the policies and/or procedures?

If voluntary work was an aspect of life at St. Ninian's, it is likely that it was occasional rather than regular and may have occurred on ad hoc basis. In that context, volunteers would have become involved with the approval of the Superior but it is unlikely that he was being guided by any particular policies or procedures.

v. When were the policies and/or procedures put in place?

We have no record of the existence of such policies or of when volunteers may have been involved in aspects of life at St. Ninian's.

vi. Do such policies and/or procedures remain in place?

This question is not applicable.

vii. Were such policies and/or practices reviewed?

As indicated in v. above, we have no record of such policies and, consequently, no record of reviews taking place.

viii. If so, what was the reason for review?

We have no reason to believe that documented policies in relation to volunteers existed or were reviewed.

ix. What substantive changes, if any, were made to the policies and/or procedures over time?

We have no knowledge of the existence of such policies or changes that may have been made to them.

x. Why were changes made?

We are not aware of any changes.

xi. Were changes documented?

Neither policies nor changes to policies in regard to volunteers seem to have been documented.

xii. Was there an audit trail?

There were no documented policies or procedures regarding volunteers, so an audit trail would not have been relevant.

Present

xiii. With reference to the present position, are the answers to any of the above questions different?

xiv. If so, please give details.

(b) Practice

Past

i. Did the organisation/establishment adhere in practice to its policy/procedures in relation to volunteers at the establishment?

Since we have no record of the existence of policy/procedures in relation to volunteers it is not possible to give an answer to this question.

ii. How was adherence demonstrated?

As there is no evidence that policies existed in regard to volunteers, adherence cannot be demonstrated.

iii. How can such adherence be demonstrated to the Inquiry?

Adherence cannot be demonstrated to the Inquiry.

iv. Were relevant records kept demonstrating adherence?

We have no information of the existence of such records.

v. Have such records been retained?

Records on this subject do not appear to have been retained.

vi. If policy/procedure was not adhered to in practice, why not?

In the absence of documented evidence, it is not possible to state whether practice adhered to policies or procedures.

Present

vii. With reference to the present position, are the answers to any of the above questions different?

viii. If so, please give details.

Questions are not applicable.

4.9 Complaints and Reporting

(a) Policy

Past

i. What policies and/or procedures did the organisation/establishment have in place in relation to complaints and reporting at the establishment?

In regard to St. Ninian's, we are referring to the period 1950 – 1983 when the kinds of policies, procedures and practices to which we have grown accustomed today were not yet in place. Policies in relation to complaints and reporting were not a common feature of life in institutions during the time-span in question. There is no reference in the records at our disposal to policies or procedures in relation to handling of complaints or reporting at St. Ninian's.

ii. Was there a particular policy and/or procedural aim/intention?

There is no reference in the records to a particular policy or procedural aim/intention regarding complaints or reporting.

iii. Where were such policies and/or procedures recorded?

No such policies or procedures appear to have been recorded.

iv. What did the policies and/or procedures set out in terms of the following?

- **Complaints by children**
- **Complaints by staff**
- **Complaints by third persons/family of children**
- **Whistleblowing**
- **Support, including external support, for those who made complaint or those who were the subject of complaint**
- **Response to complaints (including response by organisation and/or establishment)**
- **External reporting of complaints**

As there is no record of the existence of policies or procedure in relation to complaints or reporting, none of the above items receives attention in the files at our disposal. Common sense would suggest that complaints must have been made from time to time by children and staff (including Brothers), but these may have been handled on ad hoc basis, without reference to any particular set of policies or procedures.

v. Who compiled the policies and/or procedures?

As suggested above, it is unlikely that the handling of complaints followed established procedures. It is more likely that complaints were handled on a case by case basis, on the individual merits of each case.

vi. When were the policies and/or procedures put in place?

Since we have no documented evidence of the existence of specific policies or procedures, it is not possible to state, if perchance they existed, when they were put in place.

vii. Do such policies and/or procedures remain in place?

This question is not applicable to St. Ninian's.

viii. Were such policies and/or practices reviewed?

We have no evidence of the existence of policies regarding complaints or reporting and certainly no evidence of such policies being reviewed.

ix. If so, what was the reason for review?

A reason for review cannot be given in a context where there is no evidence of the existence of a policy, in the first instance.

x. What substantive changes, if any, were made to the policies and/or procedures over time?

Neither policies, nor reviews nor changes are documented.

xi. Why were changes made?

We have no evidence that changes were made.

xii. Were changes documented?

Changes were not documented.

xiii. Was there an audit trail?

There is no reference on record to an audit trail.

Present

xiv. With reference to the present position, are the answers to any of the above questions different?

xv. If so, please give details.

Questions xiv and xv are not applicable as St. Ninian's was closed in 1983.

(b) Practice

Past

- i. Did the organisation/establishment adhere in practice to its policy/procedures in relation to complaints and reporting at the establishment?**

As stated in Section 4.9 (a), there is no record of policies or procedures in relation to complaints or reporting at St. Ninian's.

- ii. Did the organisation/establishment adhere in practice to its policy/procedures in terms of the following?**

- **Complaints by children**
- **Complaints by staff**
- **Complaints by third persons/family of children**
- **Whistleblowing**
- **Support, including external support, for those who made complaint or those who were the subject of complaint**
- **Response to complaints (including response by organisation and/or establishment)**
- **External reporting of complaints**

Since we have no evidence of the existence of policies or procedures in relation to complaints or reporting of complaints, it is not possible to state whether the organisation/establishment adhered in practice to policies or procedures with regard to the items listed above.

- iii. How was adherence demonstrated?**

Adherence has not been demonstrated.

- iv. How can such adherence be demonstrated to the Inquiry?**

Such adherence cannot be demonstrated to the Inquiry.

- v. Were relevant records kept demonstrating adherence?**

We have no evidence of such records being kept.

- vi. Have such records been retained?**

Such records, if they ever existed, have not been retained.

vii. If policy/procedure was not adhered to in practice, why not?

We have no evidence of policy/procedure in this subject area or of what the practice in relation to handling of complaints may have been.

Present

viii. With reference to the present position, are the answers to any of the above questions different?

ix. If so, please give details.

Questions relating to the present position if they are concerned with the continued existence of St. Ninian's are not applicable.

4.10 Internal Investigations

(a) Policy

Past

i. What policies and/or procedures did the organisation/establishment have in place in respect of internal investigations relating to the establishment?

We have not identified any written policies or procedures in our archive. Either policies or procedures were not formalised in writing or else they have not been retained.

ii. Was there a particular policy and/or procedural aim/intention?

In the absence of written policies and procedures we cannot state whether there was a particular aim or intention.

iii. Where were such policies and/or procedures recorded?

Policies and procedures regarding the conduct of investigations do not appear to have been recorded.

iv. What did the policies and/or procedures set out in terms of the following?

- **Approach to/process of internal investigations**
- **Identifying lessons/changes following internal investigations**
- **Implementation of lessons/changes following internal investigations**
- **Compliance**
- **Response (to child and abuser)**
- **Response to complaints (including response by organisation and/or establishment)**
- **External reporting following internal investigations**

During the life-span of St. Ninian's (1950 – 1983), there is no evidence that any of the matters listed above received individual or general attention in an over-all framework of policies or procedures. We know that one Brother was removed from St. Ninian's because 'he could not be trusted with children' and we have to assume that this happened as a result of a report made by the Superior to the Provincial. Assuming that such a report was made, we do not know if it was as a result of an internal investigation or on the basis of an observation on the part of the Superior or a staff member.

v. Who compiled the policies and/or procedures?

We have no evidence of the existence of policies or procedures relating to investigations even though common sense and experience would suggest that investigations must have occurred in regard to a wide variety of issues.

vi. When were the policies and/or procedures put in place?

Irrespective of policies or procedures, it is likely that investigations took place from the very early days of the life of St. Ninian's. In the absence of particular procedures, one has to assume that Superiors and staff members developed their own individual approaches to investigations.

vii. Do such policies and/or procedures remain in place?

This question is not applicable.

viii. Were such policies and/or practices reviewed?

We have no evidence of the existence of policies or of reviews regarding the conduct of investigations.

ix. If so, what was the reason for review?

We have no evidence that either policies or practices were reviewed.

x. What substantive changes, if any, were made to the policies and/or procedures over time?

In the absence of documented evidence, it is not possible to state whether approaches to investigations changed over time.

xi. Why were changes made?

We have no evidence of changes being made.

xii. Were changes documented?

Changes were not documented.

xiii. Was there an audit trail?

There is no evidence that an audit trail was completed.

Present

xiv. With reference to the present position, are the answers to any of the above questions different?

xv. If so, please give details.

Questions xiv and xv are not applicable.

(b) Practice

Past

i. Did the organisation/establishment adhere in practice to its policy/procedures in respect of internal investigations relating to the establishment?

In the absence of evidence that policy/procedures in respect of internal investigations relating to the establishment existed, one has to conclude that, while investigations must have taken place, the conduct of these did not follow a particular code of practice.

ii. Did the organisation/establishment adhere in practice to its policy/procedures in terms of the following?

- Approach to/process of internal investigations
- Identifying lessons/changes following internal investigations
- Implementation of lessons/changes following internal investigations
- Compliance
- Response (to child and abuser)
- Response to complaints (including response by organisation and/or establishment)
- External reporting following internal investigations

Again, it is unlikely that there was a codified approach in respect of the matters listed above either in terms of processing investigations or in responses to matters that surfaced as a result of investigations.

iii. How was adherence demonstrated?

Adherence has not been demonstrated.

iv. How can such adherence be demonstrated to the Inquiry?

Adherence or lack thereof cannot be demonstrated to the Inquiry.

v. Were relevant records kept demonstrating adherence?

Relevant records do not appear to have been kept.

vi. Have such records been retained?

No records relating to the conduct of investigations at St. Ninian's have been retained.

vii. If policy/procedure was not adhered to in practice, why not?

Without documented evidence of the existence of policy/procedure in respect of investigations, the question of adherence cannot be answered cogently.

Present

viii. With reference to the present position, are the answers to any of the above questions different?

ix. If so, please give details.

Questions viii and ix are not applicable.

4.11 Child Migration

(a) Policy

Past

i. What policies and/or procedures did the organisation/establishment have in place in relation to child migration?

The issue of child migration does not appear to have arisen at all in relation to St. Ninian's, so there would have been no reason for policies or procedures in that regard.

ii. Was there a particular policy and/or procedural aim/intention?

Not applicable.

iii. Where were such policies and/or procedures recorded?

They were not recorded.

iv. What did the policies and/or procedures set out in terms of the following?

- Identification and checking the suitability of the places where children were sent
- Selection of children to migrate including age, gender and background
- Provision of information to the child and/or his/her parents before migration
- Provision of information and records to children and/or their parents once child had been migrated
- Obtaining consent of child
- Obtaining consent of parents of child
- Obtaining of consent of others e.g. Secretary of State

- **Responding to requests for information from former child migrants**
- **Other issues**

None of the above issues arose in respect of St. Ninian's.

v. Who compiled the policies and/or procedures?

There is no evidence of policies or procedures in relation child migration.

vi. When were the policies and/or procedures put in place?

They were not put in place as they were not needed.

vii. Were such policies and/or practices reviewed?

They do not appear to have existed, so the issue of review did not arise.

viii. If so, what was the reason for review?

There was no reason for review.

ix. What substantive changes, if any, were made to the policies and/or procedures over time?

The issue of substantive change did not arise.

x. Why were changes made?

There were no changes.

xi. Were changes documented?

Changes were not documented.

xii. Was there an audit trail?

An audit trail regarding Child Migration would not have been necessary in respect of St. Ninian's.

Present

- xiii. With reference to the present position, are the answers to any of the above questions different?**
- xiv. If so, please give details.**

Questions xiii and xiv are not applicable.

(b) Practice

Past

- i. Did the organisation/establishment adhere in practice to its policy/procedures in relation to child migration?**

As stated in 4.11 (a), the issue of child migration did not arise in respect of St. Ninian's. There is no reference to child migration in any of the records available to us.

- ii. Did the organisation/establishment adhere in practice to its policy/procedures in terms of child migrants relating to the following?**
- **Identification and checking the suitability of the places where children were sent**
 - **Selection of children to migrate including age, gender, background**
 - **Provision of information to the child and/or his/her parents before migration**
 - **Provision of information and records to children and/or their parents once child had been migrated**
 - **Obtaining consent of child**
 - **Obtaining consent of parents of child**
 - **Obtaining of consent of others e.g. Secretary of State**
 - **Responding to requests for information from former child migrants**
 - **Other issues**

None of the matters listed applies in respect of St. Ninian's.

- iii. How was adherence demonstrated?**

This question is not applicable to St. Ninian's..

iv. How can such adherence be demonstrated to the Inquiry?

Adherence to policy/procedures in relation to child migration cannot be demonstrated to the Inquiry.

v. Were relevant records kept demonstrating adherence?

No record relating to child migration is to be found in the St. Ninian's files.

vi. Have such records been retained?

No such records have been retained.

vii. If policy/procedure was not adhered to in practice, why not?

The question of adherence in practice did not arise.

viii. How many children were sent as child migrants from the organisation's establishments, and where were they sent?

Again, as there is no reference to child migrants in the files of St. Ninian's establishment, it has to be presumed that no child migrants were sent anywhere.

ix. What was their age and gender?

Please refer to previous answer.

x. Over what time period were children migrated from the organisation's establishments?

Not applicable to St. Ninian's.

xi. Who funded the child migration?

Not applicable to St. Ninian's.

xii. Who received the funding in relation to migrant children?

Not applicable to St. Ninian's.

xiii. In general terms, how much was this funding?

Not applicable to St. Ninian's.

- xiv. How did the organisation/establishment respond to requests for information from former child migrants?**

Not applicable to St. Ninian's.

Present

- xv. With reference to the present position, are the answers to any of the above questions different**

- xvi. If so, please give details.**

- xvii. In hindsight, does the organisation have a view on policies/procedures that were in place in relation to child migration?**

- xviii. If the organisation accepts that such policies or procedures were flawed, has the organisation provided a specific response e.g. apology, redress or any other type of response?**

Questions xv, xvi, xvii and xviii are not applicable to St. Ninian's.

4.12 Records

(a) Policy

Past

- i. What policies and/or procedures did the organisation/establishment have in relation to record keeping?**

While it was established practice to keep annals in Christian Brother establishments, there seems to have been no specific policies or procedures setting out how this practice was to be put in effect. The quality of the annals seemed to depend on the local Superior who in some instances may have been diligent about recording events regularly and accurately and in other instances not so diligent. For the first two and half decades of the life-span of St. Ninian's, both House Annals and Log Book seem to record all or most of the important events in the life of St. Ninian's. For some reason the quality of record keeping seems to have dis-improved around the mid-1970s and, as

referenced previously, we have no Log Book entries for the period 1976 – '83. Recording significant events in the Log Book was a requirement in successive Acts relating to residential care homes for children and compliance with this requirement is evident up 1976.

So, it can be said that record-keeping did take place in St. Ninian's in compliance with national requirements, but it was not underpinned by particular policies or procedures at establishment level.

ii. Was there a particular policy and/or procedural aim/intention?

There is no record of a particular or procedural aim/intention but the entries to both House Annals and Log Book would suggest that the intention was to record significant events.

iii. What did the policies and/or procedures set out in terms of records relating to the following?

Responses to questions in previous sections of Part C indicate or imply that policies or procedures during the time-frame in question here are noteworthy by their absence. Insofar as we have information about the subjects itemised underneath, it is based on entries to the Register, the House Annals and Log Book which, while complying with national requirements, do not seem to be guided by a particular set of policies or procedures at establishment level.

- **Children in its care**

The children figure significantly in the entries mentioned above – the wide variety of activities in which they were involved both on-site and off-site, visits they received from local authority child welfare officials, relatives and the local doctor, their illnesses and recovery from illnesses, their arrivals and departures, their rewards and punishments. However we have not identified a policy setting out what was to be recorded and retained.

- **Staff**

Reference has been made in section 4.6 to the lack of records in relation to policies or procedures on the recruitment of staff. Entries in the House Annals and the Log Book make occasional references to staff, for example their arrivals and departures as well as the identity of staff members who accompanied boys on camping holidays or other off-site activities. These references offer little

insight into the roles and functions of staff or the quality of their interactions with the children.

- **Complaints**

One can merely repeat what has been said in section 4.9 that we have no record of policies or procedures relating to processing of complaints.

- **Investigations**

As in the case of complaints, we know that investigations must have taken place, but we have no documented record of codified approaches to investigations.

- **Discipline**

While it is inconceivable that an establishment such as St. Ninian's would not have had a Code of Discipline, no copy of the Code has appeared in the files at our disposal. While both the House Annals and the Log Book refer from time to time to acts of indiscipline, the comments in the Visitation Reports are very complimentary about the good order in St. Ninian's and the friendly relations between the Brothers and the boys. As required by various Government Acts, the dates on which corporal punishment was administered and the reasons for same were entered in the Log Book. These entries relate to matters such as boys absconding, stealing from shops in the local village, damaging property and fighting. Reflecting attitudes at the time, corporal punishment seemed to be administered more frequently in the earlier years with considerably fewer entries in the 1970s.

- **Child migrants**

There is no reference whatever to child migration in the St. Ninian's records at our disposal.

- **Responding to requests from former residents for information/records**

While we know that former residents were welcomed back to St. Ninian's and that over-night sleeping accommodation was provided for them, there is no reference in the records to policies or procedures on how to respond to requests for information. One can only assume that former residents were provided with whatever information was on record about them when they sought such information.

- **Other issues**

Reference has been made already to the lack of policies and procedures in relation to many aspects of life at St. Ninian's.

iv. Who compiled the policies and/or procedures?

Whatever policies or procedures existed were likely to have become established more through custom and practice than as a result of documents compiled by Superiors, Headmasters or other staff.

v. When were the policies and/or procedures put in place?

We have no record of when policies or procedure were compiled or put into effect. It has to be assumed however, that certain policies/procedures, for example a Code of Discipline, had to be in place from the very early days in the life-span of St. Ninian's.

vi. Do such policies and/or procedures remain in place?

This question is not applicable to St. Ninian's.

vii. Were such policies and/or practices reviewed?

We have no documented evidence of formal reviews taking place but, inevitably, certain practices would have changed with the passage of time. For example, we know that the children went to their parents or guardians at holiday time much more frequently in later years than in the 1950s and 1960s.

viii. If so, what was the reason for review?

No reason has been cited in the records for changes but, undoubtedly, changes in practice in establishments such as St. Ninian's would reflect societal changes and changes in the legislative framework.

ix. What substantive changes, if any, were made to the policies and/or procedures over time?

While none are documented, it is likely that the rules and regulations, published by the Government in 1959, relating to residential homes for children, led to changes in practices as would the 1968 Act previously referenced.

x. Why were changes made?

As suggested in the previous answer, changes would have been made because of changes in the legislative framework and societal changes.

xi. Were changes documented?

While some changes can be inferred from the records, they were not documented.

xii. Was there an audit trail?

An audit trail could have taken place only if there had been policies to audit in the first place. In regard to record-keeping, we have no evidence of policies or an audit trail.

Present**xiii. With reference to the present position, are the answers to any of the above questions different?****xiv. If so, please give details.**

Questions xiii and xiv are not applicable to St. Ninian's.

(b) Practice**Past****i. Did the organisation/establishment adhere in practice to its policy/procedures in relation to record keeping?**

Assuming that this question relates to documented policies or procedures about record keeping, we do not know if such existed. However, records were kept and are held in the Marino archives of Christian Brothers European Province. Some records relating to St. Ninian's may be lost but, on the basis of those that have survived, it is not possible to conclude that there was adherence in practice to policy/procedures, that may or may not have existed, with regard to record keeping.

ii. Did the organisation/establishment adhere in practice to its policy/procedures in terms of record keeping relating to the following?

- Children
- Staff
- Complaints
- Investigations
- Discipline
- Child migrants
- Responding to requests from former residents for information/records
- Other issues

Without knowing that policy/procedures existed in relation to the subjects listed above it is not possible to give a credible answer as to whether practice adhered to policy/procedures.

iii. How was adherence demonstrated?

Adherence to policy/procedures that may or may not have existed cannot be demonstrated due to lack documented evidence.

iv. Were relevant records kept demonstrating adherence?

No records that would demonstrate adherence have been found in the relevant files.

v. Have such records been retained?

Such records do not appear to have been retained.

vi. If policy/procedure was not adhered to in practice, why not?

For reasons already cited, adherence or lack thereof cannot be inferred from the documentation available to us.

vii. Did the establishment undertake any review or analysis of its records to establish what abuse or alleged abuse of children cared for at the establishment may have taken place?

The earliest documented complaint we have of abuse or alleged abuse at St. Ninian's dates from 1998 – 15 years after St. Ninian's was closed. We also

know that a Brother was transferred from St. Ninian's in 1962 because he 'could not be trusted with children'. It has to be assumed that this transfer happened as a result of a request from the Superior to the Provincial. If the establishment undertook any review or analysis relating to abuse or alleged abuse of children one would expect to see reference to this in either the House Annals or Visitation Reports. As no such reference appears in these records, one has to conclude that no review was undertaken within the life-span of St. Ninian's (1950 - '83) in regard to abuse or alleged abuse.

viii. If so, when did the reviews take place, what documentation is available, and what were the findings?

We have no evidence that any review took place.

ix. How have the outcomes of investigations been used to improve systems, learn lessons?

As there are no records of investigation or reviews relating to abuse or alleged abuse during the life-time of St. Ninian's, it is not possible to make meaningful comments about improvement to systems or lessons learned.

x. What changes have been made?

There is no record of changes in respect of the subject-matter in question.

xi. How are these monitored?

This question is not applicable to St. Ninian's.

xii. Did the organisation/establishment afford former residents access to records relating to their time at the establishment?

While we have no record of how St. Ninian's authorities (Superiors/Headmasters) dealt with request for access to records, normal practice in schools would suggest that certain information such as examination results would be provide on request.

xiii. If so, how was that facilitated?

There is no reference in the records to how this was facilitated.

xiv. If not, why not?

It is assumed that the type of information reference in xii above was provided on request.

Present

xv. With reference to the present position, are the answers to any of the above questions different?

xvi. If so, please give details.

If Questions xv and xvi are based on the assumption that St. Ninian's still functions as a residential home for children, they are not applicable.

xvii. Please provide details of any records currently held relating to the establishment in respect of the following:

- **Children in its care**

Files relating to St. Ninian's are now held in Christian Brothers European Province archives in Marino, Dublin. The names of all the children who were resident in St. Ninian's from 1950 to 1983 are recorded in the Register for St. Ninian's, including their admittance and departure dates. Some general information about activities organised for the children can be gleaned from the House Annals, while the Log Book records significant events in the life of the children in the establishment from term to term and year to year.

- **Staff**

The records seem to provide the names of all or most of the staff members from 1970 to 1983. The records relating to staff, for the period 1950 to 1970, seem to be incomplete. The names of all or most of the Brothers who spent periods of time at St. Ninian's are on record.

- **Complaints**

Historical complaints since they commenced in 1998 are on record.

- **Investigations**

There are no records of investigations in relation to abuse or alleged abuse which may have taken place during the life-time of St. Ninian's. With regard to investigations of complaints of an historical nature, the Christian Brothers have

co-operated fully with the police and provided the investigating police with all relevant documentation at their disposal.

- **Discipline**

There are no records of what discipline codes may have existed at St. Ninian's. There are references in the Log Book to matters of discipline and to sanctions administered for serious matters of indiscipline. There also references to children being rewarded for good conduct.

- **Child Migrants**

There is no reference whatsoever to child migrants in the St. Ninian's records.

- **Responding to requests from former residents for information/records**

The current position of the Christian Brothers is to provide former residents with any personal information about them that is on record.

Part D – Abuse and Response

The questions in Part D should be answered in respect of abuse or alleged abuse relating to the time frame 1930 to 17 December 2014 only.

5. Abuse

5.1 Nature

- What was the nature of abuse and/or alleged abuse of children cared for at the establishment, for example, sexual abuse, physical abuse, emotional abuse?**

The historical complaints that have come to the attention of the Brothers since 1998 relate to sexual abuse, physical abuse and by inference, in some instances, emotional abuse.

5.2 Extent

- What is the organisation/establishment's assessment of the scale and extent of abuse of children cared for at the establishment?**

The fact that any abuse occurred is of the greatest concern to the Christian Brother. The conviction of two former Christian Brothers in the High Court in Glasgow on 22nd July 2016 has been cited in 3.ii (Part B). Their convictions and imprisonment were based on the evidence given by a number of former residents. [REDACTED]

[REDACTED] Multiple allegations were made against the two former Brothers who were convicted. Other allegations on record seem to be from a single complainant for the most part and, apart from one particular complainant, are against individual former staff members. Besides the people convicted [REDACTED]

[REDACTED] there are records of allegations of physical or sexual abuse against three deceased Brothers, one other Brother and one former Brother. The records indicate there were over 150 members of staff in total during the time St. Nnian's was run as a residential care home by the Christian Brothers with complaints against 9.

ii. What is the basis of that assessment?

The basis of that assessment is the information on record and the extraction of the figures cited above from this information.

iii. Against how many staff have complaints been made in relation to the alleged abuse of children cared for at the establishment?

The records indicate that allegations have been made against a total of nine staff members.

iv. How many staff have been convicted of, or admitted to, abuse of children cared for at the establishment?

Two former staff members have been convicted of abuse of children cared for at the establishment. We have no record of any former staff member admitting to abuse of children.

v. How many staff have been found by the organisation/establishment to have abused children cared for at the establishment?

Apart from the instance relating to a Brother being transferred from St. Ninian's in 1962, we have no other record of the organisation/establishment finding any staff member to have abused children.

- vi. In relation to questions iii – v above, what role did/do those members of staff had/have within the organisation/establishment?**

Three of the members of staff in question were Headmasters with one of these being Superior as well. The others were members of the teaching staff and would have been involved in supervision and extra-curricular activities both on and off site. The Brothers in question were more than likely involved in the supervision of dormitories as well.

- vii. To what extent did abuse and/or alleged abuse of children cared for at the establishment take place during off-site activities, trips and holidays?**

In one of the instances of alleged abuse, the allegation refers to abuse that is alleged to have happened when the complainant accompanied the alleged abuser on a trip to Ireland.

- viii. To what extent was abuse and/or alleged abuse of children cared for at the establishment carried out by visitors and/or volunteers to the establishment?**

There is no reference in the allegations on file that the alleged abuse was carried out by visitors or volunteers at the establishment.

- ix. Have there been allegations of peer abuse?**

There is a reference in the Log Book (████/1960) to boys being disciplined for ‘immorality’ but it is not clear if this refers to peer abuse of a sexual nature. There are also references to boys being disciplined for ‘hitting and kicking’ other boys, but it is not suggested that this involved bullying or physical abuse on the part of older or stronger boys of younger or more vulnerable peers.

5.3 Timing of Disclosure/Complaint

- i. When were disclosures and complaints of abuse and/or alleged abuse of children cared for at the establishment made to the organisation or establishment?**

The first of the historical complaints came to the attention of the organisation in early 1998. An allegation from a different source also came to the attention of the organisation in 1998. Further allegations came to the attention of the organisation in 2002 and 2013. Apart from the allegation made in 2013, none of

the others came directly to the organisation but either through Fife police or through the safeguarding officer for the Archdiocese of St. Andrews and Edinburgh who had already informed the Fife police. Details of these disclosures/complaints will be provided in sections 5.7 to 5.13 below.

ii. To what extent were complaints and disclosures made while the abuse or alleged abuse was on-going or recent?

We have no record of any complaints or disclosures about abuse or alleged abuse while it was on-going. We do not know whether the transfer of the Brother from St. Ninian's in 1962 was on foot of a complaint from a child or an observation by the Superior or other staff member.

iii. To what extent were/are complaints made many years after the alleged abuse i.e. about non-recent abuse?

All of the complaints on record were made many years after St. Ninian's was closed as a residential care home for children.

iv. Are there any patterns of note in terms of the timing/disclosure of abuse and/or alleged abuse?

The timing of the disclosure of abuse or alleged abuse may have been due to media attention to abuse in various residential homes for children in other countries, such as Canada, Australia and Ireland.

5.4. External Inspections

i. What external inspections have been conducted relating to children cared for at establishment which considered issues relating to abuse and/or alleged abuse of children?

There is no record of any external inspection being conducted at the establishment relating to abuse or alleged abuse of children.

For each such external inspection please answer the following:

ii. Who conducted the inspection?

There is no record in the St. Ninian's files at our disposal of any external inspection being conducted.

iii. Why was the inspection conducted?

No inspection occurred to our knowledge.

iv. When was the inspection conducted?

Please refer to answers to previous questions.

v. What was the outcome of the inspection in respect of any issues relating to abuse or alleged abuse of children?

We have no record of any inspection or any outcome.

vi. What was the organisation/establishment's response to the inspection and its outcome?

There is no record of any inspection or outcome.

vii. Were recommendations made following the inspection?

There is no record of any inspection or outcome.

viii. If so, what were the recommendations and were they implemented?

As there were no recommendations the question of implementation did not arise.

ix. If recommendations were not implemented, why not?

Recommendations were not implemented because none were issued.

5.5 External Investigations

i. What external investigations have been conducted relating to children cared for at the establishment which have considered issues relating to abuse and/or alleged abuse of children?

There is no record of external investigations being conducted at St. Ninian's in relation to the abuse or alleged abuse of children.

For each such external investigation please answer the following:

ii. Who conducted the investigation?

There is no record of any investigation being conducted.

iii. Why was the investigation conducted?

No investigation was conducted, to our knowledge.

iv. When was the investigation conducted?

No investigation was conducted.

v. What was the outcome of the investigation in respect of any issues relating to abuse or alleged abuse of children?

As there was no investigation there was no outcome.

vi. What was the organisation/establishment's response to the investigation and its outcome?

There was no response because there was no investigation or outcome.

vii. Were recommendations made following the investigation?

There is no reference on record to investigations, outcomes or recommendations.

viii. If so, what were the recommendations and were they implemented?

As there were no recommendations there was no implementation.

ix. If recommendations were not implemented, why not?

The issue of implementation did not arise as there were no recommendations.

5.6 Response to External Inspections/Investigations**i. What was the organisation's procedure/process for dealing with external inspections and/or investigations relating to abuse, and/or alleged abuse, of children cared for at the establishment?**

There is no record of any policy or process for dealing with inspections or investigation relating to abuse or alleged abuse of children at St. Ninian's.

ii. What was the organisation's procedure/process for responding to the outcomes of such external inspections and/or investigations?

There is no reference in the records to the likelihood of external inspections or investigations taking place, so one has to presume that that there was no perception of a need for a procedure or process to deal with such inspections or investigations.

iii. What was the organisation's procedure/process for implementing recommendations which followed from such external inspections and/or investigations?

There is no reference in the records to a process for implementing the recommendations of external inspections/investigations.

5.7 Impact

i. What is known about the impact of abuse on those children cared for at the establishment who were abused, or alleged to have been abused?

Due to the fact that most of the allegations made against staff members of St. Ninian's reached the Christian Brothers through the police, the Brothers have had no direct involvement with the complainants with the exception of two people who wished to talk with the Christian Brothers. By arrangement between the police and the Christian Brothers contacts between the two people in question and the Christian Brothers were established. The Brothers engaged in pastoral outreach with the said persons but felt limited in what they could do due to the likelihood of legal proceedings being issued against them.

Reports on the encounters in question suggest that the complainants suffered many of the long term effects associated with child sexual abuse – depression, low self-esteem, feelings of guilt and shame, anger, loss of trust and loss of social skills.

ii. Where does the organisation/establishment's knowledge/assessment of that impact come from?

The organisation's knowledge of this impact comes from their inter-actions with complainants and, in a more general way, from the literature on child sexual abuse published by psychologists, psychiatrists and others.

iii. What is known about the impact of abuse on the families of those children cared for at the establishment who were abused, or alleged to have been abused?

In the case of the two instances referenced in 5.7 (i), family life seemed to be seriously affected because of an inability to sustain relationships. Some of the factors that have been identified – depression, low self-esteem, loss of trust and loss of social skills – would have contributed to the inability to sustain relationships.

iv. Where does the organisation/establishment's knowledge/assessment of that impact come from?

This knowledge comes from the reports on the interactions between the organisation's representatives and the complainants.

5.8 Known Abusers at Establishment

i. Does the organisation/establishment know of specific abusers, or alleged abusers, of children cared for at the establishment?

Records at the headquarters of the European Province of the Christian Brothers identify convicted abusers as well as those against whom allegations have been made.

ii. If so, what are the names of the abusers, and/or alleged abusers?

The names of convicted abusers are two former Christian Brothers:

- John Farrell
- Paul Kelly

The names of those against whom allegations have been made are:

- deceased former Brother ^{MCE} [REDACTED] (allegation of sexual abuse);
- Brother ^{LNC} [REDACTED] (allegation of physical abuse);
- deceased Brother ^{BHD} [REDACTED] (allegation of physical abuse);

- deceased Brother Gerard Ryan (allegation of sexual and physical abuse);
- Brother ^{MHG} [REDACTED];
- former Brother ^{MBV} [REDACTED];
- Mr. ^{MCG} [REDACTED], lay teacher, [REDACTED]

There were two Brothers [REDACTED] in St. Ninian's at the same time. It would appear from the [REDACTED] alleged abuser given by the complainant that the allegations pertain to Brother Gerard Ryan and not Brother ^{MCX} [REDACTED] (who is also deceased).

Regarding [REDACTED], the complaints against them were made through the police and the police did not inform the Christian Brothers of the names of those who made complaints/allegations against them or dates or periods of time during which the abuse was alleged to have taken place.

iii. For each of these persons, please provide as much as possible of the following information:

- **the period (dates) during which they are known or alleged to have abused children cared for at the establishment**

- former Brother John Farrell - 1980 – '83,
- former Brother Paul Kelly - 1979 – '83,
- former Brother ^{MCE} [REDACTED] (deceased) 1960 - 1962,
- Brother ^{LNC} [REDACTED] – no date/year confirmed
- Brother ^{BHD} [REDACTED] (deceased) – 1970 – '72,
- Brother Gerard Ryan (deceased) – 1971 – '75,
- Former Brother ^{MBV} [REDACTED] – 1970 – '71.

- **the role they had in the organisation/establishment during the period of abuse and/or alleged abuse**

Former Brother John Farrell was a staff member at St. Ninian's in the latter part of 1980 and became Headmaster from 1981 – '83.

Former Brother Paul Kelly was a staff member at St. Ninian's from 1979 – '83.

Former Brother ^{MCE} [REDACTED] was a staff member at St. Ninian's from 1960 – '62.

Brother ^{LNC} [REDACTED] was a staff member at St. Ninian's from 1959 – '66.

Brother ^{BHD} [REDACTED] was [REDACTED] at St. Ninian's from 1970 – '73.

Brother Gerard Ryan was a staff member at Ninian's from 1969 – '76 before [REDACTED] from 1976 – '80.

Former Brother ^{MBV} [REDACTED] was a staff member at St. Ninian's from 1970 – '83 both as a Brother and after receiving a dispensation from his vows.

- **where they worked prior to, and following, their time at the organisation/establishment**

Former Brother John Farrell had worked in Christian Brothers schools in South Africa before being transferred back to the English Province in 1977. He spent a short period in Falkland before pursuing a course of studies in St. Acquin's, Twickenham. He was transferred back to St. Ninian's, Falkland, in September 1980 where he became Headmaster in January 1981. After the closure of St. Ninian's in 1983, John Farrell was transferred to the Christian Brothers' school in Plymouth and then to Lucan, Co. Dublin. He received a dispensation from his religious vows in 1987.

Former Brother Paul Kelly had worked in Christian Brother schools in Plymouth and Liverpool before being transferred to St. Ninian's in 1979. After the closure of St. Ninian's he worked in Christian Brother schools in Stoke and Plymouth and was dispensed from his religious vows in 1996.

Former Brother ^{MCE} [REDACTED] had worked in Christian Brother schools in Blackpool, Crosby, Birkenhead, Altrincham, Liverpool (St. Edward's), Stoke and Gibraltar before his transfer to St. Ninian's in [REDACTED] 1960. He returned to St. Edward's, Liverpool, [REDACTED] after being removed from St. Ninian's in 1962. It is not clear from the records if he resumed his teaching career in St. Edward's. He was dispensed from his religious vows in 1965.

Brother ^{LNC} [REDACTED] appears to have spent short periods of time teaching in Christian Brother schools in Bristol and Plymouth before pursuing a degree course in mathematics after which he was assigned to St. Ninian's, Falkland, in 1959. After leaving St. Ninian's in 1966 he worked in Christian Brother schools in Liverpool, Liberia in West Africa, Gibraltar and Sunderland. He [REDACTED] St. Anne's, Liverpool in 1988. He continues to live in Liverpool.

Brother ^{BHD} [REDACTED] (deceased) worked in the Christian Brother's Industrial School in Letterfrack, as well Christian Brother schools in Trim and Tullamore (Ireland), before transferring to the English Province in 1966. In England he worked in St. Edward's, Liverpool, before [REDACTED] St. Ninian's from 1970 – '73. He then attended the tertianship course (a year of spiritual renewal in Rome) before returning to work in Christian Brother schools in Gibraltar, Liverpool and Bristol. He returned to Ireland in 1981 and worked in Christian Brother schools in Dublin (North Brunswick Street) Dublin, Dundalk and Swords [REDACTED] in 1992.

Brother Gerard Ryan worked in Christian Brother schools in Altrincham, Crosby and Gibraltar before being assigned to St. Ninian's, Falkland, in 1969. [REDACTED] at St. Ninian's from 1976 – '80. After leaving St. Ninian's, he became Superior and Headmaster of the Christian Brother's school in Yekepa, Liberia from 1981 – '88. After that he worked in Christian Brother schools in Sierra Leone and the Ivory Coast.

Former Brother ^{MBV} [REDACTED] worked in Christian Brothers schools in Edinburgh and Gibraltar prior to being assigned to St. Ninian's Falkland in 1968. He was dispensed from his religious vows in 1972. He resumed work in St. Ninian's in 1978. He was to take up employment in Starley Hall School, Fife on leaving St. Ninian's in 1983.

- **the knowledge sought or received about them by the organisation/establishment at the point of recruitment, and while they were at the establishment**

All of the people referenced in the previous section joined the Christian Brothers as postulants in their mid to late teenage years. Character references for each of them would have been sought from various people (school headmasters and members of the clergy) at that time. Before being assigned to St. Ninian's, they would all have been well known to members of the Provincial Council of the English Province.

- **any information sought by, or provided to, future employers or third parties after they left the establishment, including regarding abuse or alleged abuse**

There is no record of any information sought by, or provided to future employers or third parties after the people in question left St. Ninian's. As

former Brother John Farrell became a priest in the diocese of Motherwell after leaving the Christian Brothers, it is presumed that the diocesan authorities sought references from the Christian Brothers regarding his suitability for the priesthood.

- iv. Were known abusers, or alleged abusers, of children cared for at the establishment moved from one establishment run by the organisation, to another establishment run by the organisation?**

Apart from the previously mentioned instance of former Brother MCE MCE there is no reference in the available records to either known or alleged abusers during the life-time of St. Ninian's (1950 – '83). Hence, the question of anyone, with the exception of MCE, being transferred to another establishment run by the organisation because of allegations of abuse does not appear to have arisen.

- v. If so, why was this considered to be appropriate?**

It is assumed that the reference relating to MCE 'that he could not be trusted with children' was the reason for his removal from St. Ninian's.

There is no reference in the records as to whether he returned to teaching in St. Edward's, Liverpool. If he did, one presumes that the decision to allow him to return was based on advice at the time and that due supervision was exercised by his Superior. Eventually, MCE was released from his religious vows in 1965 and left the congregation of Christian Brothers.

- vi. If so, what process of monitoring/supervision followed at the new establishment?**

The only case about which we have any knowledge is the one cited above.

5.9 Specific Complaints

- i. How many specific complaints of abuse of children cared for at the establishment have been made to the establishment/organisation?**

The best estimate of specific complaints that can be given is 13. Six of these relate to Paul Kelly and two to John Farrell. The other five complaints on the

Christian Brothers' records relate to particular complainants which will be identified underneath.

For each specific complaint, please answer the following:

ii. Who made the complaint?

The six complaints against Paul Kelly were made by the following former residents of St. Ninian's: [REDACTED] MBI [REDACTED]

[REDACTED] MHS [REDACTED] MHS [REDACTED] MHS [REDACTED] MHS [REDACTED] MHS.

Regarding the complaints on record against John Farrell, one of the complainants is unknown and the other is MHS [REDACTED]

The complaint against MCE [REDACTED] was made by [REDACTED]

The complaint against Brother LNC [REDACTED] was made by [REDACTED]

The complaint against Brother BHD [REDACTED] was made by QKP [REDACTED] QKP [REDACTED]

The complaint against Brother Gerard Ryan was made by David Sharp.

The complaint against Mr. MBV [REDACTED] is being pursued by the executors of the estate of [REDACTED] (deceased) – date of death, [REDACTED] 2016.

iii. When was the complaint made?

Five of the complaints made against Paul Kelly first came to the attention of the Christian Brothers on 14/06/2002. The complaint made by MHS [REDACTED] MHS [REDACTED] came to the attention of the Christian Brothers on 21/09/2016.

The first complaint against John Farrell came to the attention of the Christian Brothers on 01/07/2013. The complaint made by MHS [REDACTED] MHS [REDACTED] came to the attention of the Christian Brothers on 21/09/2016.

The complaint made by [REDACTED] against MCE [REDACTED] is dated 18/09/1998 on the Christian Brothers' records.

The complaint by [REDACTED] against Brother LNC [REDACTED] is also dated 18/09/1998 on the Christian Brothers' records.

The complaint against Brother ^{BHD} [REDACTED] was made by email on 01/09/2014.

The complaint made by David Sharp to the Fife Police first came to the attention of the Christian Brothers on 30/10/1998.

The complaint against Mr. ^{MBV} [REDACTED] by the executors of the estate of [REDACTED] dates from 05/01/2016.

iv. Against whom was the complaint made?

The identities of both complainants and those against whom complaints have been made are given in 5.9 (ii) and 5.9 (iii) above.

v. What was the nature of the complaint?

Four of the six complaints on record against Paul Kelly relate to physical assault while the fifth complaint (made by [REDACTED] is of a sexual nature. The complaint made by ^{MHS} [REDACTED] states: “whilst there he was abused”.

The complaint by the unknown complainant against John Farrell is of a sexual nature. The complaint made against him by ^{MHS} [REDACTED] is similar to that made against Paul Kelly: “whilst there he was abused”.

The complaints made by [REDACTED] relate to sexual abuse on the part of ^{MCE} [REDACTED] and physical abuse on the part of Brother ^{LNC} [REDACTED]

The complaint made by ^{QKP} [REDACTED] against Brother ^{BHD} [REDACTED] relates to physical abuse.

The complaint by David Sharp against Brother Gerard Ryan relates to sexual abuse.

The complaint against Mr. ^{MBV} [REDACTED] by the executors of the estate of [REDACTED] is of non-specified sexual abuse.

vi. When/over what period was the abuse alleged to have taken place?

The complaints against Paul Kelly and John Farrell relate to the periods 1979 – ’83 and 1980 – ’83 respectively. The complaints against ^{MCE} [REDACTED] and Brother ^{LNC} [REDACTED] relate to the period 1960 – ’62. The complaint against

Brother ^{BHD} [REDACTED] relates to the period 1970 – '72 and the complaint against Brother Gerard Ryan relates to the period 1971 – '75. The complaint against Mr. ^{MBV} [REDACTED] relates to the period 1970 – '71.

vii. What was the organisation/establishment's process and approach in dealing with the complaint?

The only complaint that seems to have been made directly to the Christian Brothers was that which came by email from ^{QKP} [REDACTED]. He sought information as to why Brother ^{BHD} [REDACTED] was transferred from St. Ninian's in 1973. Brother Edmund Garvey examined the relevant records of the English Province which merely indicated that Brother ^{BHD} [REDACTED] was going to Rome on a period of spiritual renewal. There was nothing to suggest that Brother ^{BHD} [REDACTED] departure from St. Ninian's was linked to abuse of any kind on his part. ^{QKP} [REDACTED] was furnished with this information and nothing further was heard from him.

All of the other complaints/allegations came initially to the Brothers either through the police or after the police had been informed.

viii. What was the organisation/establishment's process and approach for investigating the complaint?

The Christian Brothers' approach was to facilitate police investigations by providing them with any relevant information in their possession. Once they knew that police investigations were taking place, the Christian Brothers felt that it would be inappropriate for them to try to establish contact with the complainants.

ix. What was the outcome of the complaint following that investigation?

The principal outcome of the police investigations was the High Court hearing in Glasgow in July 2016 from which issued the two convictions ^[REDACTED] referenced in 5.8 (ii).

With regard to the complaints made against former Brother ^{MCE} [REDACTED] ^{MCE} [REDACTED] (deceased) and Brother ^{LNC} [REDACTED], these complaints were initially processed through the Archdiocese of St. Andrews and Edinburgh who notified the Fife police. Brother S. F. Hall of the Provincial Council, English Province, engaged with ^[REDACTED] in pastoral outreach but was advised to exercise caution as it was possible that legal proceedings would be issued against

Brother ^{LNC} [REDACTED] Eventually, the Brothers were notified by the Procurator Fiscal at Cupar that no proceedings against Brother ^{LNC} [REDACTED] were being pursued.

The allegations against Brother Gerard Ryan also reached the Christian Brothers initially through the Fife police, on 30/10/1998. This allegation seems to have gone into abeyance until 2010 when David Sharp made contact with Brother David Gibson of the Christian Brothers, European Province. A number of emails were exchanged between Mr. Sharp and Brother Gibson preparing the way for a meeting which took place between them on 14/02/2011.

x. Did the organisation/establishment provide a specific response to the complaint?

In a letter to David Sharp dated 21/03/2011, Brother Gibson provided him with the name of the Christian Brothers' solicitors and advised him that any request for compensation would have to be processed between a solicitor acting on his behalf and the Christian Brothers' solicitors. Brother Gibson also sent a cheque for €500 to Mr. Sharp to compensate him for out of pocket expenses in connection with their meeting and apologised to him on behalf of the Christian Brothers for all the hurt he had suffered.

xi. If so, what was the form of response e.g. apology, redress, pastoral response or any other type of response?

Contacts between David Sharp and the Christian Brothers continued and a further meeting took place between Brother Edmund Garvey, Province Leader, and David Sharp on 13/11/2015. Brother Garvey reiterated Brother Gibson's apology on behalf of the Congregation as well as the Congregation's position that requests for financial compensation could only be conducted through their respective solicitors.

xii. If there was no response, why not?

The response was as outlined above.

xiii. Was the information/content of the complaint passed to police?

The Christian Brothers' records indicate that all of the complaints with the exception of that made by ^{QKP} [REDACTED] were known to the police before they reached the Christian Brothers.

xiv. If not, why not?

The issue raised by QKP [REDACTED] seemed to have more to do with seeking information than processing of a complaint.

5.10 Civil Actions

- i. How many civil actions have been brought against the organisation and/or establishment relating to abuse, or alleged abuse, of children cared for at the establishment?**

No civil actions have been brought.

For each such civil action, please answer the following:

- ii. Who brought the action?**

No civil actions have been brought.

- iii. When was the action brought?**

No civil actions have been brought.

- iv. Against whom was the action brought?**

No civil actions have been brought.

- v. What was the nature of the abuse, or alleged abuse, to which the action related?**

No civil actions have been brought.

- vi. What were the names of the persons said to have, or alleged to have, committed abuse?**

No civil actions have been brought.

- vii. When/over what period was the abuse said, or alleged, to have taken place?**

No civil actions have been brought.

- viii. How did the action progress?**

No civil actions have been brought.

ix. What was the outcome?

No civil actions have been brought.

x. Was the action settled on a conditional basis of confidentiality?

This question is not applicable.

xi. Who was/were the organisation/establishment's legal representative(s) in relation to the civil action?

No civil actions have been brought.

xii. Did the organisation/establishment carry insurance for meeting civil claims at the time the action was live?

No civil actions have been brought.

xiii. How/where can copies of the court papers relating to the civil action be made available to the Inquiry?

No civil actions have been brought.

5.11 Criminal Injuries Compensation Awards

i. Has any criminal injuries compensation been awarded in respect of abuse, or alleged abuse, of children cared for at the establishment?

The organisation has no record or details regarding the award of criminal injuries compensation.

ii. If so, please provide details if known.

Not known.

5.12 Police

i. How many complaints of abuse of children cared for at the establishment have been made to the police?

The organisation has been informed by the police about complaints of abuse on four occasions.

In relation to each known complaint to the police, please answer the following questions:

ii. Who was the alleged abuser?

The organisation received two different notices of complaints in 1998. The alleged abusers were MCE [REDACTED] Brother LNC [REDACTED] and Brother Gerard Ryan.

The organisation received notice of complaints in 2002 against Paul Kelly and MHG [REDACTED]

In 2013, the organisation initially received notice of a complaint against John Farrell. It appears that it was this investigation which led eventually to the commencement of proceedings [REDACTED]

iii. Did the police conduct an investigation in relation to the complaint?

The police contacted the Christian Brothers about the complaints made as part of their investigation.

iv. If so, who conducted the investigation and when?

The organisation was informed by the police about complaints in 1998, 2002 and 2013 (onwards to trial in 2016). All investigations were conducted by Fife Police.

v. What was the outcome of the police investigation?

The organisation was advised by the Procurator Fiscal at Cupar that no proceedings were being pursued against Brother LNC [REDACTED].

It appears that matters were not pursued against Paul Kelly [REDACTED] in 2002 but, as per 5.12 (ii) a police investigation in 2013 resulted in the commencement of proceedings [REDACTED] which resulted in a high Court trial in 2016.

vi. What was the organisation/establishment's response?

The Christian Brothers' approach was to facilitate police investigations by providing them with any relevant information in their possession.

5.13 Crown**i. To what extent has the Crown raised proceedings in respect of allegations of abuse of children cared for at the establishment?**

The Congregation is only aware of the Crown raising proceedings on one occasion. In May 2015, the Crown raised proceedings [REDACTED] in respect of allegations of historic abuse of children cared for at the establishment. These proceedings proceeded to trial in April 2016, verdicts were returned in July 2016 and, [REDACTED] individuals were sentenced in August 2016.

In relation to each time the Crown has raised proceedings, please answer the following questions:

ii. What is the name of the person(s) against whom the proceedings were raised?

Proceedings were raised against John Farrell, Paul Kelly, [REDACTED]
[REDACTED]

iii. What was the nature of the charges?

It is understood that the charges contained allegations of physical and/or sexual and/or mental abuse alleged to have been carried out by the above named individuals during their time at St Ninian's.

iv. What was the outcome of the proceedings, including disposal/sentence if there was a conviction?

The Christian Brothers understand that John Farrell was convicted of three counts of indecent assault and one count of assault and received a prison sentence of five years.

The Christian Brothers understand that Paul Kelly was convicted of four counts of indecent assault and two assault charges and received a prison sentence of ten years.



v. What was the organisation/establishment's response to the proceedings and outcome?

A Christian Brother attended the proceedings on behalf of the Leadership Team of the Christian Brothers European Province.

The Congregation issued statements following the outcome of these proceedings which expressed their deep regret to those victims who suffered abuse at the hands of John Farrell and Paul Kelly and also to anyone else who suffered ill-treatment whilst in the Congregation's care. The Congregation reiterated that it remained dedicated to educating young people and that it had robust protocols in place for their protection. The Congregation further confirmed that it treats all allegations of abuse (whether current or historic) with the utmost seriousness and is committed to reporting allegations to the police and co-operating fully and openly with any subsequent investigations.