

**Report of the  
Scoping Inquiry  
into Historical  
Sexual Abuse in  
Day and Boarding  
Schools Run by  
Religious Orders**

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**Volume 2**

## **Volume 2**

## **Chapter 9:**

# **Identifying the Extent of Allegations of Historical Sexual Abuse: Religious Order Records**

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## A. Introduction

1. The Scoping Inquiry's Terms of Reference required that it engage in an analysis of the potential scale of historical sexual abuse in schools run by religious orders in Ireland, including 'a desk-based review of the extent of complaints or allegations of historical sexual abuse made against all religious orders ... [and] a consideration, in as much as is possible, of the likelihood and possible volume of further complaints or allegations emerging.'
2. In the course of its work, it became evident to the Scoping Inquiry that engagement with religious orders<sup>1</sup> would likely provide the best source of data on the number of allegations of historical sexual abuse made in schools run by religious orders.<sup>2</sup>
3. This chapter sets out the process by which data was gathered from religious orders by the Scoping Inquiry before outlining the data on the extent of allegations of historical sexual abuse in schools run by religious orders.

## B. Preliminary Steps

### (i) Limitations of Records of Allegations of Historical Sexual Abuse

4. It became evident at an early stage in the Scoping Inquiry's work that no one body held records that were accessible or searchable in a manner that could readily identify the number of allegations of historical sexual abuse that occurred in day or boarding schools run by religious orders.
5. Having approached Tusla and An Garda Síochána, the main agencies to which allegations of historical sexual abuse are reported, it was clear that neither held records that could readily or accurately provide information on the number of allegations of historical sexual abuse that had been made in religious order run schools. The extent of the records held by these bodies is discussed in Chapter 11. In short, extensive manual searches of records would have been necessary to obtain such information.
6. However, Tusla's 'Audit of Religious Orders, Congregations, and Missionary Societies Safeguarding Arrangements and Management of Allegations of Child Sexual Abuse Report' ('**the Audit Report**'), concerning the extent of allegations of sexual abuse involving members of religious orders, discussed below, and the reports of the National Board for Safeguarding Children in the Catholic Church in Ireland ('**NBSCCCI**') were of some assistance. The data obtained from these sources is discussed in detail in the next chapter.

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1 The Scoping Inquiry identified a religious order, a congregation, or missionary society as constituting a 'religious order' within its terms.

2 For the purposes of the Scoping Inquiry a religious order which ran day or boarding schools in the State includes orders which currently run or formerly ran such schools.

7. The most extensive source of information concerning the number of allegations of historical sexual abuse in schools was therefore the religious orders themselves.

## **(ii) Identifying Which Religious Orders Ran Schools**

8. The Scoping Inquiry set its timeframe for assessing the potential number of allegations of historical sexual abuse as covering those incidents that were alleged to have occurred within living memory, taken as being a period from 1927 to 2013. This timeframe aimed to capture any living person who might come forward to an eventual inquiry or other Government response on the basis that a person born 100 years prior to 2023 would have first entered school in 1927 at the earliest. A cut-off point of 10-years prior to 2023 was intended to distinguish between historical and recent incidents of sexual abuse. Outside of requiring that an allegation fall within these parameters, no information was sought from the religious orders as to the date of the incidents of abuse complained of.
9. Identifying which religious orders ran day and boarding schools during this period was more difficult than one might expect. There is no definitive list of religious orders involved in running schools, either present or past, in Ireland. In some instances, a school or schools run by a religious order had closed down and the order had not been involved in education since that time.
10. In seeking to compile a list of religious orders coming within our Terms of Reference, the Scoping Inquiry was contacted by a number of religious orders who identified themselves as having run day or boarding schools in the State and indicated their willingness to cooperate with the Scoping Inquiry.<sup>3</sup>

### **(a) *The Tusla Audit***

11. Tusla's Audit Report was of great assistance to the Scoping Inquiry in identifying religious orders that ran schools. The Audit Report had been carried out by Tusla at the request of the Government following the publication of the Cloyne Report in 2009. It audited every religious order in the State, setting out the religious orders where there was one or more allegation of historical sexual abuse made against a member, together with the religious orders in respect of which there were no allegations of historical sexual abuse against any of their members, for the period up to and including 31 December 2013.<sup>4</sup>

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3 The Sisters of the Christian Education, the Benedictine Nuns, the Ursuline Sisters Ireland/Wales Province, the Bridgine Sisters and Franciscan Missionaries of Mary made themselves known to the Scoping Inquiry as religious orders who ran day and boarding schools in the State.

4 The Audit, published in 2018, initially collected figures until 31 December 2013, and then collected further information up to 2015. The Scoping Inquiry took the date of 31 December 2013 as a reference point in the religious order questionnaire.

12. It was not, however, possible to identify from the Audit Report whether and how many of the allegations of sexual abuse recorded related to historical sexual abuse in schools. Moreover, the Scoping Inquiry's remit was wider in respect of the categories of alleged abusers counted, and included allegations made in a school context regarding not only members of the religious order running the school concerned, but also lay persons, other clerics (not members of the religious order running the school) and other students in the school. The information required by the Scoping Inquiry was thus more extensive than that previously furnished by the religious orders to Tusla.
13. However, given that the religious orders had already substantially compiled their numbers of allegations of sexual abuse at least up to 31 December 2013 for the purposes of the Audit report, the Scoping Inquiry's questionnaire asked for information about allegations of historic sexual abuse received in two time periods: up to the end of 2013 and since that date. This also provided useful information in terms of the numbers of allegations of historical sexual abuse in day and boarding schools reported by survivors to the religious orders or schools both pre- and post-December 2013.

*(b) Engagement with religious orders through AMRI*

14. The Scoping Inquiry approached the Association of Leaders of Missionaries and Religious of Ireland ('AMRI') in April 2023 in an effort to engage with the religious orders identified from the Tusla Audit and NBSCCCI reports and to identify any other relevant religious orders. AMRI were of great assistance in both respects.
15. The Scoping Inquiry ultimately identified and contacted a total of 81 religious orders believed to have run day or boarding schools in the State. Of the 81 orders contacted, 8 orders reverted to the Scoping Inquiry to say that they had never run a day or boarding school in the State.<sup>5</sup> This left 73 remaining religious orders who ran day or boarding schools (including special schools) in the State.

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<sup>5</sup> Those orders were the Congregation of the Sacred Hearts (SSCC), the Conventual Franciscans, the Congregation of the Blessed Sacrament (Brothers), the Congregation of our Lady of Sion, the Franciscan Missionaries of the Divine Motherhood (FMDM), the Irish British Province of the Society of the Devine Word, the Sisters of Bon Saveur (Good Saviour), and the Cistercians of Mellifont.

## **C. The Information Sought By the Scoping Inquiry**

### **(i) The Religious Order Questionnaire**

16. A questionnaire was sent to the 73 religious orders identified seeking anonymised details of the number of allegations of historical child sexual abuse made in respect of their schools. Also sought was the number of alleged abusers and their association with the school, as well as information, where known, as to whether the alleged abuser was living or deceased.
17. The religious orders were asked to breakdown these figures on a school-by-school basis, naming the school concerned, and the number of allegations and alleged abusers referable to the school. With few exceptions, this information was provided.
18. Overall, the response rate from the religious orders was high. In respect of one order, the Norbertines, no return to the questionnaire was received because the order no longer exists in the State.<sup>6</sup> The Gardaí confirmed a priest associated with the school was convicted for sexual abuse and that they had a record of 3 allegations of historical sexual abuse in respect of the school. These figures are reflected in the table set out below.
19. Some 31 of the 73 religious orders that ran day or boarding schools in the State reported that they have no record of any allegations of sexual abuse made in respect of their schools. However, during the Scoping Inquiry's work, historical sexual abuse allegations emerged against a small number of these orders. Similarly, allegations came to light in respect of a small number of schools that had not previously been reported by the relevant religious order/school as having a record of an allegation of historical sexual abuse. These orders and schools are set out elsewhere in this Report in the discussion of the Survivor Engagement process.

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<sup>6</sup> The Scoping Inquiry was informed that the Canonry was wound down (the canonical term is suppressed) by order of the Abbot General of the Order in 2023. The Norbertines had one school, St Norbert's College, Kilnacrott Abbey, Co Cavan.



(a) *The breadth of allegations included*

20. The Scoping Inquiry provided a 'Meaning of Terms' document with the questionnaire. The document is set out in full in Appendix 6. Without reciting its contents, it suffices to emphasise the breadth of the records of allegations requested from religious orders. Generally, the Scoping Inquiry asked that the religious orders err on the side of inclusion of all historical sexual abuse allegations received in order to capture the potential number of persons who may come forward to an eventual inquiry. Thus, in asking for records of allegations it was highlighted that this included concerns, complaints, and allegations that were withdrawn, unsubstantiated, or not pursued with the Gardaí. It was also specified that allegations of historical sexual abuse in schools where no alleged perpetrator was identified by the complainant were to be included.
21. Given the breadth of the records of allegations sought, there was some potential for duplication, particularly where allegations against an unidentified member of the religious order are referred to or where allegations were received by the school as opposed to the relevant order. The schools and religious orders generally liaised to avoid or minimise such issues. In one instance it was not possible, as a result of data protection concerns, to verify whether complaints recorded by a school were already reflected in the religious order's records.<sup>7</sup> The Edmund Rice Schools Trust ('ERST'), which is now the patron of all Christian Brothers' schools, indicated that they believed that data protection concerns precluded any attempt to clarify duplication by comparing the schools' records of allegations with the records held by the Christian Brothers. The Scoping Inquiry met with both the Christian Brothers' archivist and representatives of ERST, and it was ultimately agreed that ERST would provide the schools' information separately, so that the figures from ERST and the Christian Brothers could be viewed side by side. A comparison of Christian Brothers and ERST figures is set out in Appendix 8. From a comparison of the data provided by ERST and the Christian Brothers, it is evident that the latter generally had more extensive records of allegations.

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<sup>7</sup> Where religious orders have brought specific concerns about the number of allegations reported, whether by reason of duplication or otherwise, we have referred to those concerns where applicable in this Report.

22. The Scoping Inquiry accepted that where a formal process occurred following which a complaint was held to be unfounded or there was a written unreserved withdrawal of the allegation on foot of legal advice, then that allegation should not be included. Similarly, allegations outside the Terms of Reference were clearly not included. In some instances the abuse alleged was physical rather than sexual, and the allegation was not included for that reason. The Scoping Inquiry accepts that there may sometimes be a fine line between physical and sexual abuse; it therefore assessed each allegation brought to its attention on the basis of the (anonymised) information available.

***(b) The breadth of the category of alleged abuser included***

23. The Scoping Inquiry included a broad range of persons in the category of ‘alleged abusers’ to reflect the experiences of survivors. In general, the Scoping Inquiry included allegations in relation to any persons who interacted with the pupil concerned by virtue of that person’s position in the school where the complainant was a pupil. This definition is similarly reflected in the Meaning of Terms document in Appendix 6.

24. The categories of alleged abusers specified in the questionnaire were as follows:

- (i) a member of the religious order which ran the school;
- (ii) a lay person associated with the school, such as staff members or volunteers;
- (iii) a cleric or member of clergy associated with the school, who was not a member of the religious order which ran the school;
- (iv) another pupil in the school.

25. As such, it should be borne in mind when considering the statistics set out below, and in the school-by-school breakdown in Appendix 7, that the category of ‘alleged abuser’ covers a very wide range of persons associated with the school over a considerable period of years.

26. The term ‘alleged abuser’ is used throughout, although the data inevitably encompasses convicted abusers.

***(ii) The Schools Questionnaire***

27. Many of the schools formerly run by religious orders are now held in educational trusts. The religious orders concerned explained that as they were no longer patrons of the schools, obtaining information from the schools could pose a difficulty.

28. It appears that, in some instances, the individual schools held the records of allegations made, while in other instances, the religious order held the records. In many instances there was a mixed picture of both schools and religious orders holding records. Moreover, schools and religious orders might both hold a record of the same allegation. Much, it seems, depended on whether the complaint had been made to the school or the order or to both. In the circumstances, the Scoping Inquiry asked religious orders and the schools to liaise with each other as far as possible when submitting records of the number of allegations to the Scoping Inquiry in order to try to avoid duplication of allegations where possible.
29. A simplified questionnaire was circulated to the relevant schools for this purpose with the assistance of the Association of Patrons and Trustees of Catholic Schools ('APTCS') and the religious orders. The Scoping Inquiry was grateful for their assistance in this regard.

### **(iii) The Community Schools Questionnaire**

30. As discussed in Chapter 12 of this Report, after some consideration, the Scoping Inquiry decided to include community schools in the questionnaire process. Some 58 community schools in the State have religious order co-patrons. The Association of Comprehensive and Community Schools ('ACCS'), kindly agreed to assist the Scoping Inquiry by circulating a questionnaire to the relevant schools, and greatly assisted the Scoping Inquiry in this regard. The community schools and religious orders co-patrons of those schools fully cooperated with the Scoping Inquiry in returning these questionnaires. While the Sisters of Mercy did not agree to disclose the name of their community schools in respect of which there were allegations, the overall number of allegations and numbers of schools concerned were provided.
31. The community schools data is presented separately to that of other day or boarding schools since the religious orders concerned are co-patrons of such schools, with various Educational Training Boards and sometimes another religious order or a diocese as the other co-patron.

### **(iv) The Verification Form**

32. The further information provided from schools associated with religious orders necessitated some religious orders updating previously submitted questionnaires. In August 2023, the Scoping Inquiry sent a verification form to all religious orders that had recorded allegations of abuse in their initial questionnaire to allow the religious orders to update their information.

33. The verification form ensured that there was no duplication where alleged abusers moved between schools run by the same order, or where an alleged abuser was accused of historical sexual abuse prior to December 2013, and a further allegation was made against the same person after that date. The Inquiry also asked the religious orders to confirm the numbers of alleged abusers known to be deceased.

## **D. Results of the Questionnaire Process**

### **(i) The nature of the information sought**

34. The overall purpose of seeking data from religious orders and their schools was to attempt to assess the likely scale and extent of allegations of historical sexual abuse in those schools.
35. Due to the short timeframe, a limited range of queries were raised in addition to the numbers of allegations and alleged abusers, primarily as to the association of the alleged abuser(s) to the school and as to whether they were still alive. No attempt was made to adopt the kind of sophisticated methodology one might associate with a national survey, such as that employed by Central Statistics Office, where a range of detailed data is sought.<sup>8</sup>
36. Thus, for example, in seeking the numbers of allegations reported by the orders, the Scoping Inquiry did not seek information on the overall number and size of the schools run by each religious order over the period 1927-2013. While this information would have undoubtedly added context, the time required for this level of analysis would have been disproportionate to the benefit of such data for the purposes of the Scoping Inquiry.
37. The Scoping Inquiry communicated with religious orders regarding the completed questionnaires to ensure any corrections required were accurately recorded. The data collected was checked and verified with the religious orders concerned.
38. The purpose of the information sought was to ascertain (i) the number of schools likely to be involved in any Government response, (ii) the number of allegations of historical sexual abuse reported in respect of the schools run by religious orders, and (iii) some indication of the number of alleged perpetrators involved and whether they are still living or deceased. The Scoping Inquiry has relied on the information provided to it and has not undertaken any further verification process.
39. Moreover, the figures simply reflect the records held by the schools and/or the religious orders, and should not be taken to be the entirety of the allegations that may exist in respect of an individual order or school. Thus, the figures provided in the analysis section of this chapter must be read with these caveats in mind.

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<sup>8</sup> Equally, the questionnaires used by the Scoping Inquiry were not intended to yield a statistically formal and complete analysis equivalent to CSO standards.

40. It should be noted that the vast majority of religious orders and schools fully cooperated with the Scoping Inquiry in providing the information sought. The Scoping Inquiry is mindful that the task of completing the questionnaire and verification form within the timeframe allowed was an onerous one for many orders. This was particularly so for the religious orders that had large numbers of schools or where the age profile of the order meant that there were few persons available to deal with the task.
41. As set out below, a small number of religious orders declined to disclose the names of their schools that had allegations of historical sexual abuse.<sup>9</sup> In those instances, as a minimum, the orders provided the number of allegations and alleged abusers relating to their schools, as well as information as to whether the alleged abusers were alive or deceased, where known.
42. Finally, it must be emphasised that a religious order's inclusion of an allegation in their response to the Scoping Inquiry's questionnaire should in no way be read as an acceptance that the abuse alleged took place.

#### **(ii) Analysis of the Figures Provided by the Religious Orders**

43. In total, some 2,375 allegations of sexual abuse in schools are recorded by 42 of the 73 religious orders that currently run or previously ran day or boarding schools in the State (including special schools).<sup>10</sup> These figures do not include the 20 allegations associated with community schools which are dealt with separately below.
44. The information provided by the 42 orders who reported having records of allegations of historical sexual abuse in respect of their schools is set out in a table below. The table sets out the following information provided from the records of the religious orders concerned:
  - The overall number of allegations of historical sexual abuse recorded as associated with a school run by those orders;
  - The total number of schools run by those orders with recorded allegations of historical sexual abuse;
  - The total number of alleged abusers in respect of the schools concerned, and;
  - A breakdown of the total number of alleged abusers reported into 4 different categories.

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<sup>9</sup> The Sisters of Mercy provided a total figure of allegations and alleged abusers for the congregation without providing any school-by-school breakdown. The Sisters of Mercy subsequently provided the number of schools to which these allegations related. The Patrician Brothers provided the names of their schools but did not provide a school-by-school breakdown of their figures.

<sup>10</sup> The Norbertine order are included in the figure of 42 orders that ran schools. The order did not complete a questionnaire for the reasons set out above. The figures received from An Garda Síochána of the number of allegations received in respect of the school formerly run by the Norbertine order are set out below.

**Religious Orders' Total Records of Allegations (including Special Schools)<sup>11</sup>**

Religious Order	Total Allegations	Number of Schools	Total Alleged Abusers	RO Member accused	Lay accused	Peer accused	Other cleric accused	Total Alleged Abusers Deceased
Christian Brothers	820	132	303	255	42	0	6	184
Spiritans	329	6	61	49	12	0	0	51
Brothers of Charity	294 <sup>12</sup>	3	97 <sup>13</sup>	47	18	28	4	28
Jesuits	142	9	34	27	4	3	0	23
Hospitaller Order of St John of God)	144 <sup>14</sup>	7	36	22	10	4	0	19
Carmelite Fathers (Ocam)	100	2	14	9	5	0	0	9
De La Salle Brothers	84	29	46	41	3	0	2	37
Congregation of Dominican Sisters Cabra	69 <sup>15</sup>	4	50	0	19	22	9	1

- 11 This table excludes community schools with religious order co-patrons. These are separately listed below.
- 12 The Brothers of Charity indicated to the Scoping Inquiry that it was not possible for them to entirely disaggregate their records of physical abuse and sexual abuse. While the Brothers of Charity indicated that it was likely that most of the allegations reported related to sexual abuse, the total figure of allegations outlined above may include some allegations of physical, non-sexual abuse.
- 13 The Brothers of Charity indicated to the Scoping Inquiry that there were 5 allegations against unnamed members of the order in respect of Holy Family School, Renmore, Galway included in this number, but that it was likely that those allegations related to already named alleged abusers in that school.
- 14 The Hospitaller Order of St John of God stated in its questionnaire response to the Scoping Inquiry that there were a number of allegations which they were uncertain constituted sexual abuse for the purposes of this Inquiry. For the most part, it was possible for these issues to be resolved by engagement between the Inquiry and the order. However, there were 20 allegations that the order took the view did not amount to sexual abuse, but the Scoping Inquiry were of the view that the allegations, if proven, would amount to child sexual abuse. Therefore, while the total number of allegations of sexual abuse reported by the Hospitaller Order of St John of God to the Scoping Inquiry was 124 allegations, the Scoping Inquiry counted the additional 20 allegations made known by the order and has recorded a total of 144 allegations. The order reported to the Inquiry that included in the total figure reported by them were 21 allegations reported by one of their schools, but they were not able to ascertain whether any of those allegations might be duplicated in their own records. In addition, the Hospitaller Order of St John of God noted that there was a record of an allegation against an unnamed member and later an allegation against a named member by the same survivor. The order therefore indicated that there is some risk of duplication in the total figures they reported. In addition, at a late juncture the order indicated that there may be 1 less lay alleged abuser and 1 more allegation that should be counted in the figures relating to their order, but it was not practicable to amend the data in this Report at that point in time. On 6 June 2024 a school-by-school breakdown of allegations was provided by the Hospitaller Order of St John of God and, due to the late stage at which it arrived, it is set out separately in Appendix 13.
- 15 The Dominican Sisters indicated to the Scoping Inquiry that included in this total are 32 allegations against unnamed persons, and as such there is some potential for duplication of records of numbers of allegations and/or numbers of alleged abusers.

Religious Order	Total Allegations	Number of Schools	Total Alleged Abusers	RO Member accused	Lay accused	Peer accused	Other cleric accused	Total Alleged Abusers Deceased
Congregation of the Sisters of Mercy	44	18	33	10	6	7	10	10
Presentation Brothers	43	14	37	34	3	0	0	33
Missionaries of the Sacred Heart (MSC)	42	1	4	4	0	0	0	1
Marist Brothers	40	6	16	14	2	0	0	13
Dominicans	30	1	9	7	1	0	1	5
Vincentian Fathers	26	3	6	5	1	0	0	4
Marist Fathers	21	3	9	8	1	0	0	4
Patrician Brothers	21	8	18	15	2	0	1	14
Franciscan Friars	19	1	2	2	0	0	0	0
Religious Sisters of Charity	15	8	15	2	4	9	0	1
Congregation of Presentation Sisters	12	7	10	0	6	3	1	0
Rosminians	12	3	10	7	3	0	0	3
Franciscan Brothers (OSF)	11	1	7	7	0	0	0	3
Mill Hill Missionaries	7	1	3	3	0	0	0	1
Benedictines	6	1	4	3	0	1	0	2
Salesians of Don Bosco	6	2	3	2	0	1	0	2
Ursulines	4	3	5	1	0	0	4	1
Augustinians	3	2	3	0	1	2	0	0
Cistercians Mount Melleray	3	1	5	5	0	0	0	5
Sisters of St. Joseph of Cluny	3	1	1	0	0	0	1	1
Norbertines	3	1	1	1	0	0	0	0
Legionnaires of Christ	3	2	3	3	0	0	0	0
Benedictine Nuns	2	1	2	1	0	1	0	0
Cistercians Mount St. Joseph	2	1	2	2	0	0	0	2

Religious Order	Total Allegations	Number of Schools	Total Alleged Abusers	RO Member accused	Lay accused	Peer accused	Other cleric accused	Total Alleged Abusers Deceased
The Daughters of the Cross of Liege	2	1	2	0	1	1	0	0
Discalced Carmelites	2	1	2	1	0	1	0	1
Missionary Oblates of Mary Immaculate	2	1	2	2	0	0	0	1
Sisters of Charity of St. Paul the Apostle	2	1	2	1	0	0	1	2
Sisters of St. Louis	2	2	2	2	0	0	0	1
Congregation of the Sisters of Charity of Jesus and Mary	1	1	1	0	1	0	0	0
Loreto Sisters	1	1	1	0	0	0	1	0
Order of St. Camillians	1	1	1	1	0	0	0	1
Sisters of the Holy Faith	1	1	1	1	0	0	0	1
Society of African Missions	1	1	1	1	0	0	0	1
<b>TOTAL</b>	<b>2,375</b>	<b>293</b>	<b>864</b>	<b>595</b>	<b>145</b>	<b>83</b>	<b>41</b>	<b>465</b>



45. The following religious orders that ran or run schools recorded no allegations of sexual abuse associated with their schools when contacted:

***Religious Orders with No Reported Allegations Relating to Their Schools***

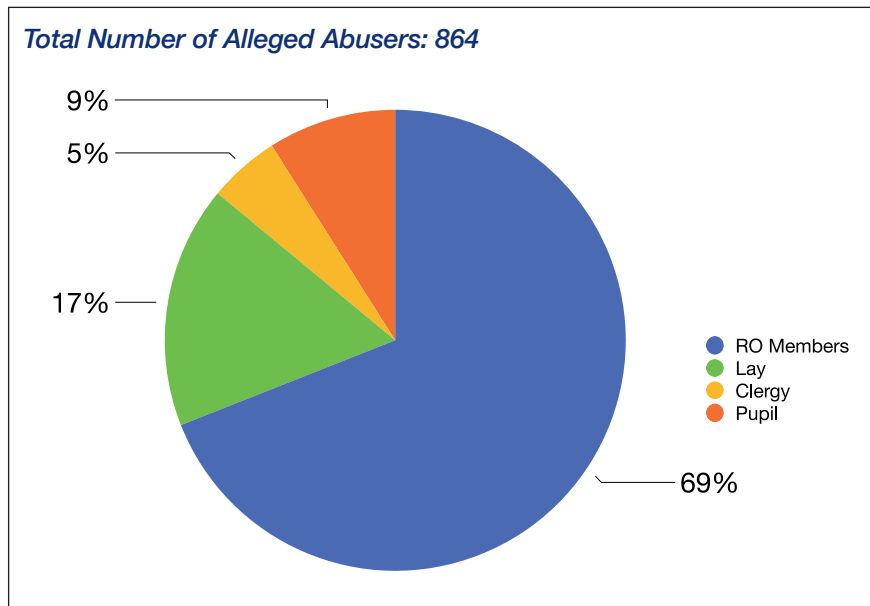
- Brigidine Sisters
- Capuchins
- Daughters of Charity St. Vincent de Paul
- Daughters of the Heart of Mary
- Daughters of Wisdom
- Faithful Companions of Jesus
- Franciscan Missionaries of Mary
- Franciscan Sisters of the Immaculate Conception
- Handmaids of the Sacred Heart of Jesus
- Infant Jesus Sisters
- La Sainte Union Sisters
- Marianist Community
- Marist Sisters
- Missionary Sisters of Our Lady of the Apostles
- Missionary Sisters of the Holy Rosary
- Poor Servants of the Mother of God (PSMG)
- Redemptorists
- Religious (Sisters) of the Sacred Heart of Mary
- Religious of Jesus and Mary
- Salesian Sisters
- Sisters of Christian Education
- Sisters of Our Lady of the Missions
- Sisters of Sacred Hearts of Jesus and Mary
- Sisters of St. Clare
- Sisters of St. John of God
- Sisters of the Christian Retreat
- Sisters of the Cross & Passion
- Sisters of the Holy Family of Bordeaux
- Society of the Holy Child Jesus
- Society of the Sacred Heart (of Jesus) (RSCJ)
- Ursulines of Jesus (UJ)

46. It should be noted that this list is based on the religious orders' records and cannot be taken as a definitive account of what allegations have been made to other bodies in relation to these schools. Three of the religious orders who recorded no allegations were named by survivors taking part in the Survivor Engagement process. These are:

- La Sainte Union Sisters;
- The Poor Servants of the Mother of God (PSMG);
- The Daughters of Charity of St. Vincent de Paul.

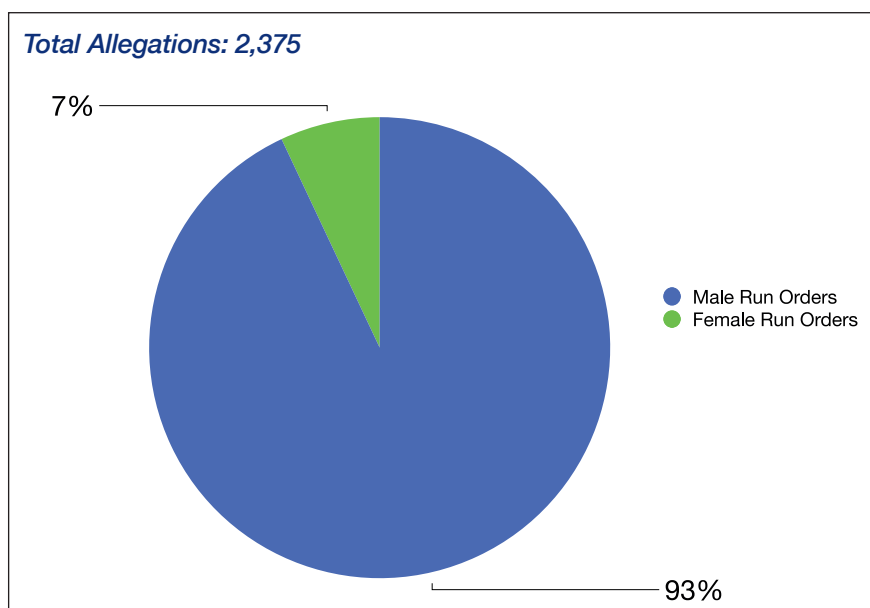
47. In terms of the figures provided by the religious orders, the following analysis can be made. Across all religious order-run schools, the allegations primarily related to members of the religious order (69%), with the next biggest categories of alleged abusers being lay staff (17%), pupils (9%), and clergy (5%):

**All Allegations Recorded by Religious Orders: Categories of Alleged Abusers**

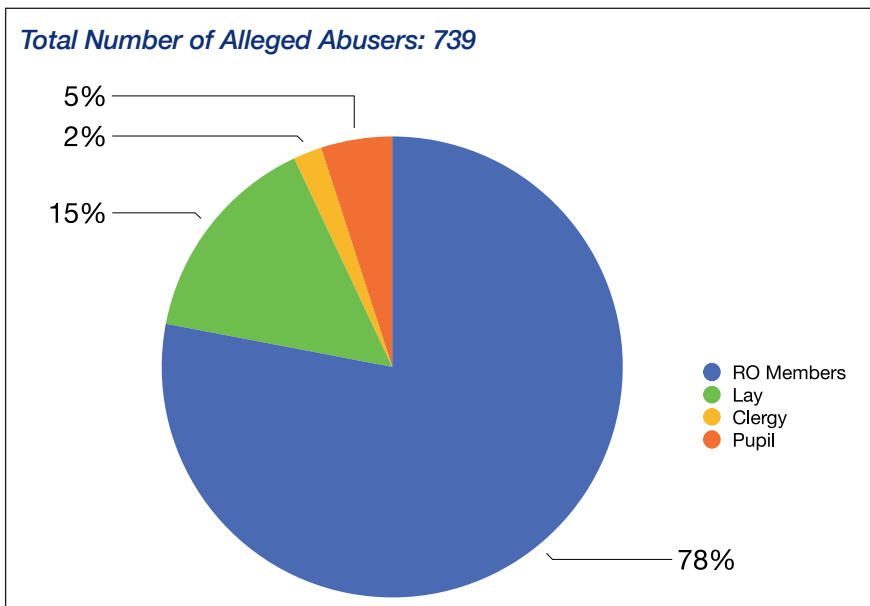


**(a) Differences Between Male Order and Female Order Run Schools**

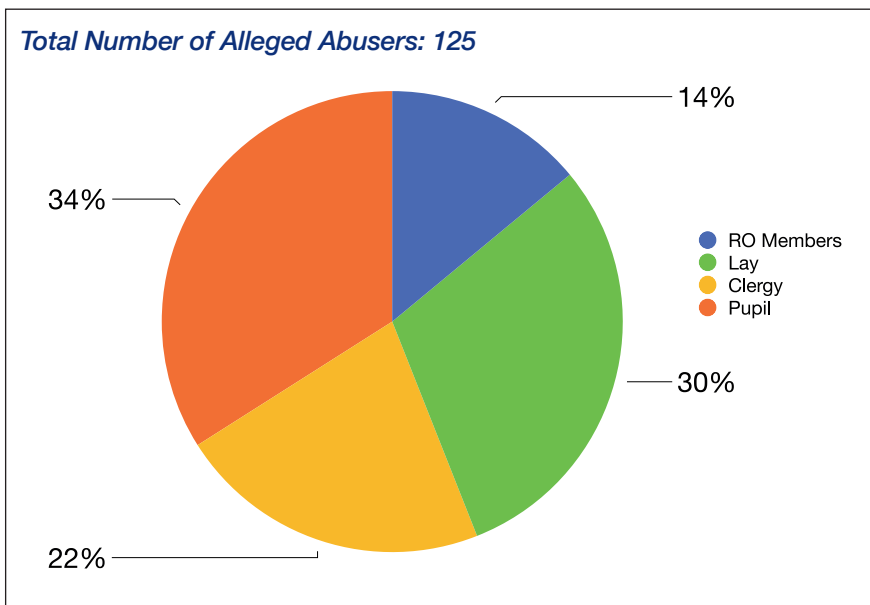
48. Both the number of allegations of historical sexual abuse in female religious order-run schools and the categories of alleged abusers recorded by female religious order-run schools are notably different to that of male religious order run schools.
49. Overall, the number of allegations reported in female religious order run schools is 158, compared to 2,217 in male religious order schools:



50. In male order run schools, the allegations primarily related to members of the religious order (78%), with the next biggest categories being lay staff (15%), pupil (5%), and other clergy (2%):

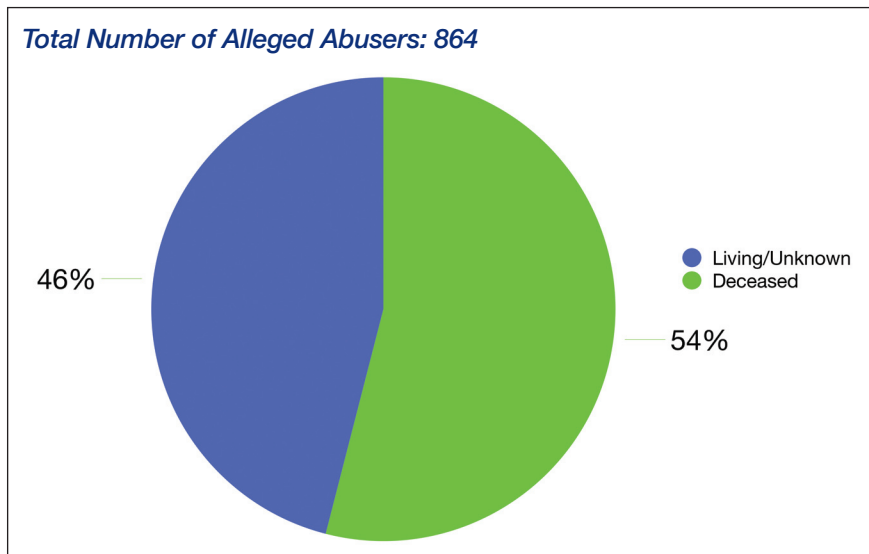


51. The categories of alleged abusers in allegations recorded by female religious order run schools are more evenly spread across all four categories: In female order run schools allegations relating to members of the religious order account for 14% of allegations, with the biggest category being pupils (34%), then lay abuse (30%) and other clergy abuse (22%):



*(b) Numbers of Alleged Abusers Who Are Deceased For All Religious Orders*

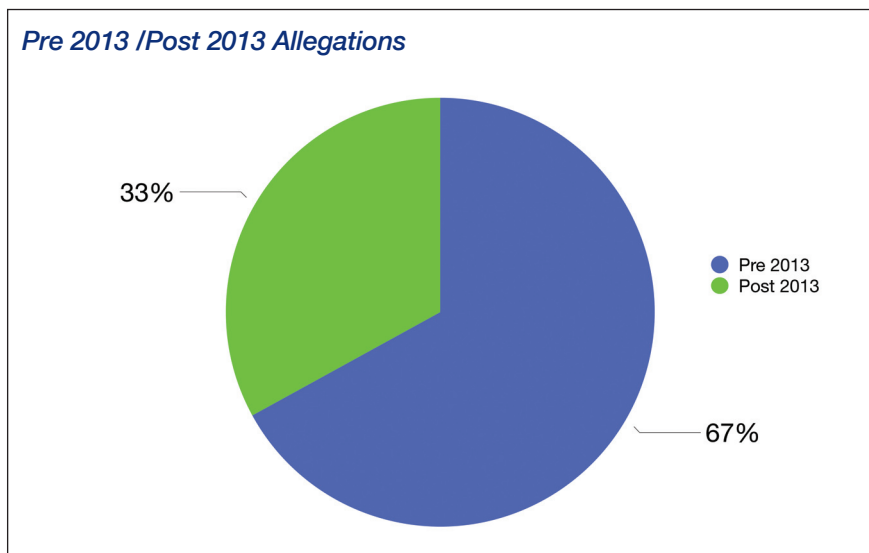
52. Of the 864 alleged abusers referred to in the religious orders' records, just over half are known to be deceased.
53. The balance are either living, or their status is unknown at this time. It seems reasonably likely that a percentage of the category of living/unknown alleged abusers may now also be deceased, but this figure cannot be quantified at this time.



54. The fact that such a large number of the alleged abusers recorded are deceased is a reflection of the fact that many of these complaints relate to incidents said to have occurred many years ago. The trend of significant delay in reporting sexual abuse experienced as a child, referenced by An Garda Síochána elsewhere in this Report,<sup>16</sup> makes it more likely that many alleged abusers are deceased when the report is made.

(c) *Breakdown of pre-2013 and post-2013 allegations*

55. The religious orders were asked to identify which allegations were in addition to those recorded in the Tusla audit, and on this basis it is possible to identify that just over two-thirds of the allegations recorded were made prior to 2013, with the remaining third made since that date:



(iii) **Religious Orders with the Highest Allegations Excluding Special Schools**

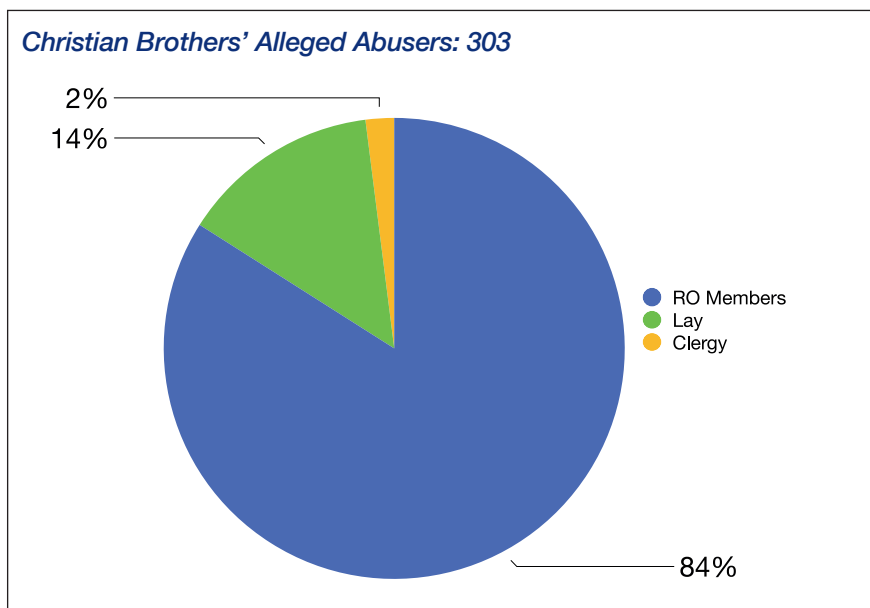
56. This section considers the data received from the 5 religious orders recording the highest numbers of allegations in their schools, excluding those orders that ran special schools. The Jesuits are the only religious order among the 5 orders listed below that ran a special school. The figures for the special schools, including the Jesuit special school, are set out separately below.

57. Appendix 7 sets out a school-by-school breakdown of the recorded allegations of historical sexual abuse provided to the Scoping Inquiry. This breakdown provides, where available, the name of the school concerned, the number of allegations of historical sexual abuse reported in respect of the school, and the number of alleged abusers referred to in these records.

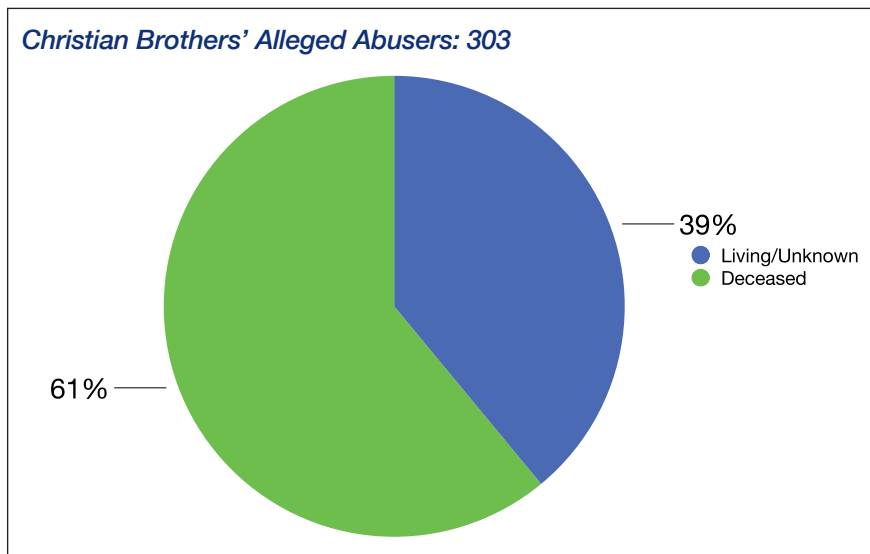
58. Two orders, the Patrician Brothers and the Sisters of Mercy did not provide all the information sought by the Inquiry:
- (i) The Sisters of Mercy provided the total number of allegations of historical sexual abuse for their schools, and the total number and category of alleged abusers associated with those allegations. They also provided the number of schools to which these allegations related. They did not provide the names of these schools or any indication of which allegations related to particular schools.
  - (ii) The Patrician Brothers provided the total numbers of allegations, alleged abusers and categories of alleged abusers, and provided the names of the relevant schools, but did not provide a school-by-school breakdown of the allegations/alleged abusers.
59. The De La Salle Order provided total numbers for allegations/alleged abusers and categories of alleged abusers, and belatedly provided the names of their schools on 4 June 2024. Because of the late nature of this information, the details of the schools listed below, and in Appendix 7, are set out in a more generic form than those of other orders because of the limited information provided and the short period of time allowed for cross-checking these details.
60. The data largely speaks for itself. It is apparent that there are cases where alleged abusers moved between schools, and because the number of alleged abusers in each school is listed separately, this means the total number of alleged abusers when the data is broken down on a school-by-school basis is greater than the 864 alleged abusers listed above on an order-by-order breakdown.
61. In some instances a large number of allegations are recorded in the context of the order having a large numbers of schools. However, in other instances religious orders with a small number of schools have recorded a very high number of allegations.

(a) *The Christian Brothers*

62. There are 132 Christian Brothers' schools included in the school-by-school breakdown in Appendix 7 of this Report. In total, 820 allegations of abuse are recorded in relation to those 132 schools.<sup>17</sup>
63. The majority of alleged abusers were members of the Christian Brothers religious order (84%), with the next biggest category being lay staff (14%), then other clergy (2%). No peer abuse is recorded:



64. Over two thirds of the persons recorded as alleged abusers associated with Christian Brothers' schools are deceased:



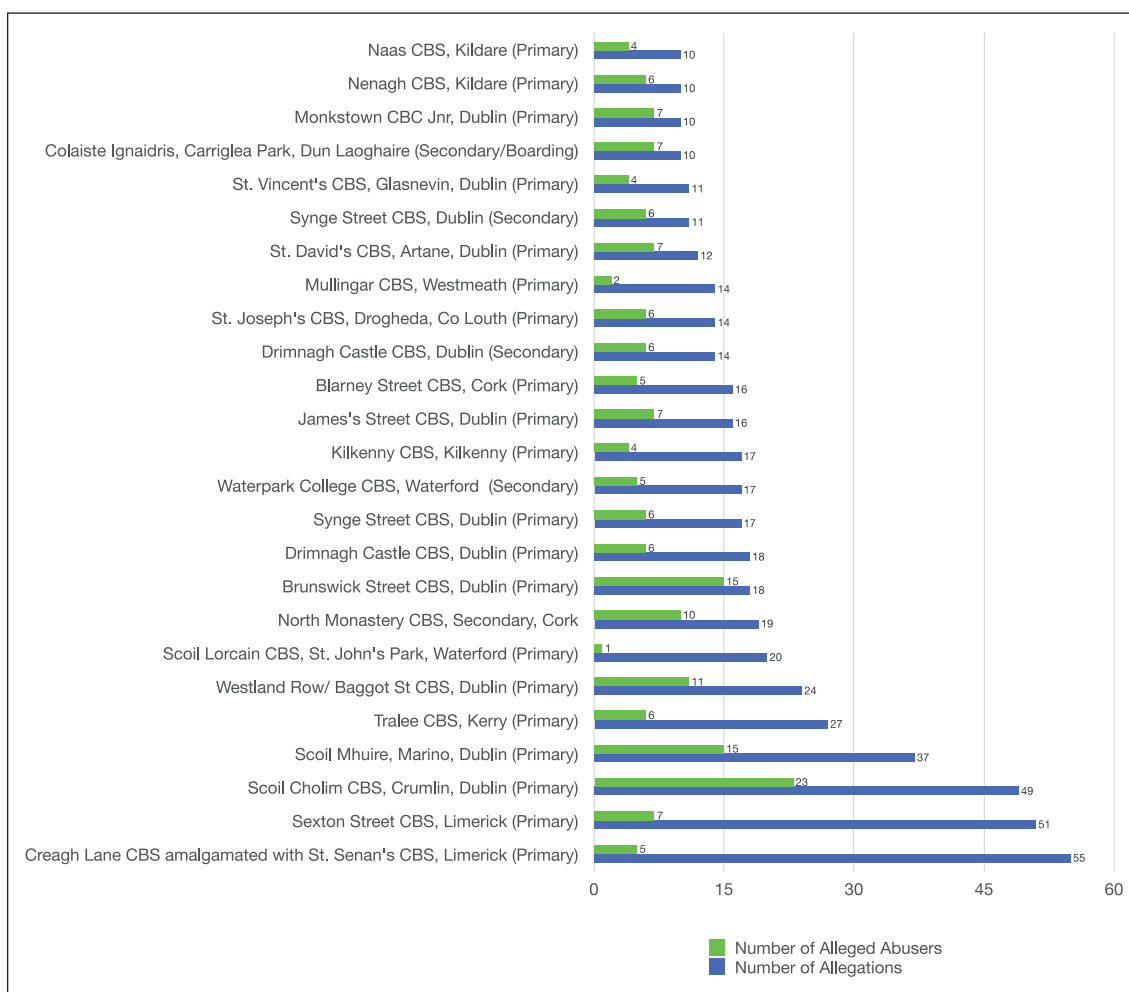
17 The number of allegations on a school-by-school breakdown may be higher than the overall total of allegations recorded, as the overall total provided in the verification form by the congregation sought to eliminate, as far as possible, any duplication between the schools' figures and the congregation's figures at the request of the Scoping Inquiry. For the purpose of this analysis, the Scoping Inquiry is using the figures provided by the congregation, whose records appear to be more complete, rather than the less extensive records held by the schools. The data protection concerns expressed by ERST are set out in paragraph 21 above. Appendix 8 shows, by way of example, the schools' figures for alleged abusers alongside the congregation's figures. These figures cannot be added to the congregation's figures because of concerns about duplication.

65. In addition, the Scoping Inquiry asked the Christian Brothers for information regarding the number of convictions for child sexual abuse associated with their schools.<sup>18</sup> They indicated that:

- 16 members and former members of the Christian Brothers have been convicted of child sexual abuse;
- 5 lay staff have been convicted of child sexual abuse; and
- 1 member of the clergy associated with their school who was not a Christian Brother has been convicted, though the order is unsure if this conviction was for offences in one of their schools.

66. It is apparent from the schools data set out in Appendix 7 that there are a number of schools with particularly high numbers of allegations and alleged abusers.

67. By way of example, 25 of the 132 Christian Brothers' schools that have recorded allegations are listed below in table form. These appear to be schools with a comparatively high number of allegations or alleged abusers associated with the school:

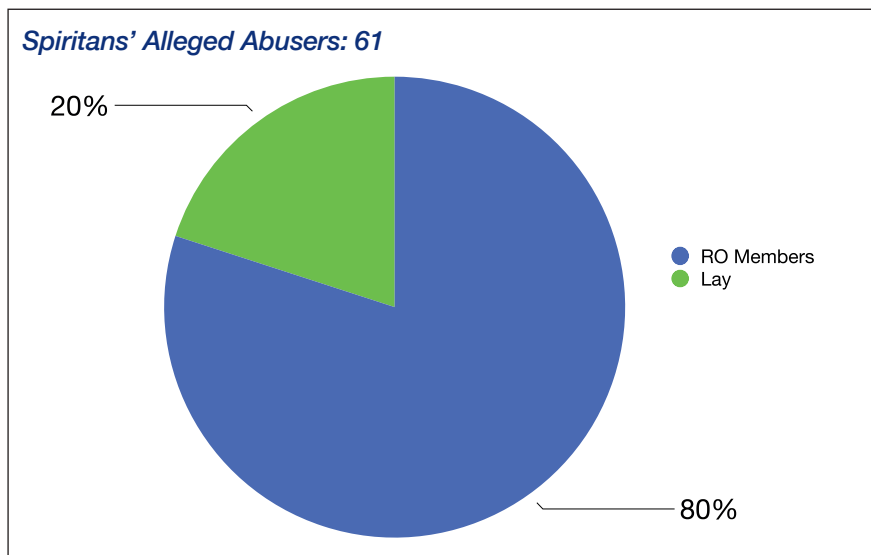


18 All figures relating to convictions set out in this Chapter are limited to those convictions where the incident of abuse falls within the Scoping Inquiry's Terms of Reference.

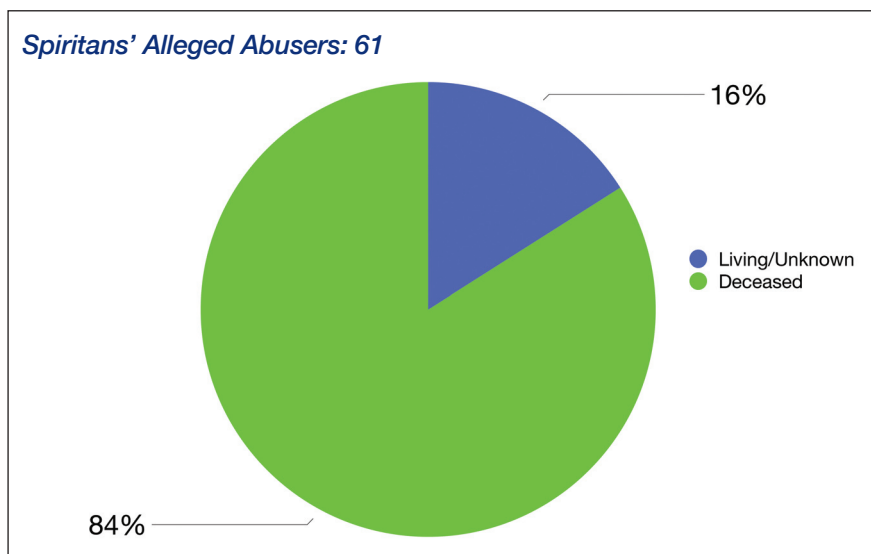


(b) *The Spiritans*

68. The Spiritans have provided data on 329 recorded allegations in relation to 6 schools. They have indicated that they have records of allegations in respect of 61 alleged abusers associated with those schools.<sup>19</sup>
69. Of the 61 alleged abusers identified in the Spiritans' records, 80% were members of the order and 20% were lay staff:

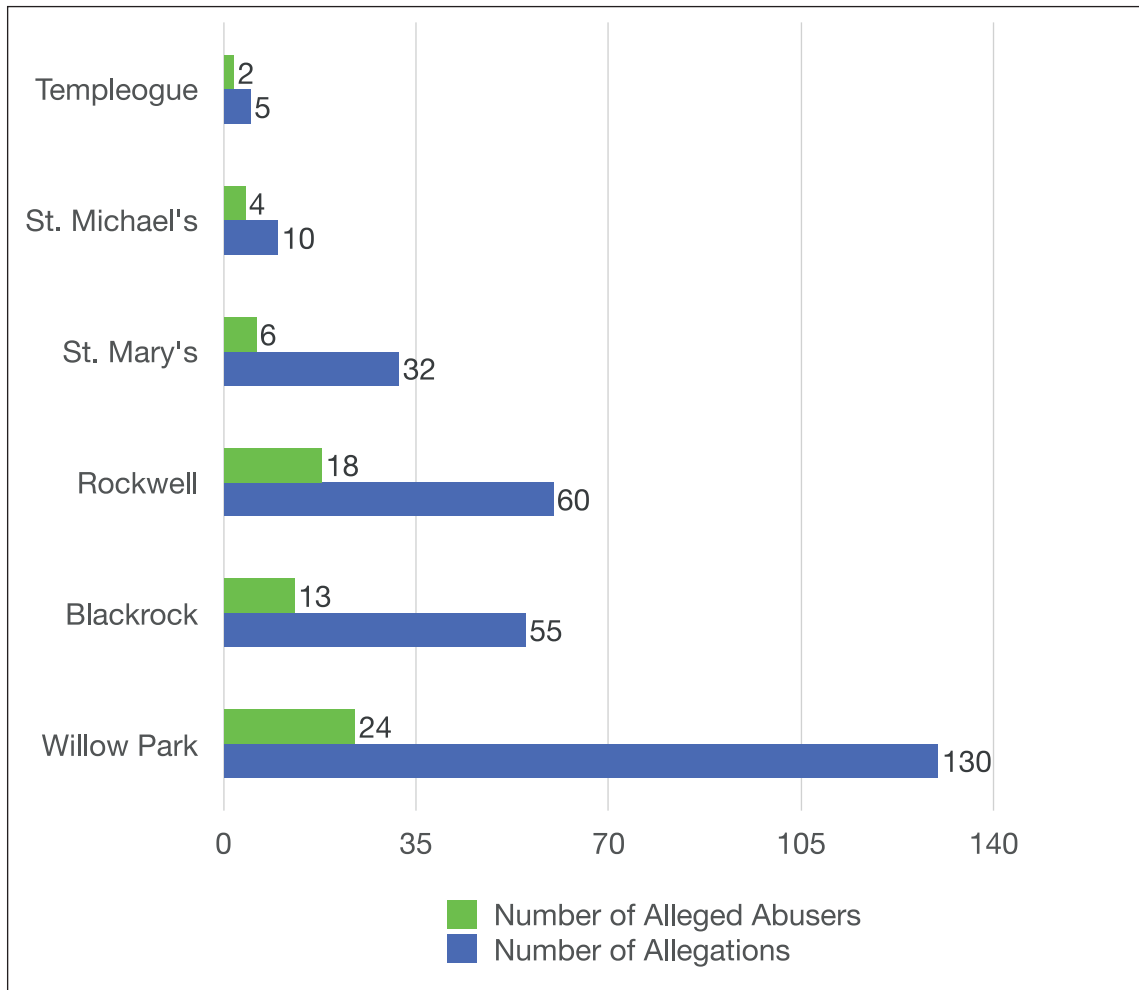


70. As with other orders, the vast majority (84%) of the alleged abusers recorded in the religious order's records are deceased:



19 A total of 329 allegations were counted on the Spiritans' Verification Form. However, the information provided on the categories of alleged abusers in the Spiritans' records is based on the 292 allegations noted on their questionnaire in circumstances where the order has said that there is insufficient information about 37 further allegations to identify the category of alleged abuser concerned.

71. The Spiritans informed the Scoping Inquiry that one member of their religious order and one lay member of staff in their schools had been convicted of child sexual abuse.<sup>20</sup>
72. The data provided by the Spiritans to the Inquiry recorded a particularly high number of allegations and alleged abusers in Willow Park school, the private primary school associated with Blackrock College. There was also a high number of allegations recorded in relation to Blackrock College and Rockwell College:

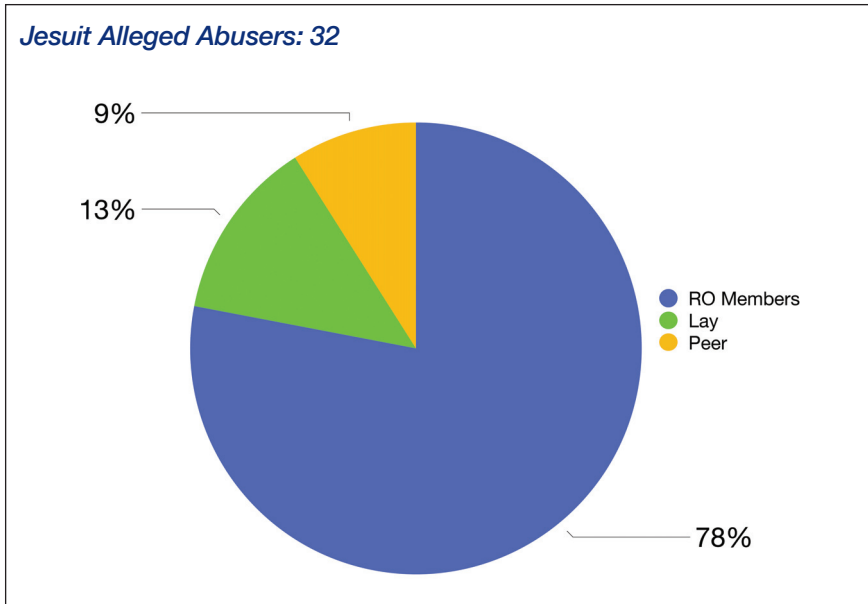


<sup>20</sup> These figures are limited to convictions within the Scoping Inquiry's remit.

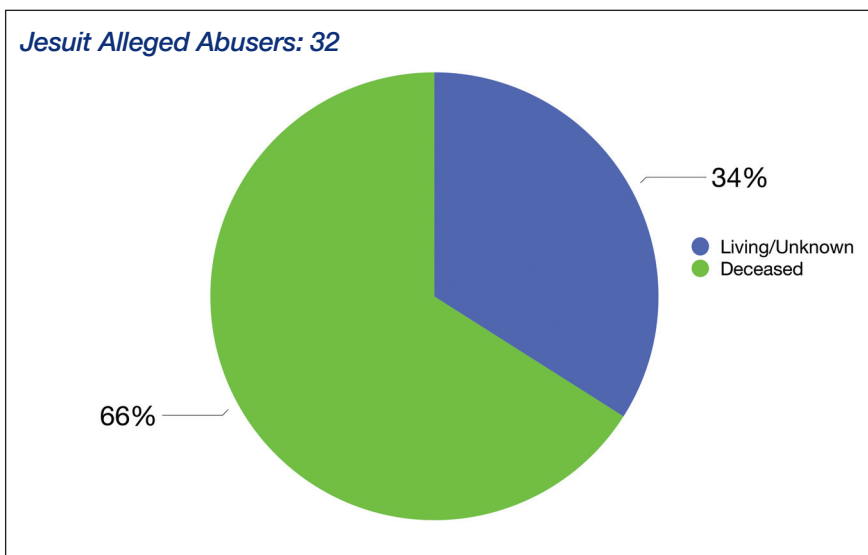
(c) *The Jesuits*

73. The Jesuits informed the Scoping Inquiry of 126 recorded allegations involving 32 alleged abusers across 8 schools. Allegations in a Jesuit special school are set out separately below.

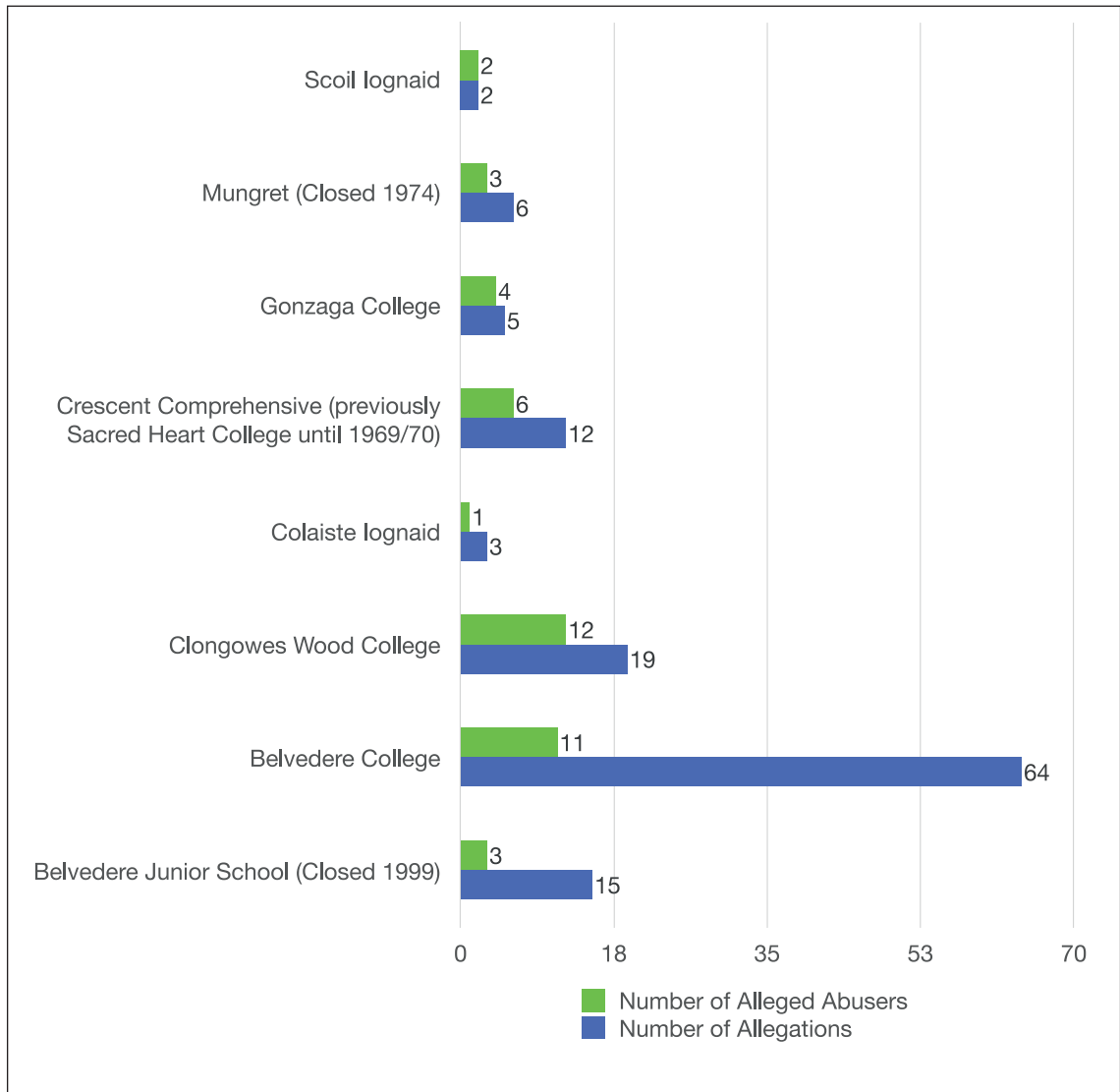
74. Of the 32 alleged abusers identified in the Jesuits' records, the majority (78%) were members of the Jesuit order, with 13% being lay staff and some 9% being peers of the complainant:



75. A majority (66%) of those alleged abusers are deceased:



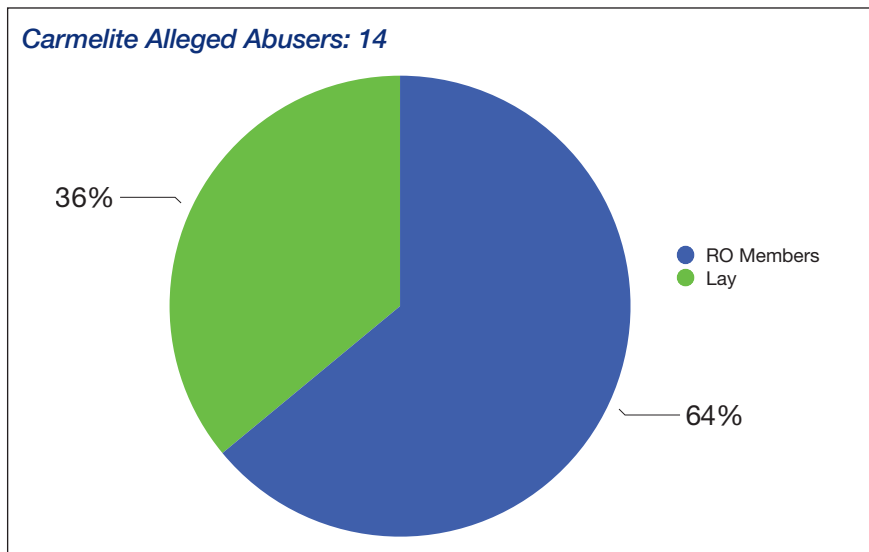
76. The Jesuit school with the highest number of allegations is Belvedere College, with 64 allegations and 11 alleged abusers, followed by Clongowes Wood College, with 19 allegations and 12 alleged abusers:



(d) *The Carmelite Fathers*

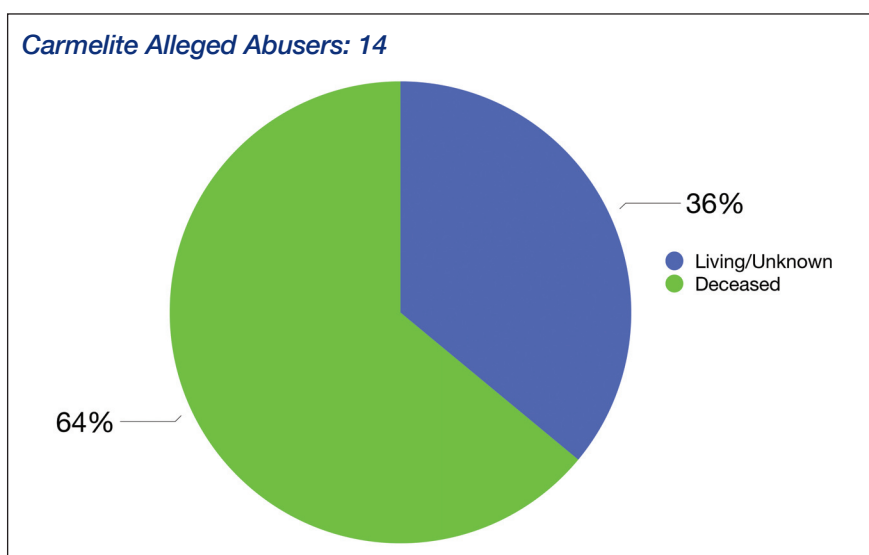
77. The Carmelite Fathers recorded 100 allegations involving 14 alleged abusers in 2 schools.

78. Of the 14 alleged abusers referred to in those 100 allegations, 64% were members of the order and 36% were lay staff:

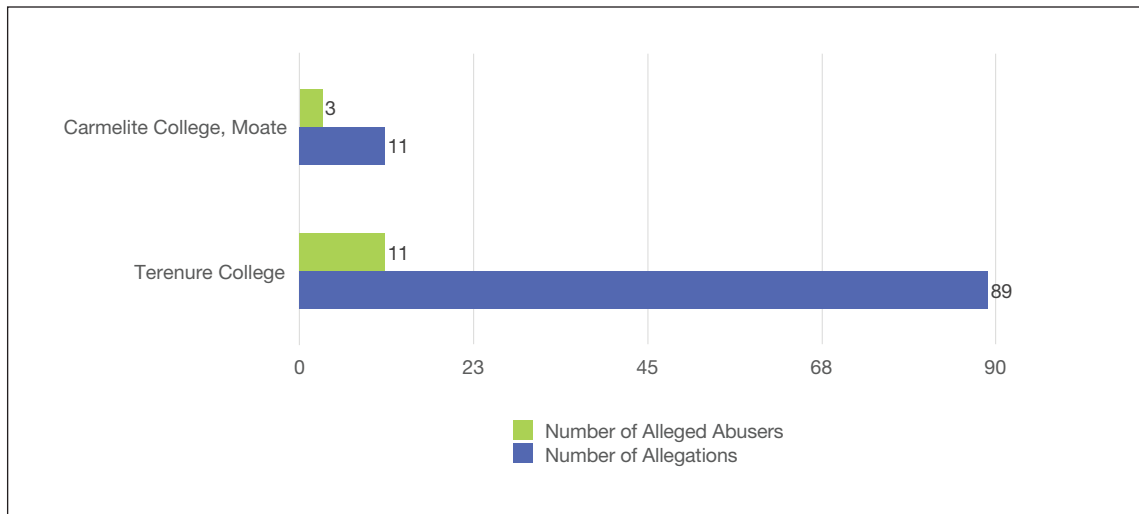


79. Two lay people associated the schools run by the Carmelite order have been convicted of child sexual abuse.

80. Again, the majority (64%) of the alleged abusers associated with allegations of historical sexual abuse in Carmelite schools are deceased:



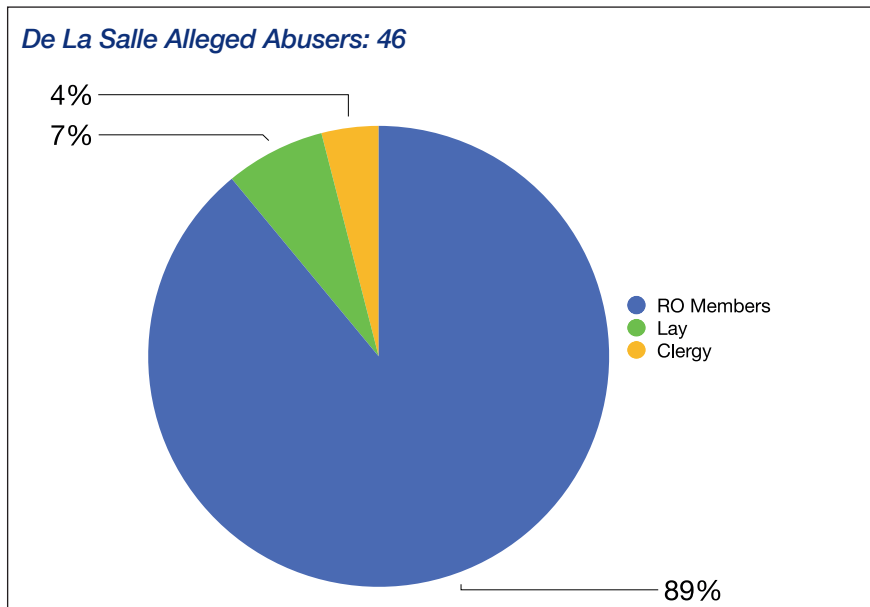
81. The allegations recorded by the Carmelites predominantly related to Terenure College, with 89 allegations in respect of 11 alleged abusers. Some 11 allegations are recorded in relation to Carmelite College Moate in respect of 3 alleged abusers:



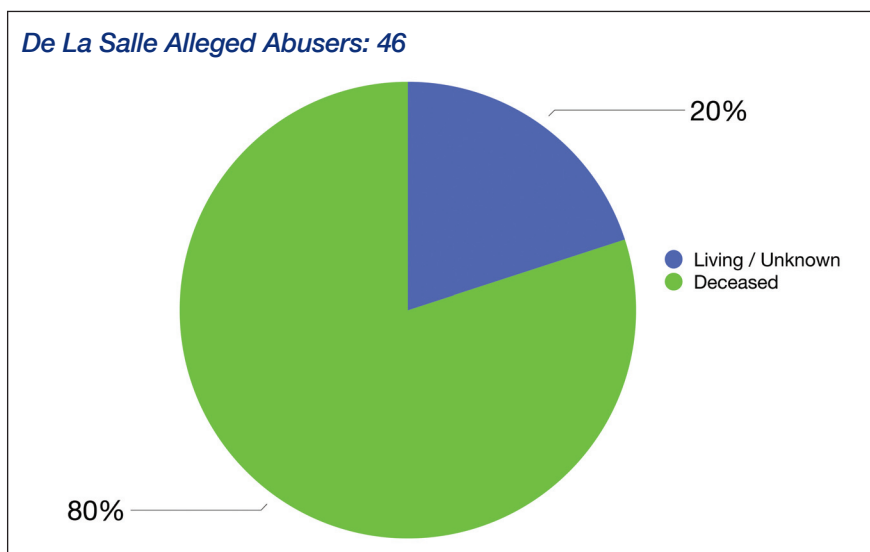
(e) *The De La Salle Brothers*

82. The De La Salle Brothers have recorded 84 allegations of historical sex abuse in relation to 29 schools.

83. Some 46 alleged abusers are named in these 84 allegations of sex abuse. In the vast majority of allegations (89%) the alleged abuser was a member of the De La Salle Brothers. In 7% of allegations the alleged abuser named was a lay member of staff and in 4% of allegations the alleged abuser named was a cleric who was not a member of the religious order.

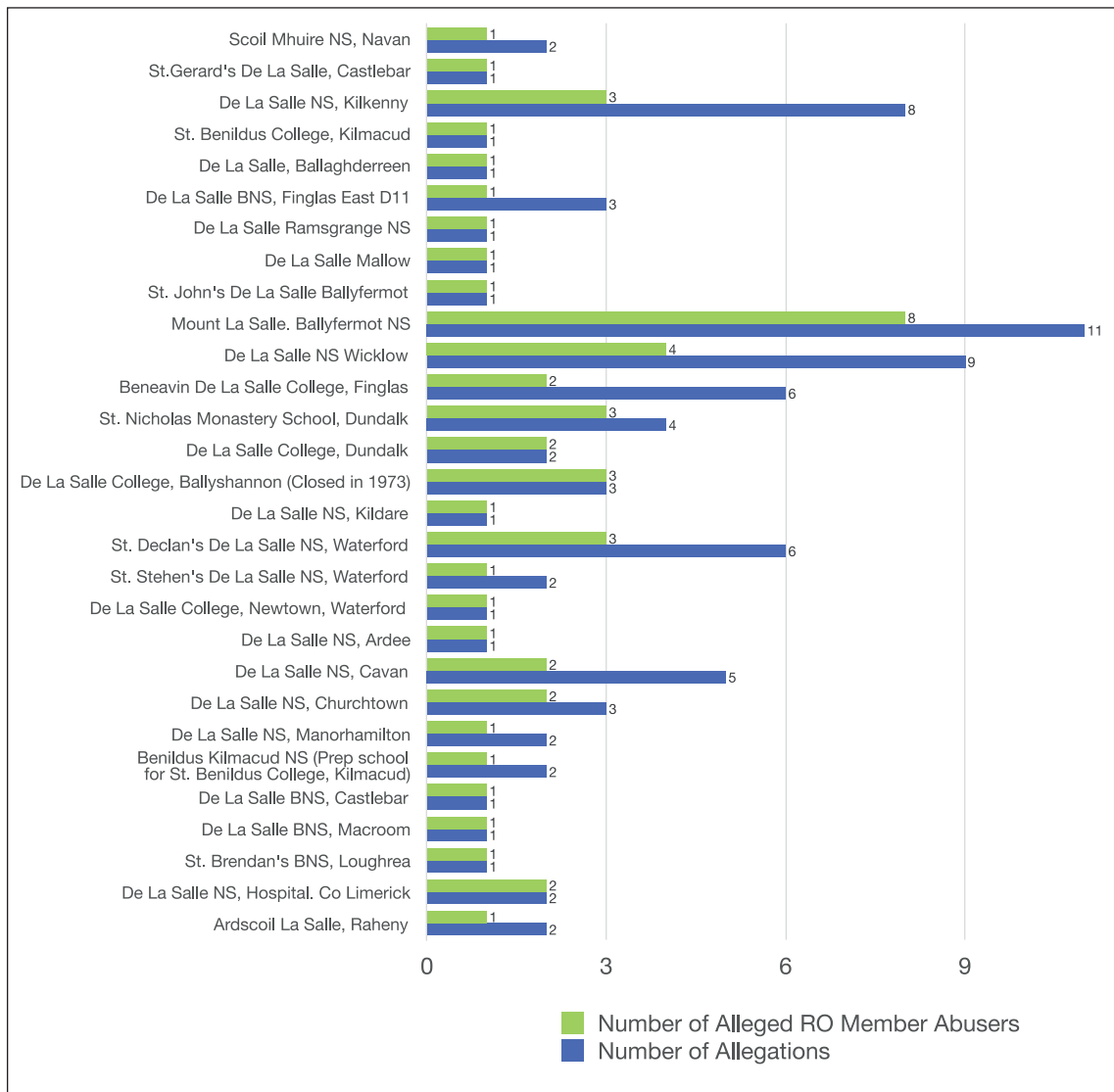


84. Some 80% of the alleged abusers named are deceased according to the De La Salle Brothers' records:



85. The following table sets out the spread of allegations and alleged abusers in the De La Salle Brothers' schools.

86. This table does not include the 5 alleged abusers falling into the category of lay staff and other clergy because the order did not specify which of the schools these alleged abusers are associated with:





87. The below table provides a short comparison of some of the data arising in relation to allegations in schools run by the 5 religious orders who submitted the largest numbers of allegations to the Scoping Inquiry:

Order	Christian Brothers	Spiritans	Jesuits	Carmelite Fathers	De La Salle Brothers
Allegations	820	329	126	100	84
Number of Schools	132	6	8	2	29
Total Abusers	303	61	32	14	46
Religious Order Members	255	49	25	9	41
Lay	42	12	4	5	3
Clergy	6	0	0	0	2
Pupils	0	0	3	0	0

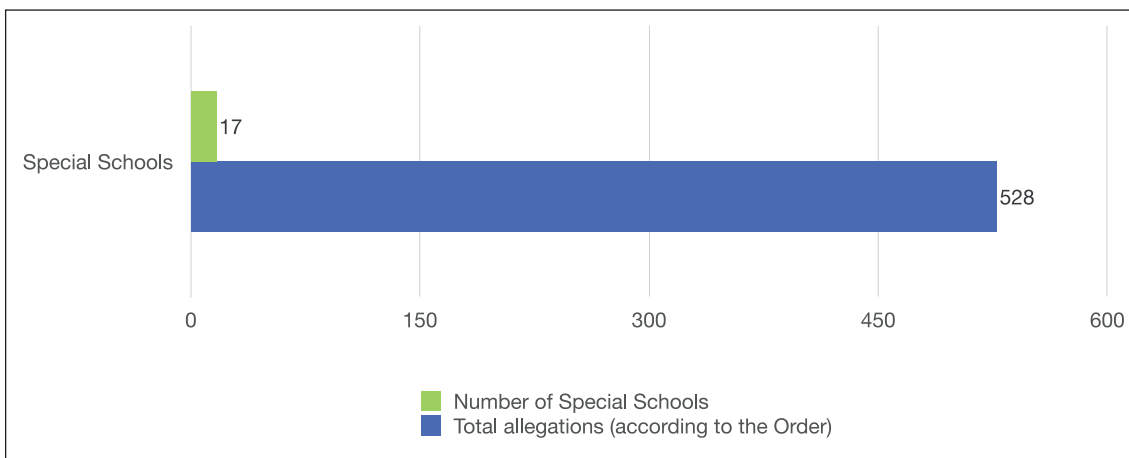
#### (iv) Special Schools

88. As discussed elsewhere in this Report, there are a higher number of allegations received in respect of special schools than mainstream schools run by religious orders. This likely reflects the fact, discussed elsewhere in this Report, that disabled children are more vulnerable to and are more likely to be sexually abused than able-bodied children.
89. Of the total number of 2,375 allegations involving 864 abusers outlined above,<sup>21</sup> some 528 allegations and 190 alleged abusers relate to special schools.
90. The figures involving special schools are considered separately here in order to identify if there are any distinct features or themes that arise in relation to allegations of abuse in special schools.

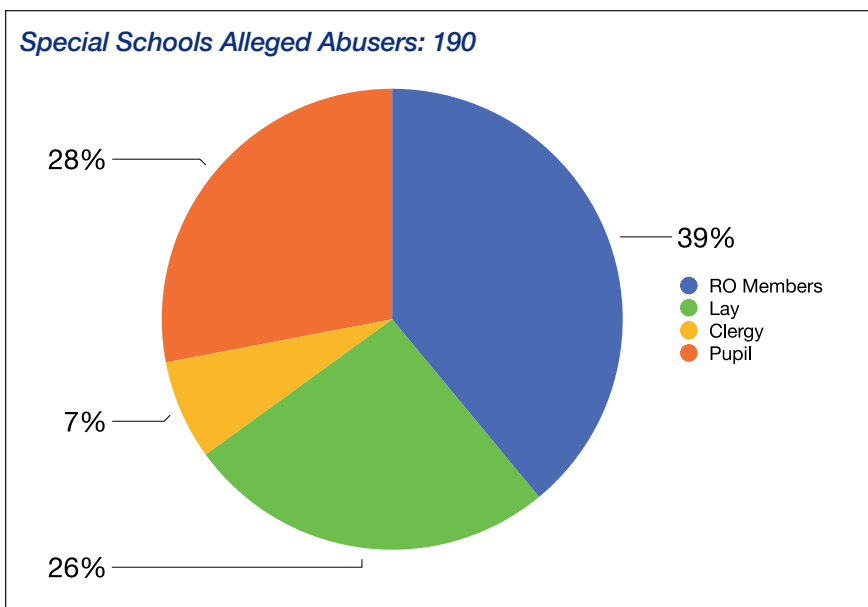
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21 These figures exclude community schools, which are addressed separately below.

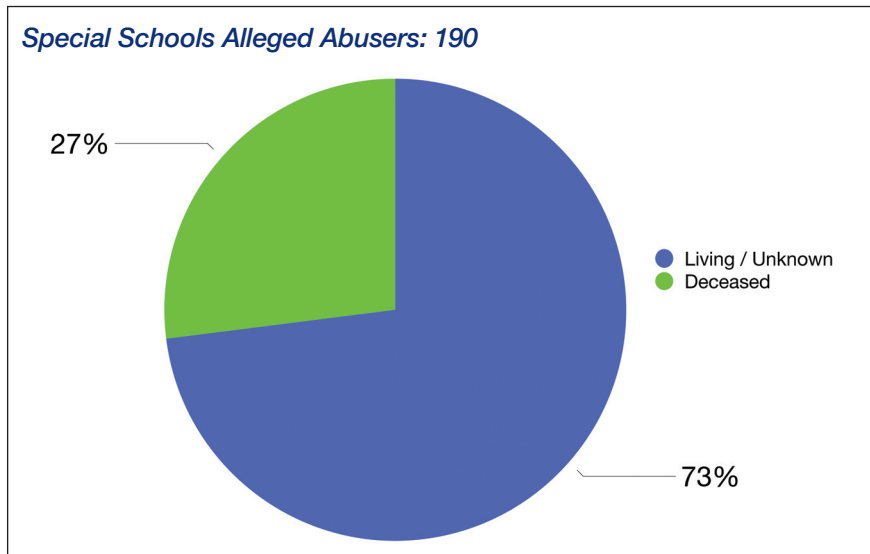
91. The numbers of allegations in 17 special schools reported by the religious orders are set out below:



92. The breakdown of alleged abusers in special schools reported by the religious orders shows that while the largest category of alleged abusers are members of a religious order (39%), there is also a large percentage of allegations involving pupils (28%) and abuse by lay staff (26%). Abuse by another cleric (not a member of the order) is alleged in 7% of allegations:



93. In contrast with the position in relation to mainstream schools, the religious orders have recorded that the vast majority of alleged abusers identified in special schools are still living or their status is not known:



94. A school-by-school breakdown of the number of allegations and alleged abusers reported as associated with each special school is set out at the bottom of the table in Appendix 7.

95. The following table sets out the numbers of allegations relating to special schools on an order-by-order basis:

Religious Order	Allegations	Number of Schools	Total Alleged Abusers	Members accused	Lay accused	Peer accused	Other cleric accused	Total Alleged Abusers Deceased
Brothers of Charity	294 <sup>22</sup>	3	97 <sup>23</sup>	47	18	28	4	28
Hospitaller Order of St John of God	144 <sup>24</sup>	7	36	22	10	4	0	19
Congregation of Dominican Sisters Cabra	64 <sup>25</sup>	2	45	0	16	20	9	1
Jesuits	16	1	2	2	0	0	0	2
Rosminians	6	1	6	3	3	0	0	2
Congregation of the Daughters of the Cross of Liege	2	1	2	0	1	1	0	0
Religious Sisters of Charity	1	1	1	0	0	1	0	0
Congregation of the Sisters of Charity of Jesus and Mary	1	1	1	0	1	0	0	0
<b>TOTAL</b>	<b>528</b>	<b>17</b>	<b>190</b>	<b>74</b>	<b>49</b>	<b>54</b>	<b>13</b>	<b>52</b>

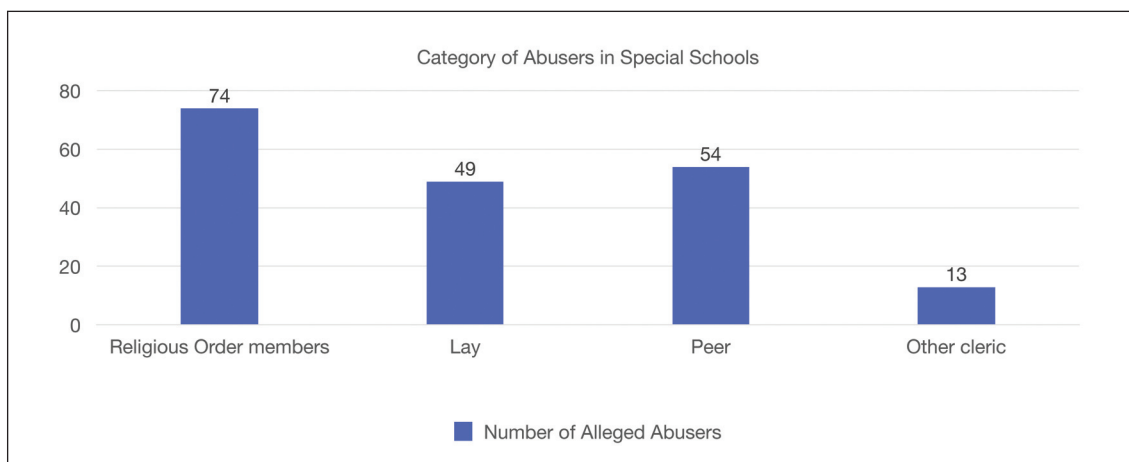
22 See footnote 12 above.

23 See footnote 13 above.

24 See footnote 14 above. The Hospitaller Order of St John of God reported 124 allegations. However, following correspondence in relation to certain other allegations noted by the order, the Scoping Inquiry took the view that there were an additional 20 allegations that constituted sexual abuse and, as such, should be included in the order's total number of allegations. In addition, at a late juncture the order indicated that there may be 1 less lay alleged abuser and 1 more allegation that should be counted in the figures relating to their order, but it was not practicable to amend the data in this Report at that point in time.

25 See footnote 15 above.

96. Special schools had a different profile of alleged abuser compared with mainstream schools. Of the total of 190 alleged abusers, 74 were members of the religious order concerned, 49 were lay staff, 54 were peers, and 13 were clerics who were not members of the religious order:



97. The following table sets out the allegations recorded in respect of the 17 special schools identified by religious orders as having allegations of historical sexual abuse. A school-by-school breakdown will reflect a higher number of total alleged abusers because alleged abusers who moved between different schools are counted twice. The Hospitaller Order of Saint John of God had not provided a school-by-school breakdown of allegations at the time of the preparation of this Report; a total figure is instead set out below followed by a list of relevant schools:

Religious Order	School	Boarding Yes/No	Total Number of Allegations	Total Alleged Abusers
Brothers of Charity	Lota, Glanmire, Cork	Boarding	166	50
Brothers of Charity	St. Mary's, Rochestown, Cork	Boarding	9	2
Brothers of Charity	Holy Family School, Renmore, Galway	Boarding	119	49
Congregation of Dominican Sisters Cabra	St. Mary's School for Deaf Girls, Cabra, Dublin 7	Mixed	63	44
Congregation of Dominican Sisters Cabra	Benin Casa Special School, Blackrock, Co. Dublin	Day	1	1
Congregation of the Daughters of the Cross of Liege	Mary Immaculate School for Deaf Children, Sillorgan (Closed 1998), Dublin	Mixed	2	2
Congregation of the Sisters of Charity of Jesus and Mary	St. Mary's Southhill, Delvin, Westmeath	Mixed	1	1
Jesuits	St. Declan's Special School, Dublin	Day	16	2

Religious Order	School	Boarding Yes/No	Total Number of Allegations	Total Alleged Abusers
Religious Sisters of Charity	St. Patrick's Special School, Kells Road, Kilkenny	Day	1	1
Rosminians	St. Joseph's (School for visually impaired boys), Drumcondra, Dublin	Boarding	6	6
Hospitaller Order of St John of God	Total for all schools below, as breakdown per school not provided		144 <sup>26</sup>	36
Hospitaller Order of St John of God	St. Augustine's School, Carysfort Avenue, Dublin	Mixed		
Hospitaller Order of St John of God	Islandbridge Day School, Dublin	Day		
Hospitaller Order of St John of God	Dunmore House Day School, Dublin	Day		
Hospitaller Order of St John of God	St. Raphael's School, Celbridge, Kildare	Mixed		
Hospitaller Order of St John of God	St. Mary's School, Drumcar, Louth	Mixed		
Hospitaller Order of St John of God	Oliver Plunket House, Classes for Children with Epilepsy	Not Specified		
Hospitaller Order of St John of God	Kilcronney Boarding School, Wicklow	Boarding		
<b>TOTAL</b>			<b>528</b>	<b>194</b>

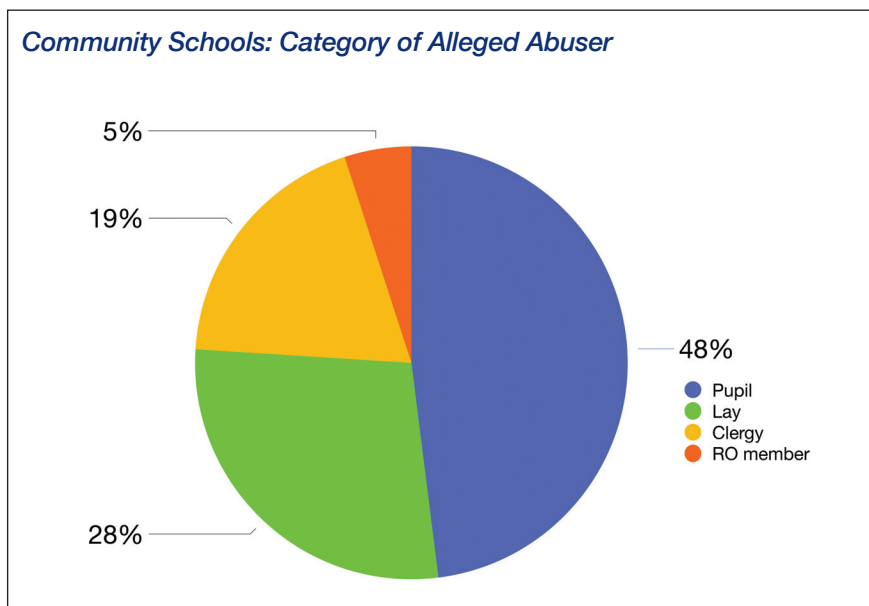
26 As noted above, while the Hospitaller Order of St John of God reported 124 allegations, the Scoping Inquiry took the view that there were an additional 20 allegations referred to by the order that should be included. See Appendix 13 for a school-by-school breakdown provided by the Hospitaller Order of St John of God on 6 June 2024.

## E. Community Schools

98. For reasons already outlined in this Report, namely the status of religious orders as co-patrons, data relating to allegations in relation to community schools was collected separately. The following data regarding allegations of historical sexual abuse in community schools with religious order co-patrons was provided by to the Scoping Inquiry:

School Name	Co-patron Order(s)	Total Allegations
Mountrath Community School	Brigidine Sisters (CSB)/ Patrician Brothers	2
St. Tiernan's C.S	Carmelites (OCarm)	1
Pobalscoil Neasain, Baldoyle	Christian Brothers (CFC)/ Religious Sisters of Charity	1
Coolmine C.S.	La Sainte Union Sisters (LSU)/ Vincentian Fathers	1
Gorey Community School	Loreto Sisters (IBVM)	1
Portmarnock C.S.	Loreto Sisters (IBVM)	2
Tallaght Community School	Marist Brothers (FMS)/ Holy Faith Sisters	1
Coláiste Chiaráin Leixlip	Congregation of the Presentation Sisters (PBVM)	1
Holy Family Community School Rathcoole	Congregation of the Presentation Sisters (PBVM)	2
Castlecomer Community School	Congregation of the Presentation Sisters (PBVM)	1
Total Allegations in 5 Sisters of Mercy community schools	Sisters of Mercy (RSM)	7
<b>TOTAL</b>		<b>20</b>

99. The responses from community schools indicated that the majority of the alleged abusers in those schools were identified as pupils. The smallest percentage of allegations related to members of a religious order:



100. As is apparent from the table above, the Sisters of Mercy gave a global figure only for all of their community schools. They subsequently confirmed that allegations of historical sexual abuse arose in respect of five of the Community Schools of which they are co-patrons, but did not specify which schools. Thus, the 7 allegations referred to arise in relation to five of the community schools of which that order are a co-patron.
101. In a small number of community schools the Sisters of Mercy are one of 2 or 3 religious co-patrons. As such, there was a risk of duplication where the names of the individual schools concerned were not provided by the Sisters of Mercy. The Scoping Inquiry therefore asked all schools to liaise with all of their religious order co-patrons to ensure that only one questionnaire was submitted and no issue of duplication would arise.

## F. Conclusion

102. The above data is the most complete picture of the extent of allegations of sexual abuse in schools run by religious orders that the Scoping Inquiry has been able to obtain. The figures for numbers of allegations compiled from other sources are set out in the next chapter.



## **Chapter 10:**

### **Other Sources of Data on Numbers of Allegations**

- A. Introduction
- B. Tusla
- C. The National Board for Safeguarding Children in the Catholic Church
  - (i) The NBSCCCI Religious Order Reviews
  - (ii) NBSCCCI Annual Reports
- D. The Department of Education
- E. Survivor Engagement Statistics
- F. An Garda Síochána
  - (i) Incident Volumes
  - (ii) Status of Investigations
  - (iii) Suspects

## A. Introduction

1. This chapter considers all other sources of data that the Scoping Inquiry obtained in relation to the number of allegations of historical sexual abuse in schools run by religious orders. As detailed in the next chapter, many of the records held by state authorities were not capable of being readily searched for data specifically relating to allegations of sexual abuse in schools run by religious orders. Nonetheless, some data was forthcoming on the basis that it either related to (i) all sexual abuse allegations by members of religious orders that ran schools or (ii) certain limited records of allegations of abuse occurring in a school run by religious orders.

## B. Tusla

2. On the basis of the data included in Tusla's 'Audit of Religious Orders, Congregations, and Missionary Societies Safeguarding Arrangements and Management of Allegations of Child Sexual Abuse Report' ('**the Audit Report**'), and further data collected for a period following the Audit, Tusla was able to extract information relevant to sexual abuse allegations in schools run by religious orders, which is set out in the list below.
3. In compiling the list of sexual abuse allegations set out below, Tusla officials considered all records in the possession of the audit team, including those provided by the orders themselves, An Garda Síochána, Tusla Social Work records, State and church national and private counselling agencies, and those received by members of the public.
4. The figures provided to the Scoping Inquiry included not only the information which fell within the scope of the Audit Report, but also information which came outside of that remit and information received up to 31 January 2018 while the audit database was being maintained. Tusla noted that they considered this 'a reliable comprehensive analysis of available relevant records'.<sup>1</sup>
5. In analysing whether the information held by Tusla indicated that an allegation was likely to have taken place in a school setting in Ireland, Tusla applied a high balance of probability test based on the evidence available to them. Allegations where there was any reasonable doubt of the location were not included in Tusla figures. It was noted that 'In just under one third of the allegations examined for this exercise the location of the abuse could not be reliably determined [and] also those that were considered extra jurisdictional were not included'.<sup>2</sup>

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1 Letter of 25 November 2023 from Tusla to the Scoping Inquiry.

2 Ibid.

6. Tusla stressed that the figures provided have not been reverified with the religious orders and 'should only be considered as an approximation of the number of cases known and not considered as a definitive cumulative historical figure. The audit and investigation teams received a lot of information that simply could not be verified and therefore was considered unreliable'.<sup>3</sup>
7. It was also highlighted that the numbers provided by Tusla to the Inquiry do not represent the number of allegations assessed as credible or confirmed by statutory authorities, but are merely a representation of allegations that were recorded by Tusla as having been received.
8. In total, Tusla examined 3,498 records of sexual abuse allegations arising from the list of religious orders which ran day or boarding schools in the State provided by the Inquiry. Tusla assessed that some 1,387 of those allegations could on a high balance of probability be determined to have originated from a school setting.

<b>Name of Religious Order</b>	<b>Total Number of Allegations Occurring in a School Setting</b>
Augustinians (OSA)	1
Benedictine Nuns (OSB)	0
Benedictines, Glenstal Abbey (OSB)	4
Brothers of Charity (FC)	103
Capuchins (OFM Cap)	4
Carmelites (OCarm)	14
Christian Brothers (CFC)	696
Cistercians – Four Monasteries (OCSO)	0
Congregation of the Blessed Sacrament (Brothers)	0
Congregation of the Holy Spirit (CSSp)	77
Congregation of the Sisters of Mercy, All Four Provinces (RSM)	9
De La Salle Brothers (FSC)	67
Discalced Carmelites (OCD)	4
Dominicans (OP)	24
Faithful Companions of Jesus (FCJ)	0
Franciscan Brothers (OSF)	41
Conventual Franciscans Friars (Brothers) (OFM)	31
Irish British Province of the Society of the Divine Word (SVD IBP)	2
Jesuits (SJ)	20

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3 Ibid.

Name of Religious Order	Total Number of Allegations Occurring in a School Setting
Legionnaires of Christ (LC)	0
Marist Brothers (FMS)	51
Marist Fathers (SM)	20
Mill Hill Missionaries (MHM)	7
Missionaries of the Sacred Heart (MSC)	78
Missionary Oblates of Mary Immaculate (OMI)	1
Missionary Sisters of Our Lady of the Apostles (OLA)	1
Order of Canons Regular of Prémontré [Norbertines]	10
Order of St Camillians (MI)	1
Patrician Brothers (FSP)	18
Presentation Brothers (FPM)	22
Redemptorists (CSSR)	0
Rosminians (IC)	20
Salesians of Don Bosco (SDB)	3
Sisters of Charity of St Paul the Apostle (SCSP)	0
Society of African Missions	11
Ursulines of the Irish Union (Irish / Wales Province)	1
Vincenzian Fathers (CM)	10
Saint John of God Hospitaller Ministries (SJOG HSG)	36
<b>TOTAL</b>	<b>1,387</b>

## **C. The National Board for Safeguarding Children in the Catholic Church**

### **(i) The NBSCCCI Religious Order Reviews**

9. The National Board for Safeguarding Children in the Catholic Church in Ireland ('the NBSCCCI') was established in 2006 by the Irish Catholic Bishops Conference, the Conference of Religious in Ireland and the Irish Missionary Union to provide advice and assistance in relation to child safeguarding in the Catholic church, to monitor compliance with legislation, policy and best practice in this area, and to report annually on these activities. The NBSCCCI's remit includes Northern Ireland.
10. The NBSCCCI conducted reviews of the safeguarding practices of the majority of religious orders operating in Ireland between 2009 and 2016 under the NBSCCCI's 2008 child safeguarding standards. In 2016 it revised its child safeguarding standards and a number of further reviews were carried out in respect of those standards. The reports of the religious order reviews under the 2008 and 2016 standards are published on the NBSCCCI website. From the information contained in these reviews, the Scoping Inquiry identified a further 13 religious orders (in addition to the 68 religious orders identified from the Tusla Audit Report) who may run or have previously ran schools in Ireland.
11. There have been only 13 NBSCCCI reviews of child safeguarding practices under the 2016 revised standards.<sup>4</sup> The NBSCCCI explained that many religious orders no longer have ministry with children, nor are they managing allegations of abuse – in these circumstances there is no need for these orders to be reviewed in terms of their current practice. A number of religious orders did request reviews and these reports have been published. There nonetheless remains a number of religious orders eligible to be reviewed because of their ministry with children who have not come forward for review under the 2016 standards. The NBSCCCI explained that this was in large part due to legal advice obtained by the religious orders that they could not share personal sensitive data with the NBSCCCI. After the passing of the General Data Protection Regulation ('GDPR'), on the basis of legal advice, a number of religious orders adopted the position that it was legally unsafe to share sensitive personal data with the NBSCCCI as a non-statutory organisation unless there was a legislative basis to do so. In contrast with the position taken by religious orders, the diocesan reviews have continued without interruption and in February 2024 the NBSCCCI announced that all diocesan reviews were concluded, with the final review occurring in September 2023.<sup>5</sup>

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4 Only 11 such reports are publicly available on the NBSCCCI website, but the NBSCCCI indicated 13 reviews had been carried out under the 2016 standards.

5 NBSCCCI, 'Reviews of Irish Catholic Dioceses – Overview Report – February 2024' [https://www.safeguarding.ie/images/Pdfs/Dioceses\\_reports/Overview\\_of\\_Diocesan\\_Report\\_Launched\\_February\\_2024.pdf](https://www.safeguarding.ie/images/Pdfs/Dioceses_reports/Overview_of_Diocesan_Report_Launched_February_2024.pdf)

12. It was apparent that 69 of the 81 religious orders which the Scoping Inquiry have identified as currently running or having previously run schools in Ireland had been reviewed by the NBSCCCI. Having analysed the religious order review reports conducted by the NBSCCCI between 2009 and 2016, and 10 additional review reports under the 2016 standards, the Scoping Inquiry compiled two tables of the total numbers of child protection allegations recorded in relation to those religious orders that ran schools:
- Table 1 sets out the total numbers of child protection allegations recorded in relation to each of the orders in NBSCCCI review reports between 2009 and 2016.
  - Table 2 sets out the total numbers of child protection allegations recorded in relation to the 10 religious orders reviewed under the revised 2016 standards.
13. The figures are set out separately in circumstances where the NBSCCCI has advised the Scoping Inquiry that it was unable to confirm whether the same person could be counted twice as an alleged abuser where there are two review reports from the same order:

**Table 1 (2008 Standards)**

Religious Order	Year of Review	Number of Allegations	Number of Alleged Abusers	Number of Alleged Abusers Deceased
Augustinians	2014	33	11	4
Benedictines of Glenstal	2014	10	6	2
Benedictine Community of Nuns of Kylemore Abbey	2015	1	1	0
Presentation Brothers	2014	54	28	16
Redemptorist Congregation	2014	24	13	6
Irish British Province of the Society of the Divine Word	2013	8	6	1
The Congregation of the Blessed Sacrament (Brothers)	2015	6	4	2
Brigidines	2015	0	0	0
The Brothers of Charity	2015	132	46	30
The Capuchin Franciscans	2015	72	21	13
Carmelites	2015	17	11	6
Christian Brothers	2013	870	325	145
Order of Cistercians of the Strict Observance	2015	48	21	15
The Sisters of the Cross & Passion	2015	0	0	0
Daughters of Charity of St. Vincent de Paul	2015	1	1	1
Society of the Daughters of the Heart of Mary	2014	0	0	0

Religious Order	Year of Review	Number of Allegations	Number of Alleged Abusers	Number of Alleged Abusers Deceased
De La Salle Brothers	2017	82 <sup>6</sup>	44 <sup>7</sup>	43 <sup>8</sup>
Discalced Carmelite Friars	2014	11	6	4
Dominican Sisters	2014	3	3	0
Faithful Companions of Jesus	2014	0	0	0
The Franciscan Brothers	2015	56	14	7
The Franciscan Friars	2014	109	28	18
The Franciscan Missionaries of the Divine Motherhood	2015	0	0	0
The Handmaids of the Sacred Heart of Jesus	2016	0	0	0
Holy Faith Sisters	2014	2	2	1
Holy Family of Bordeaux Sisters	2014	0	0	0
Saint John of God Hospitaller Ministries	2015	97	24	13
Dominican Friars	2012	52	27	15
Irish Spiritans	2012	143	48	36
Jesuits	2015	79	36	27
La Sainte Union	2015	0	0	0
Legion of Christ	2015	4	4	1
Loreto Sisters	2015	0	0	0
Marianists	2015	0	0	0
Marist Brothers	2016	39	15	8
Marist Fathers	2014	18	7	4
Marist Sisters	2015	1	1	1
Mercy Sisters (4 provinces)	2015	31	17	4
Missionaries of the Sacred Heart	2012	61	17	6
Missionary Sisters of the Holy Rosary	2014	0	0	0
The Norbertines	2016	103 <sup>9</sup>	4	1

- 6 This figure refers to the number of named individuals who made allegations of sexual abuse against a named brother in Ireland. A further 103 named persons made allegations of sexual abuse against a named brother in Northern Ireland. In addition, 21 allegations of sexual abuse were made (in both Ireland and Northern Ireland) where the identity of the alleged abuser was not clearly given, and allegations of sexual abuse were made against 7 named brothers by unidentified or anonymous complainants (in both Ireland and Northern Ireland). There may be overlap between the unidentified and identified persons in these figures.
- 7 This figure relates to the number of named brothers against whom allegations of sexual abuse have been made by named complainants in Ireland. Allegations of sexual abuse were made against a further 32 named brothers by named complainants in Northern Ireland. 21 allegations of sexual abuse were made (in both Ireland and Northern Ireland) where the identity of the alleged abuser was not clearly given, and allegations of sexual abuse were made against 7 named brothers by unidentified or anonymous complainants (in both Ireland and Northern Ireland). Again, there may be overlap between these figures.
- 8 Including Northern Ireland.
- 9 This figure is based on a review of incomplete records by the NBSCCCI and the total number is not known.

Religious Order	Year of Review	Number of Allegations	Number of Alleged Abusers	Number of Alleged Abusers Deceased
Notre Dame des Missions/ Sisters of our Lady of the Missions	2014	0	0	0
Order of St. Camillus/Camillians	2015	1	1	1
Our Lady of Apostles	2015	0	0	0
Patricians	2014	22	15	9
Poor Servants of the Mother of God	2015	0	0	0
The Religious of Christian Education	2015	0	0	0
Religious of Jesus and Mary	2015	0	0	0
The Religious Sisters of the Sacred Heart of Mary	2015	0	0	0
The Religious Sisters of Charity	2015	14	14	4
Rosminians (Institute of Charity)	2015	98	43	32
Congregation of the Sacred Hearts of Jesus and Mary (SSCC)	2014	5	3	2
Sisters of the Sacred Hearts of Jesus and Mary	2014	0	0	0
Salesians	2015	11	9	4
Salesian Sisters	2015	0	0	0
Sisters of St Louis	2014	5	4	2
Sisters of St. Clare	2015	0	0	0
The Sisters of St. Joseph of Cluny	2015	0	0	0
The Sisters of the Christian Retreat	2015	0	0	0
Sisters of the Infant Jesus	2014	0	0	0
Sisters of St. John of God (SSJG)	2015	0	0	0
Society of African Missions (SMA)	2013	32	21	11
The Society of the Holy Child Jesus	2014	0	0	0
The Society of the Sacred Heart	2015	0	0	0
Sisters of Charity of St Paul the Apostle	2015	2	2	2
St Joseph's Society for Foreign Missions	2014	13	8	2
Presentation Sisters	2014	2	2	1
Ursulines of the Irish Union	2015	0	0	0
Vincentian Congregation	2014	42	13	11
<b>TOTAL</b>		<b>2,414</b>	<b>912</b>	<b>511</b>

10 The review carried out under the 2008 standards related to the Union of Sisters of the Presentation of the Blessed Virgin Mary (Ireland), which was made up of three provinces (South East, Northern and South West). In 2015, the South East and Northern provinces were amalgamated into a new North East Province, and the order is now made up of two provinces, the South West and the North East. The review carried out under the 2016 Standards relates to the South West province only.



**Table 2 (2016 Standards)**

Religious Order	Year of Review	Number of Allegations	Number of Alleged Abusers	Number of Alleged Abusers Deceased
Augustinians	2022	3	3	0
Benedictines of Glenstal	2018	1	1	1
Benedictine Community of Nuns of Kylemore Abbey	2022	0	0	0
Presentation Sisters South West Province <sup>10</sup>	2020	0	0	0
Presentation Brothers	2023	14	10	9
Redemptorist Congregation	2022	8	7	2
Irish British Province of the Society of the Divine Word	2021	0	0	0
Carmelites (OCarm)	2024	49	10	6
Discalced Carmelite Friars	2024	4	2	1
Marist Fathers	2023	7	5	1
TOTAL:		86	38	20
		Total Allegations recorded	Total Alleged Abusers recorded	Deceased Alleged Abusers recorded

14. As is apparent from that analysis, the 69 religious orders concerned had 2,414 allegations recorded by the NBSCCCI in its reports carried out between 2009 and 2016. 86 further allegations were recorded in the 10 further reports carried out by the NBSCCCI in respect of those orders since 2016. This amounts to a total of 2,500 allegations. As mentioned elsewhere in this Report, it should be recalled that the NBSCCCI is only concerned with allegations against members of the clergy, and therefore these figures would not capture allegations in relation to abuse by laypersons, peers, or other visiting clerics in schools run by religious orders.
15. An approximate total of 912 alleged abusers are identified in the NBSCCCI reviews between 2009 and 2016, though 511 of this number are recorded as deceased. This latter figure may have increased in circumstances where the majority of the reviews concerned were conducted in 2014 and 2015 and given the age profile of the clerics concerned. In the 10 further reports carried out since 2016, a total of 38 alleged abusers are identified, of whom 20 are deceased. As noted above, the NBSCCCI has advised the Scoping Inquiry that it was unable to confirm whether the numbers of alleged abusers referred to in the reports carried out since 2016 overlap with the alleged abusers referred to in the earlier reports.
16. The import of these statistics to the work of the Scoping Inquiry is limited because the scope of the NBSCCCI's reviews of religious orders are quite distinct from that of

the Inquiry. In particular, the complaints recorded in a NBSCCCI review can relate to either physical or sexual abuse and in the vast majority of its review reports there is no separate figures for complaints of sexual abuse.<sup>11</sup> Moreover, the NBSCCCI review reports do not generally record whether the abuse complained of occurred in a school setting,<sup>12</sup> so all that can be said is that the list above is comprised of orders that run schools and therefore it is likely that some portion of the allegations recorded above arose in a school setting.

17. However, it is notable that the total of 2,500 allegations broadly aligns with the total figures recorded from religious orders' records, discussed in the previous chapter.<sup>13</sup>

## **(ii) NBSCCCI Annual Reports**

18. The NBSCCCI also compiles annual reports of the total figures of allegations made against Catholic Church clergy. These reports do not break down the information regarding numbers of allegations by reference to religious orders or by reference to abuse alleged to have occurred in a school context.
19. The NBSCCCI reports are not limited solely to sexual abuse and reflect broader child protection and safeguarding issues. However, sexual abuse is the predominant form of violation reported. Thus, the 2023 annual report records that the majority of allegations received (200) stated sexual abuse as the major abuse, while there were 37 allegations of physical abuse, 1 boundary violation, and 13 cases of alleged abuse for which the type was not provided. The 2021 report similarly records that 140 allegations related to sexual abuse, 18 allegations related to physical abuse, and 8 alleged boundary violations.
20. The NBSCCCI annual reports record allegations that are received directly from complainants, through solicitors or other third parties, and occasionally in unclear reports through media and other public information.<sup>14</sup>
21. While the data on numbers of allegations in these reports would be of little assistance to the Scoping Inquiry's work given its breadth, some general trends addressed in the NBSCCCI annual reports appear relevant. For example, the 2023 annual report included the following breakdown of the period when the abuse reported was alleged to have taken place:

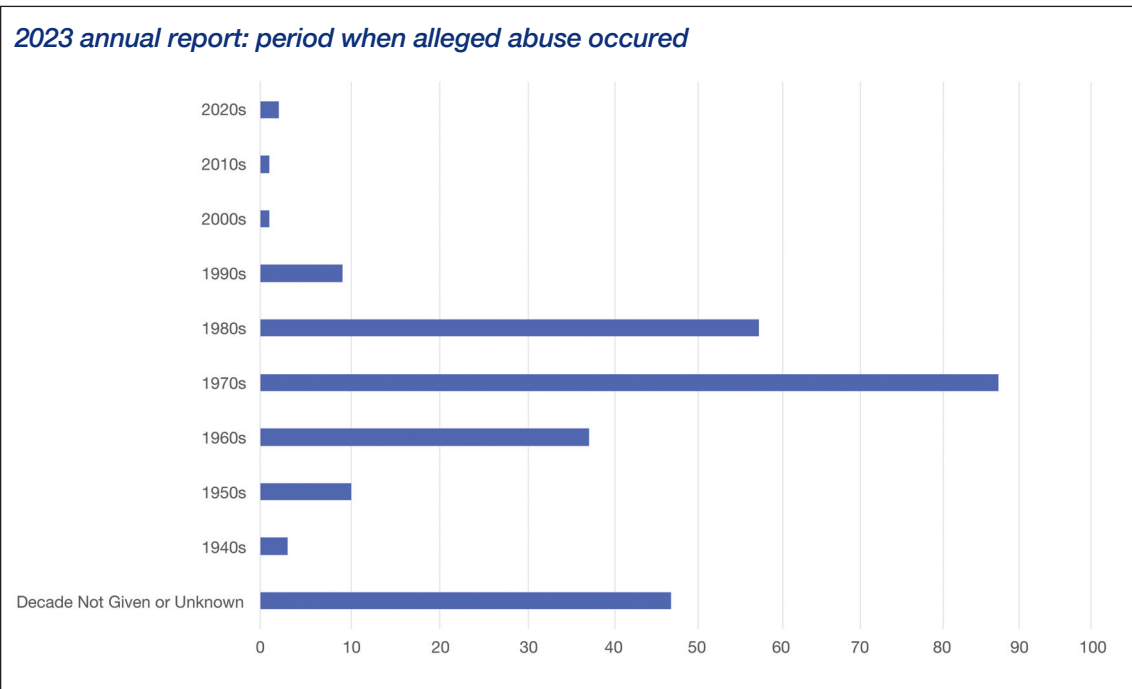
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11 Where there are separate figures these have been included above, rather than the combined physical and sexual abuse figure.

12 There are some exceptions. For example, the 2023 Presentation Brothers review report notes that the 12 allegations of abuse referred to were all alleged to have occurred in an educational setting.

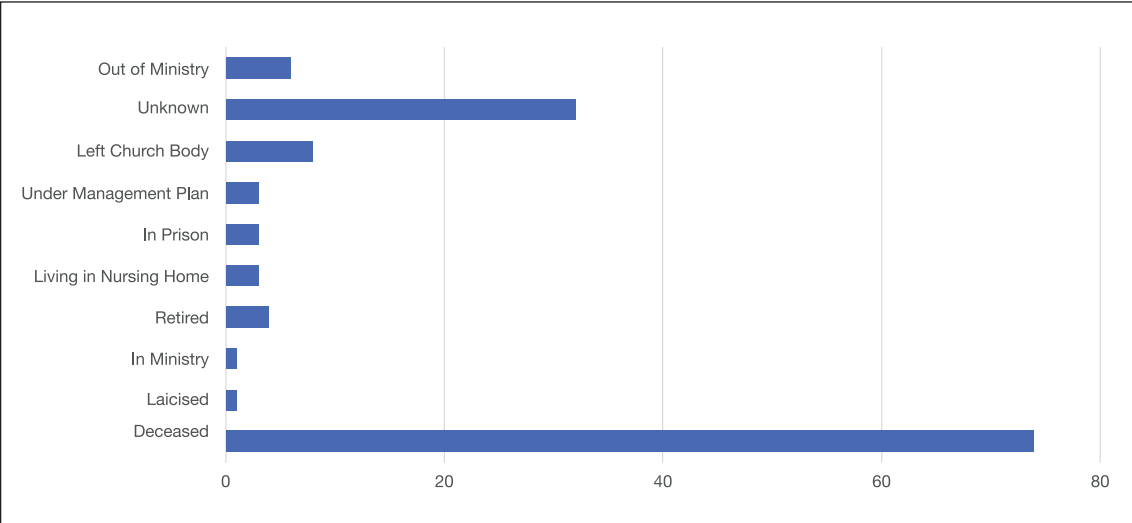
13 Some variation would be expected given the April 2023 cut-off point for complaints to be provided by religious orders to the Scoping Inquiry. The 2024 review reports of the Carmelites and Discalced Carmelite Fathers, included above, may therefore include allegations made after the Scoping Inquiry's cut-off point.

14 2021 NBSCCCI annual report, p 7.



Decade Not Given or Unknown	1940s	1950s	1960s	1970s	1980s	1990s	2000s	2010s	2020s
45	3	10	36	88	56	9	1	1	2

22. As is clear from the above, the 1960s, 1970s, and 1980s were the periods when the majority of the abuse reported occurred. A similar pattern emerges in other annual reports of the NBSCCCI. However, the smaller numbers of complaints referring to abuse prior to this period may simply be a reflection of the age cohort of persons affected by such abuse and the declining numbers of living survivors of abuse from those periods.
23. The 2023 annual report also reflected the fact that the vast majority of respondents to the abuse allegations reported were deceased:



24. As is apparent from the foregoing, while certain matters of note are recorded in the NBSCCCI religious order reviews and annual reports, the breadth of these reports mean that they cannot provide anything close to a definitive indication of the scale of allegations of historical sexual abuse in schools run by religious orders.

#### **D. The Department of Education**

25. The Department of Education reviewed their records to identify what number of allegations of sexual abuse in schools run by religious orders were recorded therein.

26. On 26 April 2024 the Department of Education confirmed that they had records of a total of 311 allegations of abuse which they believed related to schools run by religious orders. Of this figure of 311 allegations, the Department caveated that:

- (i) In respect of 196 of those allegations, the Department had verified that a religious order was the sole patron of the school concerned;
- (ii) In respect of 43 of those allegations, the Department had verified that a religious order was a joint patron of the school concerned; and
- (iii) In respect of 72 of those allegations, the Department formed the view that the school may have been previously run by a religious order. This included allegations where the school concerned is not currently run by a religious order, but the name of the school suggests that the school may have previously been run by a religious order.

27. The Department only provided information recorded from July 1994 onwards. The Department indicated that to identify records of allegations received prior to that date would require reference to hard copy records. All hard copy records in relation to the pre-2008 period are held in an off-site storage facility used to archive old Department files. A search of these paper files was not deemed possible with current resources within the timeframe of the Scoping Inquiry.

28. The Department caveated that in providing data about its records of historical sexual abuse allegations to the Scoping Inquiry, it has not included allegations where it was not possible to identify the school where the abuse was alleged to have occurred, since without identifying the school, it would not be possible to determine if the school was run by a religious order.

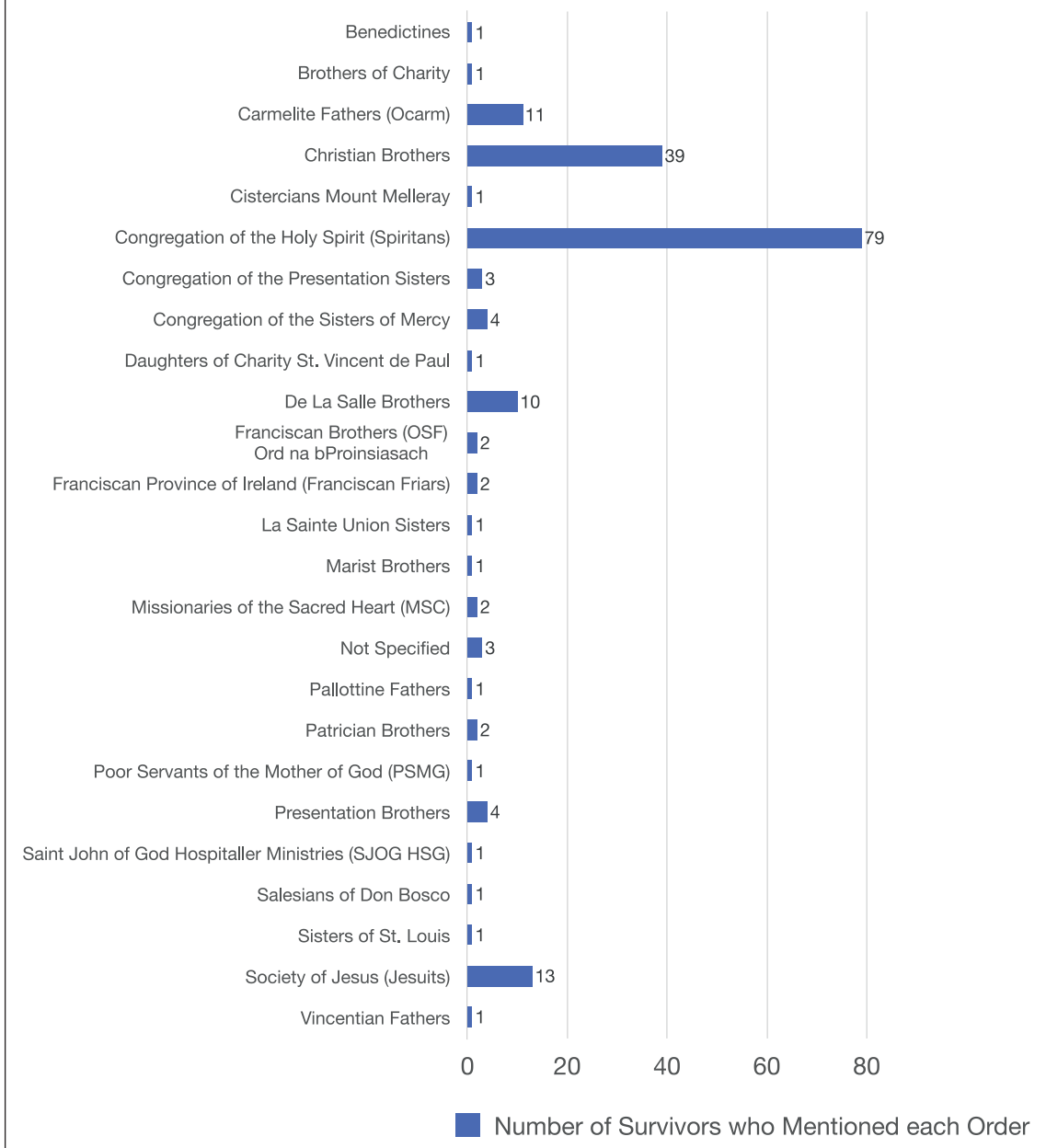
29. What can be said is that the Department of Education can confirm that they have records of some 311 allegations made since 1994 in relation to schools run by religious orders. This is far from an indication of the total number of allegations of sexual abuse that the Department was made aware of, since anything reported to the Department prior to 1994 is excluded.

30. In addition, there is no way of knowing whether the allegations reported to the Department were also reported to religious orders and/or the extent to which these 311 allegations are already included in the religious orders' records of allegations. The potential for duplication means that it is certainly not possible to simply add 311 to the numbers of allegations recorded by religious orders to arrive at a total number of allegations. Rather, each source must be considered separately.

## **E. Survivor Engagement Statistics**

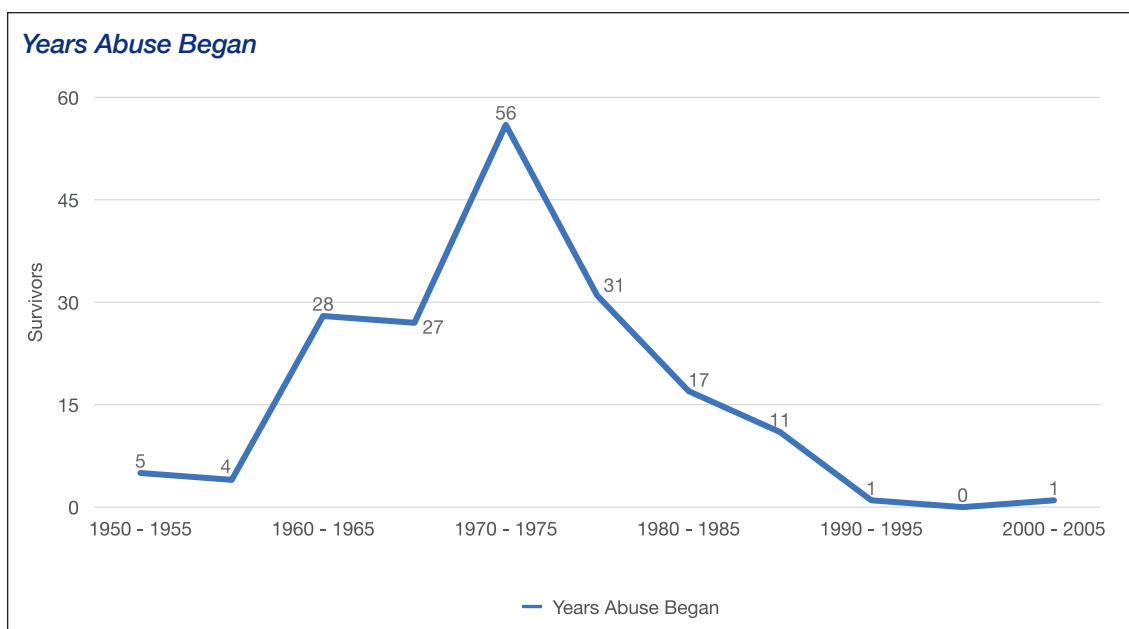
31. Some 182 questionnaire responses provided as part of the Survivor Engagement process provided a separate source of data on the number of allegations of historical sexual abuse in day and boarding schools run by religious orders.
32. There is no way of cross-checking this data against the anonymised records of allegations of historical sexual abuse received from religious orders, the Department of Education, or Tusla and, as such, it may well be the case that there is duplication between these sources of allegations.
33. Again, as with the other sources identified above, the potential for duplication means that one cannot simply add these allegations to the total number of allegations recorded by religious orders. The breadth of the category of persons counted as an alleged abuser associated with a relevant school should also be recalled; it includes abuse by religious order members, lay staff, visiting clerics, and other pupils.
34. The total number of survivors set out in the table below is higher than the total number of persons who completed the questionnaire due to some survivors experiencing abuse from members of more than one religious order and/or in both primary and secondary school. In addition, a small number of survivors who approached the Inquiry at a late stage have been included in these figures, despite it being too late for them to participate in the full Survivor Engagement process. The below table sets out the numbers of survivors who indicated that they were attending schools run by each of the religious orders listed at the time of their alleged abuse:

**Religious Orders Identified by Participants as Running The School Where They Said They Experienced Sexual Abuse and Number of Instances Where Each Order Was Named**



35. As is apparent from the above table, by far the largest grouping (79) of those who participated in the Survivor Engagement process were former pupils of Spiritan-run schools. This is likely attributable to the efforts of Mark and David Ryan in encouraging former pupils of Spiritan schools to participate in the Scoping Inquiry.

36. It appears that some of the circa 85 schools named by survivors<sup>15</sup> had not been identified as schools having allegations in the religious order records.<sup>16</sup> A possible explanation, which could apply in relation to 4 such schools, is that these schools are amongst the Sisters of Mercy schools for which no name was provided to the Scoping Inquiry. The fact that the remaining schools have not been mentioned in religious order records is an indication of the scale of sexual abuse beyond that reflected in those records. One explanation could be that no complaint was ever made prior to a survivor speaking to the Scoping Inquiry. Equally, a survivor may have made a complaint to Tusla or the Gardaí, but not the religious order. On the other hand, one order (the Franciscan Brothers) said the school named by a survivor was not run by them, although it acknowledged that at times both the principal and staff were members of its order.
37. Survivors were asked about the era when the alleged abuse first occurred. The below chart shows a spike in such incidents beginning in the 1960s and peaking in the 1970s:



38. This trajectory mirrors the statistics in the more recent NBSCCCI reports, discussed above. However, it should again be caveated that this may be a consequence of the age profile of the survivors who came forward to participate in the Survivor Engagement process.

15 There is some uncertainty as to whether some schools are mentioned under two different names.

16 This would include the records provided from schools via the schools questionnaire.

## **F. An Garda Síochána**

39. The Scoping Inquiry approached An Garda Síochána with a view to obtaining figures from their records of the number of allegations of historical sexual abuse in schools run by religious orders.
40. For a number of reasons, detailed elsewhere in the Report, that was not a task which An Garda Síochána were ultimately able to fulfil within the timeframe of the Scoping Inquiry.
41. Nonetheless, in carrying out a sample search of 5 schools as part of an effort to gauge the time and resources required for a full search of PULSE, one useful piece of analysis was forthcoming, which is discussed in this section. The figures set out below in relation to these schools are presented anonymously (as Schools A, B, C, D, and E) at the request of An Garda Síochána.
42. An Garda Síochána, selected 5 of the 9 sample schools suggested by the Scoping Inquiry for the purpose of searching the PULSE database for sexual offences alleged to have been committed prior to 2013, which was the Scoping Inquiry's cut off point for 'historical' offences.<sup>17</sup>
43. This PULSE search would only capture allegations reported after 2003 because, while the PULSE system came onstream in 1999, the first complete calendar year of its operation was 2003. An Garda Síochána advised that it did not expect that any incidents reported prior to that date would be captured by the search.<sup>18</sup>

### **(i) Incident Volumes**

44. Analysis of the 5 school names and addresses revealed 168 incidents of historic sexual abuse had been reported to An Garda Síochána with 145 distinct victims linked to these incidents. This means that a portion of these victims had reported more than one incident during the period under analysis.
45. School A accounted for 45% (75 incidents) of all historically reported sexual abuse in the sample, followed by School B at 36% (61 incidents) and School C 11% (18 incidents). The remaining two schools (Schools D & E) comprising of the remainder (14 incidents).
46. Victims were predominantly Irish males (96%).

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17 The search was conducted on the basis that it would return results where the names and addresses of the five schools were recorded in any of the "name", "address" or "location" fields, or were referenced in the open text or narrative of the database.

18 An Garda Síochána advised that the findings of their search are accurate as of the 19 February 2024 from a live system and are subject to change. Crime Counting Rules were not applied to ensure all incidents were identified.



## **(ii) Status of Investigations**

47. In terms of the status of Garda investigations in relation to the 168 incidents recorded, as of 19 February 2024, 40% (62 incidents) of the 168 incidents which occurred had charges associated with the incident. This can be compared with the 32% of overall sexual offence incidents which received charges during this same period.<sup>19</sup>
48. A further 30 incidents (18%) have 'no proceedings' status. An Garda Síochána advised that the reasons an investigation cannot be progressed include, but are not limited to, insufficient evidence, a victim being unwilling to support the investigation or withdrawing the complaint. The remaining 45% (76 incidents) have 'investigation ongoing' status, the majority of which are linked to School B and School C.

## **(iii) Suspects**

49. While 62 incidents yielded charges for sexual abuse during this period, a disproportionate amount of these charges are focused on a few distinct suspects.
50. Of the 75 incidents which occurred within School A, 76% of all charges relating to these 75 incidents were directly related to one distinct suspect. A further 16% related to another distinct suspect within School A.
51. Similarly, 55% of all charges pertaining to the 61 incidents reported in School B related to 2 distinct suspects. Volumes are more broadly dispersed and of significantly lower volumes in the 3 other schools.
52. According to the PULSE system, all but 10 suspects have been identified as deceased.
53. Of the incidents linked to these 10 suspects:
  - 54 incidents have charges linked.
  - 11 incidents have no proceedings recommended.
  - 17 incidents remain at 'investigation on-going' status.

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19 This figure is based on a comparison of any sexual offence incident listed on PULSE prior to 2013.

## **Chapter 11:**

# **The Extent of Records Held by Public Bodies and Other Organisations**

- A. Introduction
- B. Tusla
- C. An Garda Síochána
- D. The NBSCCCI
- E. The Department of Justice
- F. The Department of Health
- G. Department of Children, Equality, Disability, Integration and Youth
- H. The Department of Education

## A. Introduction

1. In seeking information regarding the numbers of allegations of sexual abuse in day and boarding schools run by religious orders, the Scoping Inquiry sought to establish what records documenting such allegations exist. Where possible, the Scoping Inquiry sought to identify if files exist that may potentially be relevant to the work of a future substantive inquiry or investigation.
2. In order to assess the extent of relevant records that may be held by various state and non-state bodies, the Scoping Inquiry wrote to and met with a range of organisations and government entities. In general, the Scoping Inquiry asked what records existed that captured the numbers of allegations of sexual abuse made against any of the following:
  - Members of religious orders
  - Members of the clergy (other than the religious order running the school)
  - Lay persons associated with the school
  - Peer to peer abuse in schools.
3. Typically, the Scoping Inquiry asked to meet with the relevant body to discuss what records of historical sexual abuse complaints they held, the different ways in which such records were collated or filed, and what resources and timeframe would be required to obtain the particular information sought by the Scoping Inquiry.

## B. Tusla

4. As outlined in previous chapters, following the publication of the Ferns Report in 2005, Tusla conducted audits of both Catholic dioceses and religious orders to ascertain the level of compliance with the Catholic Church's guidance on child protection. Tusla's Audit report on the religious orders was published in 2018 and compiled allegations of historical sexual abuse up to 31 December 2013.<sup>1</sup> From the information contained in this audit, the Scoping Inquiry identified 71 religious orders currently and historically involved in education in Ireland.
5. The Scoping Inquiry met with representatives of Tusla on a number of occasions in relation to what records Tusla held of complaints of historical child sexual abuse in schools run by religious orders.

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1 'Child and Family Agency, Audit of Religious Orders, Congregations and Missionary Societies' Safeguarding Arrangements and Management of Allegations of Child Sexual Abuse Volume II': available at <https://www.tusla.ie/publications/audit-of-religious-orders-congregations-and-missionary-societies-safeguardii/>.

6. Tusla were able to confirm that they still held the files from their review of allegations involving religious orders and had updated those records up until 31 January 2018, when the unit which conducted the audit was disbanded. Having been provided with a list of religious orders which run, or ran, schools by the Scoping Inquiry, Tusla identified approximately 1,890 allegations that came within their audit of allegations up to the end December of 2013. The data on religious orders allegations received after the Audit and up until 31 January 2018 was recorded in a less detailed manner than the Audit questionnaire, and for this reason Tusla was unable to say whether or not the allegations in those records related to abuse in school settings if the order also had ministries outside of schools.
7. Discussions with Tusla identified that there were a number of inherent limitations on the extent to which the data compiled for the Audit could assist the Scoping Inquiry's work in identifying allegations of abuse in schools run by religious orders:
  - (i) Firstly, the Tusla Audit solely addressed sexual abuse by members of religious orders, and did not consider lay or peer-to-peer abuse, or abuse by other clerics;
  - (ii) Secondly, while the questionnaires used to gather information for the Tusla Audit asked for the location of the abuse, there was a broad range of responses to this question, with some responses merely stating the county where the abuse occurred;
  - (iii) Thirdly, the information contained in the questionnaire was based on the figures provided by the religious orders concerned. These figures were not independently confirmed or verified by Tusla.<sup>2</sup>
8. Crucially, the Tusla Audit had not been conducted solely in relation to allegations of abuse occurring in a school setting or associated with schools. Accordingly, at the time of the Audit, Tusla had not conducted any analysis of whether particular allegations related to schools. Tusla indicated that they would need to review the paper files collated for the Audit in order to identify which of the allegations of abuse captured by the Audit related to schools run by religious orders.
9. As is apparent from the previous chapter, Tusla agreed to analyse the records of the cases relating to orders that ran schools to determine if any of the files indicated the alleged abuse occurred in a school context. This analysis included the files of the religious orders examined for the Audit, and any information gathered following the Audit up to 31 January 2018.

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2 While Tusla made every effort to confirm and validate the information received on the questionnaires by a triangulation exercise with An Garda Síochána and Tusla social work services for the information up to December 2013, the same exercise was not repeated for the information up to January 2018.

10. Tusla also indicated that the only source of information to identify how many of the allegations of abuse received since 2018 related to schools run by religious orders would be the records of allegations held in the six Tusla regional offices. Whether or not abuse occurred in a school setting or an alleged abuser was associated with a school is not routinely recorded by Tusla on its electronic database. To discern this information, Tusla would need to review all records of allegations since 2018 held in each region. Having considered their position, in July 2023 Tusla informed the Scoping Inquiry of its view that this would be too onerous a task to undertake within the timeframe of the Scoping Inquiry and would not be possible to achieve given their current resources.
11. Tusla considered all records in possession of the Audit team, including records provided by the religious orders themselves and by An Garda Síochána, Tusla social work records, records provided by state and church national and private counselling agencies and those provided by members of the public. In total, Tusla examined 3,498 records of sexual abuse allegations made against religious orders and determined that approximately 1,387 allegations originated from a school setting. Tusla provided the Scoping Inquiry with a breakdown of the number of such records by religious order, and these figures are presented in the Report. We are very grateful for the efforts taken by Tusla to review and reconsider the Audit's records in order to assist the work of the Scoping Inquiry.
12. The position remains, however, that the records held by Tusla outside of the Audit, which would involve post-2018 notifications of allegations of historical abuse, are not included in the above figures. If a future inquiry needed to get a fuller picture of all notifications of historical sexual abuse received by Tusla to date in respect of schools, the absence of a central database of allegations searchable on the basis of whether the abuse alleged occurred in a school setting means that significant manual searches across regional offices would be required.

### **C. An Garda Síochána**

13. Early in its work, on 12 April 2023, the Scoping Inquiry wrote to the Commissioner of An Garda Síochána seeking information in relation to:
  - (i) the extent of the records held by An Garda Síochána of complaints of child sexual abuse occurring in day and boarding schools run by religious orders, or the extent to which such information can be gleaned from existing records;
  - (ii) whether An Garda Síochána have ongoing inquiries and the extent of same in light our Terms of Reference.

14. On 27 April 2023, the Scoping Inquiry met with representatives of An Garda Síochána in relation to identifying records of the number, or approximate number, of complaints that the Gardaí have received concerning sexual abuse in schools run by religious orders.
15. The Gardaí confirmed that they had maintained a Clerical Sexual Abuse Register since 2002, including both diocesan and religious order clerics. The Gardaí stated that they were in the process of making the register searchable in relation to matters such as the religious order against whom the allegation was made and the location of the abuse, but that currently the register was not searchable.
16. In relation to allegations and complaints made prior to 2002, the Gardaí stated that they would need to ask individual districts to search their hard-copy files. The PULSE database, set up in 1999, does not record schools or religious orders, and for the purposes of the Scoping Inquiry, would only be searchable by the name of the alleged abuser or location of abuse. Members of the clergy often took a different name on ordination, so to run such searches through PULSE one would need to have the alleged abuser's given name and their religious names. As such, one could not use PULSE to simply search for numbers of allegations of sexual abuse in schools.
17. Prior to 1999, the Gardaí's records were solely paper-based, and a complaint of child sexual abuse would simply be filed in a Garda station's records. Accordingly, it would be difficult to say how many such complaints were received prior to the creation of the Clerical Sexual Abuse Register in 2002 without a root and branch search of every file in Garda stations across the country.
18. In terms of the resources required for a root and branch search of hard copy files, the Gardaí indicated that it took a team of 10 Gardaí some 2 years to assist the Cloyne Inquiry in relation to just 19 priests.
19. In the course of this meeting, it was also noted that where an alleged perpetrator is said to be deceased the Gardaí undertake an initial investigation to confirm that this is the case and generally seek a statement of complaint and a death certificate.
20. Following the meeting, on 2 May 2023 the Scoping Inquiry sent a list of queries regarding the records held by the Gardaí to assist it in 'ascertaining the number, or approximate number of complaints that the Gardaí have received concerning sexual abuse in schools run by religious orders.' The letter further requested information regarding:
  - The manner in which An Garda Síochána envisage the work of any potential inquiry or tribunal recommended by the Scoping Inquiry could be impacted/restricted by the existence of existing criminal investigations;
  - The number of criminal investigations ongoing in respect of historical sexual abuse in schools run by the religious orders at that time.

21. Unfortunately, despite the Scoping Inquiry repeatedly writing to the Gardaí following the April 2023 meeting, the Gardaí neither provided the information sought nor responded to correspondence from the Scoping Inquiry seeking a timeline for when the information requested would be available. In this regard, letters looking for a timeline for response were sent on 16 May 2023 and 8 August 2023, and the outstanding response was brought to the attention of the Commissioner of An Garda Síochána by the Scoping Inquiry on 21 September 2023. This prompted contact being made with the Scoping Inquiry on 25 September 2023, where certain challenges in relation to the storage of information were outlined and it was suggested that a sample list of schools be provided to the Gardaí so they might be able to come back with the numbers of allegations involving such schools.
22. Ultimately, the Gardaí informed the Scoping Inquiry in a letter dated 5 October 2023 that they faced significant challenges in providing information from their records and systems. The Gardaí stated that, depending on the date of the alleged abuse, records could be held in the PULSE database, the Clerical Sexual Abuse Register or paper records held at various levels across the organisation. However, the Gardaí's stated position was that the 'only information retrievable in a timely format is that information retrievable from the Garda PULSE System'. The Gardaí specified that while PULSE was created in 1999, 2003 is 'considered as the first complete calendar year when all reported incidents were recorded'. Further, they noted that PULSE contains defined data fields such as names, dates of birth, and the location of the incident. While there is a field for 'location type', which would include schools, this does not distinguish between schools run by religious orders and other schools, and it would therefore not be possible to isolate incidents which occurred in schools run by religious orders with any degree of certainty. Their letter further stated that '[i]t is only possible to conduct large scale searches based on content recorded in specified data fields (i.e. School Name/Address)', and that this would therefore not retrieve incidents which occurred off school premises such as on school trips. They further noted that, while it is possible to search PULSE for all records of sexual abuse against minors, or to carry out searches on the basis of the details of victims, this would return incidents which are outside of the scope of the Scoping Inquiry.
23. As regards the Clerical Sexual Abuse Register, the Gardaí explained that they had not provided data arising from the Register because 'The Clerical Sexual Abuse Register is currently stored in a format which creates difficulties in searching for specific information whilst ensuring that any records retrieved from same can be cross-referenced against PULSE so as to remove potential for double-counting'.

24. The Gardaí stated that ‘to offset the above challenges’ they would need the following information to progress the Scoping Inquiry’s request for the number of allegations of abuse in schools run by religious orders that have been made to the Gardaí:
- A list of all schools (full names and addresses) and dates they were in existence (both current/closed or at one point under religious order control) which can be inputted into PULSE;
  - A list of all persons (clerical and lay) who worked, had access to etc, children in the relevant schools including actual and clerical names used by those persons;
  - A list of all children who attend the schools in respect of which records were sought. They further specified that they would require the name, date of birth and address at the relevant time to establish the correct identity of such students.
25. The Gardaí further stated that they considered the only way to accurately and confidently provide complete information to the Scoping Inquiry would be to retrieve all data from PULSE, the Clerical Sexual Abuse Register and paper files, and to establish a Working Group to conduct a manual examination of the investigation files to determine whether they meet the Terms of Reference. They concluded that ‘This would be a significant undertaking and further discussion is necessary to establish if same can be considered at this time’.
26. On foot of this information, the Scoping Inquiry wrote to the Gardaí on 11 October 2023 seeking a meeting with the Gardaí to discuss how to progress matters. In addition, the Scoping Inquiry sought information in relation to a school run by the Norbertine Order, in circumstances where it had not been possible to identify any other source of information regarding the number of allegations associated with that Order. A meeting occurred on 26 October 2023 where the Scoping Inquiry suggested that searches of the PULSE system might start by inputting the names of the religious orders who ran schools. The Inquiry also requested that the Gardaí nominate a person with whom the Inquiry could engage to discuss the manner in searches of the PULSE system could be carried out effectively. Following further letters on 2 November 2023 and 24 November 2023, the Gardaí nominated a liaison officer in a letter dated 27 November 2023. That letter also provided some helpful data on the allegations associated with the single school by the Norbertine Order about which queries had been raised on 11 October 2023.



27. A meeting took place between the Scoping Inquiry and the nominated liaison officer on 6 December 2023. During that meeting, and in subsequent interactions with the liaison officer, the Scoping Inquiry explored with the Gardaí the ways in which the PULSE system can be searched and how useful search parameters can be defined, with a view to establishing the likely scale of potential allegations recorded by the Gardaí and the likely timeframe for carrying out such a search and reviewing results.
28. The Gardaí explained that the PULSE system was not designed to be searched or to be used for analysis purposes, but explained various options for carrying out searches and the advantages and drawbacks of each. The Gardaí explained that the only way to give an estimate or identify the scale of potential allegations is by defining search parameters, such as identifying individual schools, reviewing the search results in order to ensure that data was extracted accurately, and examining the narrative section of each record to ensure that inaccurate information is not being provided. On 2 January 2024 it was suggested that a sample search be carried out in respect of an initial list of 4-5 schools in order to assess the volume of likely returns from a more comprehensive search.
29. Ultimately, the Scoping Inquiry requested a sample search be carried out by the Gardaí on the PULSE system in respect of 9 schools. The Scoping Inquiry chose schools where it anticipated that there would be PULSE records, using the name of the relevant religious order and the address of each school as the search parameters. An Garda Síochána ultimately carried out a search of PULSE in respect of 5 of the sample schools and provided a summative report in respect of the search on 5 March 2024. The Gardaí subsequently indicated that the results of the sample search were not matters which the Gardaí were willing to be made publicly available.
30. Notwithstanding the use of the results of the sample search being restricted, a number of relevant matters were explained in the report.
  - The report explained that the PULSE system was not designed for data analysis or large-scale searches. Whether a school name and address was recorded on the PULSE system would depend on whether the name and address of the school was filled in on the location field when the incident was recorded, or otherwise appeared in the narrative text concerning the incident. Small variations in spelling, or in different elements of an address, particularly prior to the introduction of Eircodes, could lead to a school being counted more than once in relation to the same incident. Whether the name and address of a school was included in the incident report was at the discretion of the investigating officer. It may also be the case that the victim may report the incident by reference to the suspect, rather than by reference to a particular school. In this way, the Scoping Inquiry was advised, a search of PULSE for specific schools may not reflect all incidents concerning those schools.

- It confirmed that the Clerical Sexual Abuse Register had been set up in 2002 to progress any outstanding lines of inquiry from files specific to the Dublin Archdiocese Inquiry and had been maintained since then. Due to the age and design of the system it did not allow for ease of analysis and retrieval of information. Records would have to be examined manually, which would require a considerable amount of time, and furthermore, information relevant to the Scoping Inquiry may not necessarily be recorded on the Register in all cases, as PULSE is the main repository of information, and records on PULSE may not always be entered on the Register as well. Further, An Garda Síochána were currently reviewing the Register and examining the future of its use, if any.
- An Garda Síochána were able to confirm to the Scoping Inquiry that based on a longitudinal analysis of the sample search as to when sexual abuse incidents occurred, an increase in volume can be seen between 1972 and 1983, which appears to taper off thereafter. However, the average delay in reporting was 43 years, and it is therefore possible that an increase in historical reporting for incidents post 1981 will begin to emerge in the coming years. This analysis is referred to in more detail in the previous chapter.

31. On 21 March 2024 a further meeting was held with An Garda Síochána concerning the asserted confidentiality of the results of the sample search of PULSE that had been conducted in relation to 5 schools. An Garda Síochána expressed the concern that identifying the sample schools may prejudice ongoing investigations, and that An Garda Síochána regarded the information gleaned from PULSE in respect of the sample schools as highly sensitive. An Garda Síochána made clear that no confidentiality requirements were raised in respect of providing a report to the Minister.<sup>3</sup>
32. The Scoping Inquiry was of the view that, while publishing wholly anonymised information concerning only 5 sample schools would not add to the overall understanding of the likely volume of allegations, it was of some value in terms of indicating prevalence of abuse by individual perpetrators and this information is therefore set out for completeness in this Report. An Garda Síochána also expressed concerns about data protection were the information it supplied to the Scoping Inquiry to be made public and to their general policy of not releasing this type of information because of its potential impact on any criminal prosecution or ongoing Garda investigation. The Scoping Inquiry assured An Garda Síochána that it was mindful of its obligations under data protection law, had taken advice about its application, and did not envisage any breach would arise.

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3 The report will therefore be separately furnished to the Minister.

33. An Garda Síochána also told the Scoping Inquiry that at all times during their interactions with the Scoping Inquiry, their understanding and expectation was that any data provided was for the purposes of establishing whether a full statutory inquiry would be required. They further stated that it was not stated or assumed by them that the Scoping Inquiry report would or could be made publicly available.
34. It is unfortunate that this misapprehension arose. The Scoping Inquiry considered that its correspondence setting out the relevant parts of its Terms of Reference made clear that in seeking information as to the likely extent of future allegations it was giving effect to its Terms of Reference and that these were clearly not contingent on whether there was to be a future wider statutory inquiry. It also appeared self-evident to the Scoping Inquiry that the Minister may publish the report on receipt of same. However, An Garda Síochána state that they had a different view. This difference in views did not become evident prior to embarking upon the searches concerning the sample schools.
35. Ultimately, in carrying out its work under its Terms of Reference the Scoping Inquiry must have regard to the potential impact of its report on any criminal prosecution or ongoing Garda investigation that may be affected. In those circumstances, and in light of An Garda Síochána's concerns in this regard, the information concerning the sample schools has not been included in this Report.

#### **D. The NBSCCCI**

36. The Scoping Inquiry met with the CEO of the National Board for Safeguarding Children in the Catholic Church ('the NBSCCCI') in May 2023 primarily to seek her assistance in relation to the records the NBSCCCI might hold that could inform the Inquiry's analysis of the expected scale of complaints of historical child abuse in schools run by religious orders.
37. The NBSCCCI figures from their reviews of the relevant religious orders are set out in the previous chapter. As already noted, in addition to the religious order reviews, the NBSCCCI compiles annual reports which contain statistical information on allegations of abuse made against members of the clergy of Catholic Church. The NBSCCCI explained that the data that they receive does not contain any identifying information, including the location of the alleged abuse; they therefore do not have information to share about the extent of allegations from within school settings. Initially, the notifications related to sexual abuse only, but since the introduction of Children First (2015) they are also advised of other allegations relating to all forms of child abuse. However, their annual reports do not record whether allegations relate to a religious order or arise in the context of a day or boarding school run by a religious order.

38. The NBSCCCI does not retain the records used for the compilation of its annual reports due to data protection concerns. As a consequence, the NBSCCCI does not hold information or statistics that could be broken down on the basis of complaints of sexual abuse in schools.
39. The 2023 NBSCCCI annual report stated that it had received 251 notifications of child protection concerns between 1 April 2022 and 31 March 2023.<sup>4</sup> Notably, the report stated that 'There was a significant increase in the number of notifications of allegations of abuse reported to the National Board over the last twelve months. It is clear from the source of the allegations that many of these relate to alleged abuse in boarding schools run and managed by male and female religious'. The Scoping Inquiry inquired of the NBSCCCI whether it could be established that the increase in complaints of abuse was mainly or entirely attributable to reports of historical sexual abuse in day and/or boarding schools run by religious orders.
40. The NBSCCCI explained that while the increase in numbers emanated from religious orders which ran schools, it did not have the data necessary to ascertain whether and which of the allegations of sexual abuse specifically related to schools. The NBSCCCI said that it would require the individual orders to give it a breakdown of the figures supplied to ascertain how many of the allegations were related to schools. The NBSCCCI consulted the religious orders and informed the Scoping Inquiry that the religious orders were concerned about duplication of their figures in circumstances where they were already engaging with the Scoping Inquiry to provide statistics in relation to the number of allegations of historical child sexual abuse in their schools. Instead, the NBSCCCI was authorised by some 12 of the religious orders who had received allegations of sexual abuse between 1 April 2022 and 31 March 2023 to pass on their names and contact details so that the Scoping Inquiry could contact those orders directly in relation to this issue. The NBSCCCI explained that the remaining orders had not responded to their request or were engaging directly with the Scoping Inquiry.
41. The NBSCCCI told the Scoping Inquiry that when there is a spike in notifications it can usually track that increase to some media publicity or safeguarding event. However, it could not directly attribute a specific proportion of the increase in allegations in 2022/23 to allegations of historical sexual abuse in schools, as it did not have that data.
42. The NBSCCCI was of great assistance to the Scoping Inquiry throughout its work, both in identifying the religious orders which ran schools, and sometimes acting as a liaison between religious orders/individuals and the Scoping Inquiry. The Scoping Inquiry is grateful to the NBSCCCI for its assistance.

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4 This is described by the NBSCCCI as the 2022-2023 annual report, but for ease of reference it is described simply as the 2023 annual report here.

## **E. The Department of Justice**

43. In May 2023 the Scoping Inquiry wrote to the Department of Justice with a request that it identify what records it held concerning allegations of historical sexual abuse in schools.
44. In June 2023 the Department of Justice indicated that it had arranged for a search of its electronic and paper records relating to historical sexual abuse in schools run by religious orders. Both physical storage and electronic systems were searched, with the majority of records comprising correspondence from members of the public. This search identified 11 physical files, and in excess of 3,000 electronic records which may be of relevance.
45. The Department indicated that the content of these files, in addition to correspondence from members of the public, primarily related to:
  - The Commission to Inquire into Child Abuse;
  - The Commission of Investigation into the Dublin Archdiocese;
  - The Commission of Investigation into the Diocese of Cloyne.
46. As such, the bulk of those files would not tend to relate to allegations of sexual abuse in day and boarding schools run by religious orders.
47. In early August 2023, members of the Scoping Inquiry team attended at the Department's offices to physically inspect the hard copy files that the Department had identified as potentially relevant on foot of the Scoping Inquiry's correspondence. This exercise yielded a number of files that may potentially be relevant to the work of a future substantive inquiry, but did not shed any light on the total number of allegations that might have been brought to the Department of Justice's attention. However, it was apparent that a limited number of incidents of abuse in a school context had been the subject of correspondence bringing them to the attention of the Department of Justice.
48. The Department officials which the Inquiry met with indicated that all of the Ministerial email correspondence post-2009 is searchable. Emails prior to 2009 were not available from the IT Department. The Department primarily held paper-based records in relation to matters prior to 2009.

49. The Department helpfully provided the following breakdown of the numbers of electronic records held by Department of Justice, relating to the Scoping Inquiry:

Search Term	Ecorr	Edoc	2009 – 2020 Mail	Total
Child sexual abuse school	763	1915	367	3045
Allegations child sexual abuse	582	1608	274	2464
Sexual abuse	4230	5024	1923	11177
Child sexual abuse	2655	4096	1018	7769
Allegations sexual abuse	750	1699	347	2796
Clerical sexual abuse	190	523	155	868
Teacher sexual abuse	263	706	133	1102
Religious Schools	599	981	577	2157
Cloyne inquiry/Commission	6	26	81	113
Archdiocese of Dublin	40	43	147	230

50. As is apparent from the foregoing, the significant scale of potentially relevant files held by the Department of Justice made a paper-based review of such files within the lifetime of the Scoping Inquiry unachievable.

## **F. The Department of Health**

51. In early June 2023 the Scoping Inquiry wrote to the Department of Health seeking a meeting to discuss whether the Department held any records that would be of assistance to the Scoping Inquiry. A meeting took place on 3 July 2023 with Department officials.
52. The Department of Health was previously the Department of Children and Health, and while most relevant files were moved following the creation of the Department of Children, the Department of Health still held some files from that period as of 3 July 2023. However, the Department of Health has advised that the transfer of files is ongoing.

53. Department officials indicated they were more likely to have records of allegations than statistics of abuse, and such allegations might have been disclosed during a hospital visit or in a letter to a Minister. The officials acknowledged that while the Department might have relevant records, because it did not have a unit with responsibility for abuse in schools and because of how the records were filed, it was not obvious where those records would be. The Department indicated that a search exercise similar to that undertaken as part of the Mother and Baby Homes Inquiry, which involved physical review of over 5,000 files identified by a keyword search of a records management system, CRAFTS, could take up to a year. Even taking this approach, the officials thought that there was still a high chance that such a search would miss a relevant document. In addition, the Department officials indicated that ministerial correspondence was only relatively recently digitised to be searchable.
54. At the July 2023 meeting a number of sets of search terms for conducting searches across the Department's records were agreed. In early August 2023 the Department outlined the results of their search in some detail. The Department's position was that, based on the initial searches carried out, over 555,000 records would need to be reviewed to determine if they fall within the scope of the Scoping Inquiry, and considerable resources would be required to conduct full searches of all the Department records. The Department's view was that this would cause a substantial interference with their ordinary work and would require substantial additional resources being allocated. Moreover, from the search results on the Department's CRAFTS database, which give a description of the hard copy files, and from their examination of a sample of their other records, the Department considered it unlikely that undertaking these full searches would yield information of the nature sought by the Scoping Inquiry.

## **G. Department of Children, Equality, Disability, Integration and Youth**

55. In May 2023 the Scoping Inquiry wrote to the Department of Children, Equality, Disability, Integration and Youth to identify what records it held concerning allegations of historical sexual abuse in schools.
56. The Department emphasised that while it holds responsibility for child welfare and protection policy and legislation, it does not have functions specifically in relation to allegations of child sexual abuse generally or allegations in schools run by religious orders. The Department stressed that, in the event that an allegation was received by the Department, it would have been referred to Tusla and, as such, Tusla rather

than the Department would be the primary source of any such allegations.

57. The Scoping Inquiry met with a number of relevant Department officials in June 2023. The Department officials outlined the limitations of the information that it held in a searchable form relating to allegations of sexual abuse. In particular, the limited file descriptions of paper records posed a challenge in identifying what relevant records the Department may hold. In addition, from 2011, there may have been representations that went straight to the Minister under the Ministerial correspondence tracking system. This system has limited search functionality in respect of correspondence stored as PDFs.
58. The Department indicated that there was no practice of compiling a list or database of referrals of child protection issues that the Department made to Tusla, the Gardaí or the HSE. While the Department has files regarding abuse in particular settings, and in such cases the title of a school might be a file name, this would not indicate if the school was run by a religious order and the title of the file would not tell the Department that the file related to abuse.
59. The Department's view was that because of the limitations of their filing system, a physical search would be needed to be definitive. The Department indicated that while it is possible to search particular terms in catalogues detailing paper records held by the Department, tracking systems used for Ministerial correspondence and the electronic system of records in use since 2020, such a search would only be in relation to file titles and other limited information relating to such records. Any files of interest identified in such searches would then need to be manually reviewed.
60. The main areas of relevance to the Scoping Inquiry identified by the Department were: Child Care Performance and Social Work files, Child Protection Policy and Legislation files and Ministerial correspondence. Records from the Access to Institutional and Related Records ('AIRR') Project, received from the Department of Health under the Transfer of Functions, were also checked. The Department viewed it as unlikely that any of the other 50 units in the Department would hold relevant records.
61. Following discussion, the Department agreed to carry out a number of searches and on 31 July 2023 the Department indicated that an electronic search of the Ministerial correspondence register, limited to records since 2012 following the Department's creation, revealed 56 matters referencing child sexual abuse, and 5 matters referencing sexual abuse or child abuse in schools. Search terms relating to sexual abuse and schools yielded 8 search results on the e-correspondence register.
62. The use of the same search terms on the online catalogue of the Child Care Performance and Social Work Unit's files yielded no search results. Only 13 results were returned from using the same search terms across the Child Protection Policy



and Legislation Unit's files. No results were returned from using those search terms across the files held in relation to the AIRR Project.

63. Given the limited number of files identified in the search results, the Scoping Inquiry requested that the Department manually review those files to determine whether any of those files contained relevant information regarding sexual abuse in schools run by religious orders.
64. The Department carried out a manual review of the files as requested and, in October 2023, it informed the Scoping Inquiry that the 13 files relating to the Child Protection Policy and Legislation Unit in the Department were not relevant to the inquiry, and only one file from its ministerial correspondence register appeared to fall within the remit of the Scoping Inquiry, as it related to historical abuse in a school. That case was referred to the Department of Education as the appropriate Department to respond.

## **H. The Department of Education**

65. In May 2023 the Scoping Inquiry wrote to the Department of Education in relation to the records of allegations of abuse in schools that it holds. Based on the Scoping Inquiry's previous interactions with religious orders, one particular line of inquiry was whether historical sexual abuse allegations in respect of lay persons employed by a school could have been passed onto the Department rather than to the Provincial of the religious order concerned.
66. To this end, the Scoping Inquiry asked the Department for information regarding the different ways in which records of historical sexual abuse complaints are held by the Department and, in particular, what records are paper-based, online, or searchable in relation to whether the abuse alleged occurred in a school run by a religious order.
67. In June 2023 the Department of Education indicated that it had an electronic database since 1981 which records alleged child protection concerns brought to the attention of the Department. It stated that some of the information sought by the Scoping Inquiry was not recorded on the database, in particular whether the allegation made was against a lay person or a member of a religious order. To retrieve such information, the Department would need to review the hard copy files for each allegation. Such files are stored in an off-site facility in Tullamore.
68. The Department indicated at a meeting held in July 2023 that it has no central record of allegations of sexual abuse in schools made prior to 1981. Historically, such matters were not recorded centrally on a central child protection file in the Department and any record of such an allegation would have been placed on an individual school file. Prior to the creation of their database in 1981, Department records were generally filed in paper files on a school-by-school basis. These paper

school files date back to the 1920s or 1930s, but they are not digitised and are held in an archive in Tullamore.

69. While the Department's schools inspector did investigate child protection concerns, such files would be paper-based and stored in the archive in Tullamore which was not easily searchable.
70. The Department initially indicated that, having filtered their electronic database by historical sexual abuse allegations, some 511 allegations were brought to the attention of the Department between 1981 and 2022. However, following discussion with Department personnel in July 2023, the Department revised their search to remove the term 'historical' since this excluded allegations which were made contemporaneously by students or their parents in, for example, the 1980s or 1990s, which would now be properly considered historical sexual abuse. Initial discussion with Department personnel indicated that removing the term 'historical' from the search of their electronic database would yield a further 600 cases. These search results had not been filtered by whether the allegations related to a school run by a religious order, and this is something which the Department agreed to undertake by checking the school roll numbers listed on their database in each case.
71. The Department noted that their electronic database details the position held by the person against whom the allegation was made (principal, teacher, school volunteer, non-staff member, transport staff, visitor to the school). All of these categories, save 'non-staff member', would fall within the Scoping Inquiry's definition of persons 'associated with the school'. In some cases, a person categorised as a non-staff member might nonetheless be 'associated with the school', for example, if they lived in an on-site school property. However, given that the Department's electronic database does not record that level of detail regarding non-staff members, the Scoping Inquiry simply sought a breakdown of the number of allegations in each of the above categories.
72. The Department agreed to conduct the search again in full and to set out the results formally in writing. These figures are referred to in Chapter 10 of the Report.

## **Chapter 12:**

# **The Irish Education System**

- A. Introduction
  
- B. Historical Establishment of Education
  - (i) Primary Education
  - (ii) Secondary Education
  - (iii) Structure of the Irish Education System
    - (a) The 1937 Constitution and Education
    - (b) The Education Act 1998
    - (c) Patronage and Trustees of Schools
    - (d) The Introduction of Boards of Management
  - (iv) The Powers and Duties of the Patron and those of the Board of Management
  
- C. Types of Primary Schools
  - (i) Model Schools
  - (ii) Gaelscoileanna
  - (iii) Community National Schools
  - (iv) National Schools
    - (a) Non-recognised and Independent Primary Schools
  
- D. Types of Secondary Schools
  - (i) Vocational Schools
  - (ii) Comprehensive Schools
  - (iii) Community Schools
    - (a) Case law concerning chaplaincy in community schools
    - (b) The historical position in relation to the ethos of community schools
  - (iv) Do Community Schools Fall Within the Scoping Inquiry's Terms of Reference?
  - (v) Community Colleges/Vocational Schools
    - (a) Designated Community Colleges
    - (b) Appointment of Chaplains to DCCs
    - (c) Religious worship/instruction and appointment of teachers of religion

(vi) Are DCCs Religious Order Run Schools?

(vii) Voluntary Schools

**E. Current role of the Religious Orders: Educational Trust Companies**

(i) Designation of a Catholic School

(ii) Educational Trust Companies

(iii) Potential Difficulties for Individual Litigants Arising From the Transfer of Assets to Trusts

**F. Unrecognised or Independent Schools**

**G. Conclusions on Categories of Schools ‘Run by Religious Orders’**

(i) The Inclusion of Educational Trusts

(ii) The Distinction Between Patronage and Other Forms of Involvement by Religious Orders

(iii) Consideration of the Categories of Schools to be Included in a Future Inquiry

(a) The exclusion of non- religious order run schools

(b) Objections to the exclusion of non- religious order run schools

(c) Consequences of a wider remit in a future inquiry

## A. Introduction

1. In this chapter we set out a brief overview of the Irish education system, both for general context and more specifically to contextualise the issues that the Scoping Inquiry faced in defining what is meant by schools ‘run by religious orders’.
2. In summary, given the complexities of the Irish education system, the category of schools ‘run by religious orders’ is not particularly clear-cut. What is apparent is a changing degree of religious control in some categories of schools, and a transfer between diocesan and congregational control in other categories of schools.
3. Somewhat surprisingly, categories of schools which we now consider to be non-denominational or multi-denominational, nonetheless have had Catholic religious involvement since the time of their foundation. The extent to which this involvement amounts to control that might bring these schools fairly within the category of schools run by religious orders likely varies across different time periods.
4. This chapter is far from a complete study on the intricacies of Irish educational arrangements and the nature of religious involvement. However, it is hoped that a consideration of the different types of schools that have operated in the Irish educational system will provide some context for our interpretation of which schools should be treated as having been ‘run by religious orders’.

## B. Historical Establishment of Education

### (i) Primary Education

5. The Irish national educational system has its foundations in the ‘Stanley Letter’ of 1831, written by Lord Stanley, Chief Secretary for Ireland. The education system was established informally by the direct executive action of the State, which was then under British rule.<sup>1</sup>
6. The Stanley Letter proposed a non-statutory, state-funded system of first-level education, which was to be provided in state-supported schools and was intended to be multi-denominational in character.<sup>2</sup> Secular education was to be provided to all children, with separate religious instruction to be provided in accordance with students’ faiths. What emerged was a ‘de jure mixed system which, from mid-century onwards, became increasingly denominational in fact’.<sup>3</sup>

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1 See, for a general overview of the legal standing of national schools, the judgment of Hardiman J in *O’Keeffe v. Hickey* [2009] 2 IR 302.

2 Glendenning, *Education and the Law* (3rd edn., Bloomsbury Professional 2023), para. 2.05.

3 Coolahan, *Irish Education: History and Structure* (Institute of Public Administration, 1981), p. 5.

7. As described by Glendenning,<sup>4</sup> by the end of the nineteenth century, national schools (also known as 'primary schools') were mainly owned and managed by various churches, with each religious denomination managing its own schools under clerical managers.
8. Traditionally, the 'patron' of the school was the person or body of persons who established the school under the Stanley Plan of 1831. This term now has a statutory meaning under s. 8 of the Education Act 1998 ('the 1998 Act') considered below. With the offer of increased state funding for schools with Boards of Management, the Board of Management model was introduced into the organisational structure of schools, to replace individual managers, in 1975.<sup>5</sup>

## (ii) Secondary Education

9. For much of the nineteenth century, a dual system of secondary schooling existed, comprised of Protestant schools which benefited from public endowment but were not under state management, and Catholic schools which were private and did not receive state funds.<sup>6</sup> The Intermediate Education Act 1878 provided for indirect funding of denominational secondary schools, by means of an examination board which disbursed funds to school managers on the basis of successful examination results of their students.
10. In 1922, this model was altered to capitation grants for pupils, and incremental salaries for teachers, in 'recognised' schools. However, schools continued as private denominational institutions which were free to conduct their own affairs subject to their compliance with the rules for recognised status.<sup>7</sup>
11. By 1963, there were effectively two management models operating at post-primary level; vocational schools established under the Vocational Education Act 1930 and the voluntary secondary school system.<sup>8</sup> Voluntary secondary schools were predominantly Catholic schools, either diocesan or run by Catholic religious orders. Other religious denominations also ran voluntary secondary schools. Free secondary-level education was introduced by the State in 1967.

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4 Glendenning, at [2.06].

5 Coolahan, p. 174.

6 *ibid*, p. 52.

7 Coolahan, p. 53.

8 O'Flaherty, *Management and Control in Irish Education: The Post-Primary Experience* (Drumcondra Teachers' Centre, 1992), p. 5.

### **(iii) Structure of the Irish Education System**

#### **(a) *The 1937 Constitution and Education***

12. Article 42 of the Irish Constitution introduced in 1937 concerns the provision of education in the State. The Article guarantees free primary education, enshrining the model of indirect state provision of education in Article 42.4 as follows:

4. The State shall provide for free primary education and shall endeavour to supplement and give reasonable aid to private and corporate educational initiative, and, when the public good requires it, provide other educational facilities or institutions with due regard, however, for the rights of parents, especially in the matter of religious and moral formation.

13. The Supreme Court have commented that the distinction between ‘providing for’ and ‘providing’ distinguishes a largely state-funded, but entirely clerically administered system of education on the one hand and a state system of education on the other.<sup>9</sup>

14. Also of some relevance is Article 44.2.4°, which provides that:

4° Legislation providing State aid for schools shall not discriminate between schools under the management of different religious denominations, nor be such as to affect prejudicially the right of any child to attend a school receiving public money without attending religious instruction at that school.

15. Glendenning describes this model of education as having a ‘hybrid character in which the State provides for education in mainly regulated church-owned, publicly funded, recognised primary [schools]’.<sup>10</sup>

#### **(b) *The Education Act 1998***

16. The first significant legislation concerning education was the Education Act 1998. Prior to this the Irish education system was established on a largely administrative basis. The 1998 Act regulates the provision of education in the State and confers statutory recognition on certain pre-existing governance structures in respect of both primary and post-primary education providers. A school which is recognised by the Minister pursuant to the conditions and criteria set out in s. 10 of the 1998 Act will receive funding from the State.<sup>11</sup> Unrecognised schools are schools which do not receiving State funding. Such schools are certified by Tusla as providing a minimum standard of education for their students. This reflects the provisions of the

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9 *O’Keeffe v Hickey* [2009] 2 IR 302, *per* Hardiman J at para. 29.

10 Glendenning, at [1.24].

11 Section 12 of the Education Act 1998.

Constitution, which recognises the rights of parents to educate their children as they see fit, subject to the child receiving a minimum standard of education.

Unrecognised schools are discussed elsewhere in this chapter.

*(c) Patronage and Trustees of Schools*

17. As referred to above, the term 'patron' was first used to denote those persons or bodies who had established a national school under the Stanley Plan of 1831. Patronage was linked with the trustees of a school; the early Rules for National Schools provided that where a school was vested in trustees, the trustees were the patron of that school.<sup>12</sup>
18. Madigan, writing on behalf of the Association of Trustees of Catholic Schools, provides that the trustees of the schools are the people whose names appear in the lease which is entered into by the landowners when the school is established.<sup>13</sup>
19. The patronage of a school is now regulated under s. 8 of the 1998 Act governing the status of patrons. The 1998 Act recognised, in relation to primary schools, that the patron was the person or body who was the patron immediately before the Act came into force. In relation to secondary schools, the 1998 Act recognised the following category of persons as patron: (i) the trustee, (ii) Board of Governors or, (iii) where there was no trustees or Board, the owner of the secondary school who held that role immediately before the 1998 Act came into force. In any other case, the patron was the person who requested recognition of the school, or the nominee of that person or body. The 1998 Act allows for more than one person or body to be the patron of a school. Such co-patron arrangements are common in the comprehensive and community school sector, discussed below. The patron's powers are those bestowed by the 1998 Act or other legislation, or by the instrument establishing the school, or providing for how the school is to operate.
20. The 1998 Act also requires that the patron appoints a Board of Management. The composition of the Board is agreed between patrons of schools, national associations of parents, recognised school management organisations, recognised trade unions and staff associations representing teachers and the Minister.<sup>14</sup>

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12 Madigan, 'A Guide to Patronage and Trusteeship of Catholic Schools in Ireland, Association of Trustees of Catholic Schools' (2012), [2.24].

13 *ibid*, [2.26].

14 Section 14(1).



21. The Minister, with the agreement of the patron, national associations of parents, recognised school management organisations and recognised trade unions and staff associations representing teachers, prescribes certain matters relating to the appointment of a board,<sup>15</sup> and can, for example, make a direction regarding its gender balance.<sup>16</sup>

*(d) The Introduction of Boards of Management*

22. At the time of their introduction, a Board of Management was required to operate in accordance with a detailed schedule of regulations and procedures issued by the Department of Education. It was responsible for the appointment of all teachers subject to the prior approval of the patron and the Minister, along with other administrative matters.<sup>17</sup>

23. By 1985, a Board of Management structure for Catholic voluntary schools had been agreed between the relevant stakeholders. This provided that a Board would have eight members:

- Four members nominated by the trustees (patrons) of the school;
- Two parent representatives;
- Two teacher representatives;
- The principal of the school was also entitled to attend Board meetings as a non-voting member.<sup>18</sup>

24. Boards of Management were subsequently given a statutory basis under the 1998 Act and the establishment and membership of the Board is now in accordance with that Act. The membership is set out in governance manuals issued by Departmental circulars. For example, the Governance Manual for Primary Schools 2023 – 2027,<sup>19</sup> contains the following overview of the rules regarding the composition and operation of Boards of Management for schools with more than one teacher:

- (a) Two direct nominees of the patron;
- (b) Two parents elected from parents of children who are enrolled and have commenced attendance at the school (one being a mother, the other a father, elected by the general body of parents of children who are enrolled and have commenced attendance at the school);

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15 Section 14(6).

16 Section 14(5).

17 Coolahan, p. 175.

18 O'Flaherty, p. 112.

19 At page 17. Published pursuant to Circular 0049/2023.

- (c) The principal (or acting principal) of the school;
- (d) One other serving teacher on the staff of the school, elected by vote of the teaching staff which includes the principal;
- (e) Two extra members proposed by those nominees, described at (a) to (d) above.

25. The Board is to fulfil the functions assigned to the school under the 1998 Act.<sup>20</sup> Members of the Board, except where the articles of management provide otherwise, are to be appointed by the patron of the school.<sup>21</sup> It is the duty of the Board to manage the school on behalf of the patron, and for the benefit of the students and their parents and to provide an appropriate education for each student at the school.<sup>22</sup>
26. The Board is to perform the functions conferred on it by the Act and is obliged to do so in accordance with the policies determined by the Minister.<sup>23</sup> It must also in carrying out its functions ‘uphold, and be accountable to the patron for so upholding, the characteristic spirit of the school as determined by the cultural, educational, moral, religious, social, linguistic and spiritual values and traditions which inform and are characteristic of the objectives and conduct of the school’.<sup>24</sup>
27. The Board must also act in accordance with any Act of the Oireachtas or instrument made thereunder, deed, charter, articles of management or other such instrument relating to the establishment or operation of the school.<sup>25</sup> Boards of Management must also have and promote respect for the diversity of values, beliefs, traditions, languages and ways of life in society.<sup>26</sup> The 1998 Act also makes clear that nothing in the Act confers any right or interest in the lands and building of the school on the board.<sup>27</sup>

#### **(iv) The Powers and Duties of the Patron and those of the Board of Management**

28. A question arises regarding the scope of the powers and duties of school patrons. Can the Board of Management exercise powers independently of the patron, and, if so, what is the scope of the Board of Management’s powers?

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20 Section 14(2).

21 Section 14(4).

22 Section 15(1).

23 Section 15(2)(a).

24 Section 15(2)(b).

25 *ibid.*

26 Section 15(2)(e).

27 Section 15(3).

29. These issues have been considered in two reported cases by the High Court. In *Ui Chroinin v Minister for Education*<sup>28</sup> the patron refused to consent to a change of school status to a co-educational school. The Minister refused to grant the change of status on the basis that the patron's consent was required. The Board of Management challenged the Minister's refusal. The High Court found that the 1998 Act left no doubt that the role of the patron was antecedent to the role of the Board of Management, and that the Act recognised the permanent nature of the role of the patron, the submissive role of the Board, and the temporary character of membership of the Board.<sup>29</sup>
30. The High Court found that the patron represents the interests of the owners of the school's land and buildings. The Act requires the Board to be accountable to the patron for the 'the characteristic spirit of the school' as defined in s. 14 of the 1998 Act. The High Court dismissed the challenge, holding that it was not unreasonable of the Minister to require the consent of the patron to the change, as the application was to permanently alter the nature of the school.
31. A somewhat different position was taken in *Blanchfield and ors v Garvey and ors*.<sup>30</sup> The case concerned whether a Board of Management was entitled to pursue litigation in circumstances where the school's patron, the Edmund Rice Schools Trust, did not approve of the legal proceedings concerned. Stewart J held that, while it was possible that the patron's supervisory role was sufficiently all-encompassing as to circumscribe the Board's statutory power to sue, the 1998 Act and Articles of Management for Catholic Secondary Schools did not definitively set out that position. Rather, the relationship between the patron and the Board of Management seemed to pertain primarily to the school's ethos, culture, values, conduct, management, and financial administration. The High Court was not convinced that litigation to recover for wrongs committed against the Board by its former patron (the Christian Brothers), that could confer a benefit on the school, came under that relationship. Ultimately, Stewart J joined the Board of Management to the litigation on the basis these legal issues could be fully resolved at hearing:<sup>31</sup>

The provisions of the 1998 Act and the Articles of Management, as they were explained to this Court, **do not seem to suggest the BOM is subservient to its patron in every single respect**. Rather, it would appear that there are specific areas in which the BOM must bend to ERST's greater authority. If the act envisaged comes outside those specific areas, it would appear that the BOM can behave as it wishes (assuming, of course, that said act is *intra vires*).

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28 [2010] 4 IR 99.

29 *ibid*, paras 33-35.

30 [2018] IEHC 259.

31 *ibid*, at para 23.

Final determinations on these questions will be made at plenary hearing, as will determinations on the specific question of whether the patron can circumscribe the BOM's statutory power to sue. (emphasis added)

32. It therefore seems that the power to make decisions concerning the school is not necessarily exclusively a matter for the patron. The patron appears to have the right to decide matters concerning the ethos, culture, values, being matters largely concerning the characteristic spirit of the school, together with the management of the school and the financial administration of the school. The patron is also entitled to make decisions relating to school buildings and property. However, it seems that the Board of Management has some capacity, albeit limited, to make decisions that fall outside of these areas of concern. The matter is not without uncertainty, but it appears that the thrust of the limited decisions on this question is that, for the most part, the patron of the school is in the dominant position, and is entitled to make most decisions concerning the school, albeit that the consent of the Minister is also required in certain circumstances.

## **C. Types of Primary Schools**

### **(i) Model Schools**

33. Model schools are state-owned primary schools largely established in the nineteenth century, when Ireland was under British rule. There are nine model schools, all of which are in State ownership and are under the direct control and patronage of the Minister for Education.<sup>32</sup> It appears that model schools were intended to set standards for the organisation and running of schools and to serve as centres for teacher education. They were operated under strict 'mixed education' principles meaning they strictly separated religious and secular education. For this reason they were largely unacceptable to Catholic Church authorities, who discouraged the attendance of Catholic children at these schools. These schools do not fall within the Terms of Reference of the Scoping Inquiry as they are not religious order run schools.

### **(ii) Gaelscoileanna**

34. Gaelscoileanna established prior to 1993 are under the patronage of the local bishop.<sup>33</sup> A small number of Gaelscoileanna are model schools under the patronage of the Minister for Education.

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32 Glendenning, [2.13].

33 Glendenning, at [2.27], writes that there are approximately 80 such schools.

35. An Foras Patrúnachta became the patron body for gaelscoileanna that were established after 1993. Such schools are partially funded by the State and by parents. These schools provide religious instruction in accordance with parental wishes; Glendenning notes that some are multi-denominational, some inter-denominational and some denominational.<sup>34</sup> Otherwise, An Foras Patrúnachta does not appear to have historical links to any religious denomination. The Department of Education advise that there are 249 gaelscoileanna at primary level, and 50 gaelcolaiste at post-primary level.
36. Certain of these schools fall within the Terms of Reference of the Scoping Inquiry as they were schools run by a religious order. Information provided by the Department of Education indicates that there are currently 14 gaelcolaiste with a religious order or educational trust patron in operation. However, these figures do not capture the historical position in relation to these schools and it is possible that there were other schools run by religious orders which have closed or amalgamated with other schools. Moreover, it is likely that a number of the gaelscoileanna now listed as having diocesan patronage were originally under the patronage of religious orders and were transferred as part of the 1975 transfer of primary schools to diocesan authorities.

### **(iii) Community National Schools**

37. Community National Schools are state co-educational multi-denominational primary schools. They were established in 2008 and are described as part of the response to increasing demand for the State to provide a choice of schools.
38. The patrons of the Community National schools are primarily Education and Training Boards ('ETBs'), who provide governance, education, administrative, financial, human resources, and IT support. The schools have a multi denominational ethos and the children engage in a multi-belief and education curriculum.
39. There are 30 Community National Schools in the country. Community National Schools do not fall within the terms of reference of the Scoping Inquiry as there is no religious order or other religious denominational involvement in community national schools.

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34 *ibid*, [2.27].

#### (iv) National Schools

40. Prior to the introduction of Boards of Management, national schools were operated according to the 'managerial system', whereby the patron of the school appointed a manager, usually a clergyman, who undertook the general running of the school. The schools were state funded. The role of the manager has been described as the equivalent of a trustee of an educational trust, since he did not own the school or run it for his personal benefit.<sup>35</sup>
41. Catholic primary schools are mostly comprised of schools vested in trustees:
- for parish schools, the original trustees were senior clergymen;
  - for convent/monastery schools, the original trustees were senior members of the religious congregation; and
  - in instances of joint trusteeship, the original trustees were both religious and members of the clergy.<sup>36</sup>
42. Over time, many of the original trustees of national schools passed away and were not replaced. In or around 1962, following discussions with the Department of Education in relation to this issue, the local bishop was officially recognised as the patron of all the schools in his diocese which had clerical managers.<sup>37</sup> In or about 1975, it was agreed between the Catholic Church and the Department of Education that the local bishop should also be accepted as the patron of all those convent/monastery schools where he was not already patron.<sup>38</sup>
43. Although the diocesan bishop is the patron of such primary schools (and of diocesan secondary schools), in the case of many traditional convent or monastery primary schools, trusteeship continued to be exercised by religious congregations or the education trusts that have replaced them (discussed below).<sup>39</sup> Trusts also exist for diocesan property, including school buildings and grounds, and Madigan notes that these trustees are usually senior members of the clergy.<sup>40</sup>
44. National schools are not within the Terms of Reference of the Scoping Inquiry as they are diocesan schools, under the auspices of the bishops of the dioceses as opposed to religious orders. However, allegations of historical sexual abuse in primary schools run by religious orders prior to their transfer into diocesan control would fall within the Terms of Reference of the Scoping Inquiry.

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35 Per Murnaghan J in *McEaney v Minister for Education* [1941] IR 430. It should be noted that this characterisation was not expressly affirmed in the judgment of the Supreme Court.

36 Madigan, [2.26].

37 *ibid*, [2.27].

38 *ibid*, [2.28].

39 *ibid*, [8.1].

40 *ibid*.

**(a) *Non-recognised and Independent Primary Schools***

45. There are, however, primary schools that were run or are currently run by religious orders. In general, these are fee-paying primary schools and generally are non-recognised or independent schools, which do not receive any financial support from the Department of Education.
46. It seems that it is now the case that, apart from those unrecognised primary schools, the religious orders have transferred their primary schools to dioceses or to trusts and those schools are now under the auspices of the relevant bishop or trustees.
47. In the case of schools owned by religious congregations or trust companies, the trustees are those legally nominated as such by the individual religious congregation or trust company. The trustees, as parties to the lease of the school premises, undertake that the buildings shall continue to be used as a national school for the term of the lease.
48. While the role of the trustees does not encroach on the rights and duties of the patron, in the case of traditional convent/monastery schools, some of which are now under the trusteeship of trust companies, there is an understanding that the local superior of the congregation, or the trust company, will put forward nominees for the Board of Management and recommend a chairperson for appointment by the patron.

## **D. Types of Secondary Schools**

**(i) Vocational Schools**

49. Under the Vocational Education Act 1930, vocational schools were established and were placed under the management of local vocational education committees ('VECs'). In the early 1940s, certain guarantees were given by the then Minister for Education to the Catholic bishops that general education would not be provided in VEC schools, lest this pose a challenge to the existing denominational schools.<sup>41</sup>
50. While the VEC schools were non-denominational upon establishment, the Archbishop of Dublin, John Charles McQuaid, negotiated with the State to permit the introduction of a system of religious instruction, given by salaried clergymen-teachers, in all technical and vocational schools in Dublin, without any recourse to legislation. Over time, denominational practices, mainly Catholic, became normalised in VEC schools nationwide.<sup>42</sup>

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41 O'Buachalla, *Educational Policy in the Twentieth Century* (Wolfhound Press, 1998), p. 64.

42 Glendenning, [6.04].

51. By 1963, VECs had fourteen members; between five and eight of these were members of the local rating authority (who were normally elected councillors). The remaining places were allocated to persons who were representative of employers or employees, having regard to their interest and experience in education. Local priests were sometimes appointed to a VEC in view of their special interest in education, and they in some instances acted as a chairman.<sup>43</sup>
52. VECs were dissolved and replaced by ETBs under the Education and Training Board Act 2013.

## **(ii) Comprehensive Schools**

53. Comprehensive schools were first established in or about 1966, in areas where the Department of Education considered post-primary education to be inadequate.<sup>44</sup> Trusts for education were established and the schools were built and maintained out of state funds. These were managed by committees representing the diocesan religious authority, the local VEC, and the Minister. While the schools were vested in the State in fee simple, they were leased to trustees under a deed of trust for educational purposes.<sup>45</sup>
54. These were also known as ‘denominational schools’, there being both Catholic comprehensive schools and Protestant comprehensive schools. Fifteen comprehensive schools were established before a decision was taken in 1974 that no new comprehensive schools would be opened.<sup>46</sup> In 2012, there were five comprehensive schools under Church of Ireland patronage and nine such schools under Catholic patronage.<sup>47</sup>
55. A draft deed of trust, prepared by the Department of Education in 1966, provided that the Board of Management of a comprehensive school would consist of three members: a nominee of the Bishop of the Diocese in which the school was situated, who would act as Chairman; a nominee of the Minister; and a nominee of the relevant VEC.<sup>48</sup>

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43 O’Flaherty, *Management and Control in Irish Education: The Post-Primary Experience*, p. 5.

44 See background information provided in the judgment of Costello P. in the High Court in *Campaign to Separate Church and State Ltd v Minister for Education* [1998] 3 IR 321, at 326-328.

45 Glendenning, 2nd edn., [2.73].

46 *Campaign to Separate Church and State Ltd v Minister for Education*, at 327.

47 Glendenning, 2nd edn., [2.73].

48 O’Flaherty, p. 31. O’Flaherty, writing in 1994, notes, that while it was not readily ascertainable whether this particular version of the lease was the same as that signed in relation to the initial comprehensive schools, he was advised that it was at least close to the final version in all major respects.



56. In the years following 1966, several comprehensive schools were established with some variations in their management model; while it is not possible to establish the precise articles of management which existed in each comprehensive school, there appeared to be two distinct models by 1983:
- The Catholic model, which had a three-person board, as proposed in the draft deed of trust;
  - The Protestant/Jesuit model, which had a five-person board, consisting of three nominees of the Protestant Bishop or the Jesuit Provincial; a nominee of the Minister, and a nominee of the VEC.<sup>49</sup>
57. Chaplains were appointed to these schools by the relevant religious authority and their salaries were paid by the State.<sup>50</sup>
58. The majority of comprehensive schools fall outside our Terms of Reference by reason of their patrons being a secular body, the Minister for Education, and a Catholic diocese.
59. However, there is one comprehensive school in respect of which a religious order is a co-patron, namely a Jesuit comprehensive school in Limerick. That school is regarded by the Jesuits as a Jesuit-run school and is included in the figures provided by the Jesuits in respect of the number of allegations of historical sexual abuse associated with their schools.

### **(iii) Community Schools**

60. Community schools were first proposed by the Department of Education as a model of post-primary comprehensive education for all children irrespective of ability and without the use of selection procedures. This envisaged the amalgamation of existing private, denominational voluntary secondary schools and public vocational schools,<sup>51</sup> and the development of individual community schools in lieu of the traditionally separate secondary and vocational schools.<sup>52</sup> The schools would also provide adult education facilities. The capital cost would be paid out of public funds, subject to an agreed local contribution, and the running costs would be funded directly by the Department.<sup>53</sup>

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49 *ibid.*, p. 36 and p. 41.

50 *Campaign to Separate Church and State Ltd v Minister for Education*, at 326-327.

51 Walsh, 'Creating a Modern Educational System? International Influence, Domestic Elites and the Transformation of the Irish Educational Sector, 1950-1975', in Walsh (ed.) *Essays in the History of Irish Education* (Palgrave MacMillan, 2016).

52 See background information provided in the judgment of Costello P. in the High Court in *Campaign to Separate Church and State Ltd v Minister for Education* [1998] 3 IR 321, pp. 326-328.

53 *ibid.*

61. The first community school was opened informally in 1972.<sup>54</sup> While they were intended to be governed by the terms of a model trust deed, difficulties arose between the relevant stakeholders and 12 community schools were established before any formal deed of trust was published.<sup>55</sup> Academics have described the legal ownership of these schools and the contractual position of their staff members as 'vague'.<sup>56</sup>
62. A draft Deed of Trust was first circulated in 1974. The final Deed of Trust in 1981 represented a compromise between the Department, the different managerial authorities, and the teaching unions, and effectively regularised the status of pre-existing community schools.
63. It should be noted that the secular co-patron of a community school was originally the VEC. ETBs replaced VECs pursuant to legislation in 2013.
64. The final Deed of Trust provided for Boards of Management with ten members:
- Three nominees of the religious authorities
  - Three VEC nominees;
  - Two elected representatives of the parents;
  - Two teachers selected by the permanent teaching staff of each school; and,
  - The principal of the school was also a non-voting member of the board.<sup>57</sup>
65. *In O'hUallacháin and Others v Burke and Others*<sup>58</sup> the High Court found that the Deed of Trust was a binding legal instrument. The relationship between the Board of Management and the principal and the other staff of the college or indeed between the students and the Board of Management were matters to be determined in accordance with private law.

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54 Glendenning, [4.101].

55 Walsh, 'Creating a Modern Educational System? International Influence, Domestic Elites and the Transformation of the Irish Educational Sector, 1950-1975', in Walsh (ed.) *Essays in the History of Irish Education* (Palgrave MacMillan, 2016).

56 O'Flaherty, p. 58.

57 O'Flaherty, p. 74.

58 [1988] ILRM 693.

66. The Association of Community and Comprehensive Schools ('ACCS') helpfully provided background information in relation to the patronage of community and comprehensive schools, providing a breakdown of the 97 community and comprehensive schools in Ireland:

Protestant Comprehensive Schools	Catholic Comprehensive Schools	Community Schools with Catholic Joint Patrons	Community Schools with Catholic Patrons Only	Community Schools with Educate Together Joint Patrons	Total
5	9	80	1	2	97

67. As is apparent from the foregoing, in the case of community schools, the joint patrons are either:

- the local ETB and a religious order(s), and/or the Bishop; or,
- the local ETB and Educate Together.

68. Some 80 community schools and 9 comprehensive schools operate under a joint patronage model with the Catholic Church whereby the Deed of Trust for each school was typically signed by the Minister on behalf of the ETB and the local Catholic Bishop and/or a representative of a religious order. Some community schools can have more than one religious order as a patron. This is most common where there has been an amalgamation of local schools.

69. Comprehensive schools are denominational schools typically under the patronage of the Minister and the bishop of the local diocese. For this reason, comprehensive schools do not appear to fall within the Terms of Reference. However, the ACCS noted that in one case, that of Crescent College Comprehensive in Limerick, the Deed of Trust was signed by the Minister and a representative of the Jesuit Order. This school would therefore be capable of coming within the Inquiry's Terms of Reference.

70. The ACCS information indicates that, of the 80 community schools with Catholic joint patrons, 58 schools had a religious order as one of their patrons:

Diocese	Religious Order(s)	Both Diocese and Religious Orders	Total
22	38	20	80

71. The ACCS also indicated that of those 58 schools, there is one community school, the Holy Child community school, which is not under joint patronage and is under the sole patronage of the Holy Child Sisters who are members of the Le Chéile Trust. This would most clearly fall within the Inquiry's Terms of Reference.
72. The remaining 57 community schools have religious orders as one of two or three joint patrons. A question arises as to whether these schools can be considered to have been run by a religious order because they are under the joint patronage of an ETB.
73. Since 1998 the role of religious orders as community school patrons has largely been delineated by statute. Section 8 of the Education Act 1998 recognises that whoever stands as trustees of community schools are the patrons of the schools. The 1998 Act clearly identifies that the Board of Management of each school is in charge of the day to day management of the school: Section 15(1) of the 1998 Act states that 'It shall be the duty of a board to manage the school on behalf of the patron for the benefit of the students and their parents ...'. However, under s 14 of the 1998 Act, the responsibility for appointing each successive Board of Management rests with the patrons of the community school in common with the patrons of all other schools.
74. Moreover, in circumstances where it appears from our inquiries to date that the vast majority of allegations of sexual abuse in schools relate to events transpiring prior to 1998, the reality of control exercised by patrons prior to the 1998 Act is a more relevant factor.

**(a) Case law concerning chaplaincy in Community Schools**

75. In *Campaign to Separate Church and State v Minister for Education*,<sup>59</sup> the plaintiffs challenged the constitutionality of the State's payment of the salaries of chaplains in community schools. In the High Court, Costello P. found that the salaries of chaplains had been paid since the establishment of community schools. He held that it was obviously the intention that in Catholic community schools the chaplain would be a priest, but there were at that stage several lay persons and nuns fulfilling the role of chaplain. In the three Protestant comprehensive schools, the chaplains were lay persons.
76. As of January 1996, the court found that there were 76 chaplains in 75 comprehensive and community schools. The constitutionality of such an arrangement was affirmed in the Supreme Court, where it was held that the system was a manifestation of the principles recognised and approved by Articles 44 and 42 of the Constitution.

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59 *Campaign to Separate Church and State v Minister for Education* [1998] 3 IR 321.

77. Before the High Court in-depth consideration was given to the provisions of the Model Trust Deed by which a new, as opposed to amalgamated, school was established, although the court noted that the 'essential features' of the deeds were the same. The court outlined each of the clauses of the Model Trust Deed, which provided *inter alia* that the two religious congregations and the VEC were required to contribute specified amounts towards the estimated building cost of the school, with the balance to be provided by the Minister, and the trustees were to hold the trust property upon trust for the purposes of the school (Clause 4).
78. Pursuant to the Articles of Management, the Board is responsible for the 'government and direction of the school' (Clause 2). The Board appoints staff having followed specified selection procedures, but provision is made for the appointment to the staff of teachers nominated by the religious orders involved in establishing the school, provided they are qualified and are approved by a selection committee (Clause 7). Subject to the provisions of the Minister as to the general educational character of the school, the Board shall have control of the 'general direction of the conduct and curriculum' of the school (Clause 10). Religion teachers are required to be acceptable to the appropriate religious authority (Clause 11).
79. In view of these provisions of the Model Trust Deed the High Court made a number of observations (it should be noted that these were neither expressly affirmed nor disapproved in the judgments of the Supreme Court).<sup>60</sup> It found that pursuant to the Deed the legal ownership of the schools vest in the trustees and their staff are appointed under contracts with the Board of Management. Although built by state funds (apart from a limited local contribution) and run and maintained by state funds, they are not in the legal ownership of the State or any state authority, nor in the legal ownership of a religious order or the diocese of any church.
80. The Court found that the trustees have a legal responsibility to ensure that the school is managed and organised in accordance with the trust deed. The Minister and the Board of Management have a legal responsibility to manage the school in accordance with the trust. In addition, the Minister controls all the schools' expenditure and has a supervisory role over the school curriculum.
81. The Court found that the trustees and the Board of Management have a legal obligation to provide religious worship and religious education in community schools and the teacher of religion may be a priest. It is to be implied that the religious worship in the school will be that of the Roman Catholic Church and that the religious teaching in the school will be in accordance with the doctrines of that church.

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60 [1998] 3 IR 321, at 331.

82. The Court concluded that a community school established under a deed of trust which adopts this model can therefore be regarded as (a) a denominational school, in that it provides religious worship and religious instruction according to the tenets of one of the churches which espouse the Christian faith, and (b) as a Catholic community school, in that the religious worship and religious instruction it provides are those of the Roman Catholic Church.
83. Thus, although community schools are described as multi-denominational, it seems that the Model Trust Deed considered by the High Court was found to be Catholic in ethos, and not multi-denominational, since the terms of the Deed suggested that the religious teaching in the school was Roman Catholic. In addition, members of staff of the school could be nominated by the religious order concerned, and those staff were to be employed by the school, subject only to having the necessary qualifications and being approved by the selection committee.

***(b) The historical position in relation to the ethos of community schools***

84. It may be that, in all practical terms, community schools are multi-denominational in ethos and have been for some time. Indeed, the Scoping Inquiry has been informed by their representative body, ACCS, that this is the case. It seems, however, that the Model Trust Deed, certainly up until 1994, allowed for the ethos of the religious order establishing the school to constitute the ethos of the school.
85. In answer to this point, the ACCS has emphasised that the involvement of religious orders in community schools is solely as joint patrons. The role of a joint patron is defined in the Education Act 1998, which provides that the day to day running of the school is devolved to the Board of Management as appointed by the joint patrons. They also emphasise the core principle of partnership amongst the secular and religious patrons in the Deed of Trust and the commitment to provide an education for all the children of the community. They have emphasised that in the early 1960s and 1970s this was in itself very significant.

86. The ACCS further point to the evolution of community school ethos over the last 25 years as highlighting the core principle of partnership between secular and religious patrons, referring in particular to:

- The establishment of the National Trustee Forum which has subsequently evolved into the Association of Joint Patrons of Community and Comprehensive Schools ('AJP').
- The agreed Characteristic Spirit Statement for Community Schools under the Joint Patronage of ETBs and Catholic religious patrons.<sup>61</sup>

The ACCS point out that the joint patrons, including the Catholic religious order joint patrons, identify their community schools as multi-denominational in accordance with the agreed Characteristic Spirit Statement.

87. Community schools generally have joint patrons, although as discussed in a later chapter, the Scoping Inquiry understands that there is one instance where this is not so, and a religious order is the sole patron of a community school. Save for this instance, one of the co-patrons of a community school will generally be an ETB. In 2019, the Department of Education reported that 80 of 82 community schools in Ireland were under Catholic joint patronage. The two remaining community schools had joint patronage arrangements with an ETB and Educate Together.<sup>62</sup>

88. As it stands, there are currently 58 community schools with religious order co-patrons and one community school with a religious order as its sole patron.

89. Patronage of a school may transfer from one religious order to another or from a religious order to a diocese: For example, in 2017 two religious orders, the Sisters of Mercy Northern Province and the Brigidine Sisters divested themselves of their patronage/trustee interest in some 8 Community Schools; 4 schools are now under the joint patronage of various dioceses and 4 schools are now under the joint patronage of other religious orders.

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61 The Characteristic Spirit Statement identifies the ethos of community schools as multi denominational. A copy of the 'Template Characteristic Spirit of a Community School under the joint patronage of Catholic and ETB Patrons' issued by the AJP was provided to the Scoping Inquiry which states that the ethos of the schools is multi-denominational.

62 See Teach Don't Preach, 'The Constantly Shifting Ethos of ETB Schools and Colleges' (19 February 2020) at <https://www.teachdontpreach.ie/2020/02/shifting-etb-ethos/>.

**(iv) Do Community Schools Fall within the Scoping Inquiry's Terms of Reference?**

90. Clearly, religious orders were involved in the running of community schools to some extent as joint patrons. It is the understanding of the Scoping Inquiry that at an earlier stage in the evolution of community schools, particularly where the school comprised of an amalgamation of existing schools in a locality, it was not uncommon that the principal and teaching staff of the existing schools, some of whom were members of religious orders, remained on in that capacity in the newly formed community school. The precise extent of the involvement the religious orders had in the running of any community schools in respect of which they were co-patrons is not something that the Scoping Inquiry are in a position to determine at this remove, and indeed may have varied from school to school.
91. ACCS have emphasised the evolution of the ethos of community schools, and the contemporary multi-denominational ethos of community schools with religious order co-patrons. ACCS do acknowledge, however, that religious orders were involved in running community schools in the past, at least to some extent. *The Campaign to Separate Church and State* case discussed above finds that the Model Trust Deed allowed for a Roman Catholic ethos where the co-patron of the school was a Catholic religious order.
92. The ACCS has indicated that it is of the view that community schools are not schools run by religious orders, stating that they are multi-denominational schools, not run under any specific religious ethos and operated by Boards of Management reflecting a wide representation from the community concerned. The ACCS highlighted that religious education rather than religious instruction is taught in community schools and provided documentation concerning the characteristic spirit of community schools, which espoused a multi-denominational approach. Many community schools have adopted this document as a statement of their ethos.
93. Nonetheless, the fact remains that there are currently some 59 community schools in the State that have a religious order as a patron or co-patron. Assessing whether these schools are, or were, religious order-run schools is not clear-cut. The caselaw discussed above certainly suggests that the Model Trust Deed implicitly allowed for a Roman Catholic ethos where the co-patron of the school was a Catholic religious order. It also seems that members of religious orders may have taught in the schools or were principals of the schools in the early years of community schools. It may well be the case that such schools now fully embrace the multi-denominational ethos.



94. However, the Scoping Inquiry is concerned with assessing historical sexual abuse. From the other work carried out by the Scoping Inquiry it appears that a large degree of historical sexual abuse in schools run by religious orders occurred in the 1970s and 1980s. It is therefore likely that the earlier periods in the evolution of community schools will be relevant to a future inquiry's work rather than the modern position. In the circumstances, the Scoping Inquiry considered the co-patronage of the religious orders in community schools sufficient to meet its Terms of Reference.
95. As discussed elsewhere in this chapter, many religious orders have transferred the patronage of their schools into various trust structures. In the case of community schools, some trusts are ostensibly the trustees of community schools. However, at a meeting between APTCS and the Scoping Inquiry, at which a number of CEOs of the trusts were present, it was clarified that in the case of community schools, the trusts are not themselves co-patrons in the community school, but act as agents for the religious order. Thus, in a community school setting, it appears that the religious orders are still *de facto* co-patrons in those circumstances and the schools would therefore still fall within the Scoping Inquiry's Terms of Reference.

#### **(v) Community Colleges/Vocational Schools**

96. In response to a concern that community schooling was eroding VEC's traditional role in providing non-denominational vocational schools, the VECs sought an initiative whereby secondary schools would be run on community school lines and be termed 'community colleges'.<sup>63</sup>
97. However, it has been suggested that VECs sought to invite representatives of the Catholic bishops to participate on the Boards of Management of these community colleges in order to lend status to them.<sup>64</sup>
98. There is no single model for management for community colleges. However, in a number of VEC areas an accepted model developed, agreed between the VEC and representatives of Catholic dioceses.<sup>65</sup> In light of this distinction, community colleges have been categorised as designated and non-designated community colleges.<sup>66</sup>
99. Non-designated community colleges do not involve religious orders in the governance and therefore fall outside the Scoping Inquiry's Terms of Reference.

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63 Coolahan, p. 220-221.

64 McManus, 'The Transformation of Irish Education: The Ministerial Legacy, 1919-1999', in Walsh (ed.) *Essays in the History of Irish Education* (2016, Palgrave MacMillan), p. 283.

65 O'Flaherty, p. 79.

66 Glendenning, [4.115].

(a) *Designated Community Colleges*

100. Designated Community Colleges ('DCCs') are designated multi-denominational schools who have binding legal agreements with the Catholic Church in relation to aspects of their management and ethos.<sup>67</sup>
101. It appears that the majority of these schools emerged in the 1970s when some multi-denominational VEC schools were merged with one or more denominational schools in which the majority of students were Catholic. To allay concerns of denominational school owners, certain assurances for Catholic students and their parents were agreed by the parties in written legal agreements.<sup>68</sup>
102. Education and Training Boards Ireland ('ETBI') is the representative body of the 16 ETBs which run 30 community national schools and 252 post-primary schools.
103. ETBI has confirmed that there are currently 52 DCCs. Of these, 19 schools involve Catholic diocesan bodies in their organisation and management. 14 schools have religious orders involved under such Model Agreements. In total, it appears that 8 religious orders are party to Model Agreements in respect of 14 DCCs.
104. ETBI's Board of Management Handbook, published in 2015, describes DCCs as ETB schools where the management of the school is governed by a specific agreement between the ETB (formerly VEC) and a 'Trustee Partner', who is the local diocese and/or a religious congregation or other recognised school patron.<sup>69</sup> The Handbook defines a Trustee Partner as a recognised school patron who is a party to a model agreement with an ETB for the management of a DCC, has an explicit role in the management of the school (representation on the Board of Management and teacher selection panels), and a role in determining the characteristic spirit of the DCC.<sup>70</sup>
105. ETBI published an updated handbook in January 2024 entitled 'ETBI Post-Primary Board of Management Terms of Reference'. The handbook defines DCCs as follows: DCCs are under the sole patronage of the ETB. However, they are established by the signing of a Model Agreement between an ETB and the local Catholic Bishop/religious congregation. The Model Agreement provides for the participation of the local bishop/religious congregation in the organisation and management of the DCC on an ongoing basis.<sup>71</sup> The 2024 manual goes on to state that a Model Agreement is a legal agreement between an ETB and another body

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67 *ibid.*

68 Glendenning, [6.16].

69 ETBI, Board of Management Handbook for Education and Training Boards and Boards of Management of ETB Schools and Community Colleges, October 2015, p. 6.

70 *Ibid.*, p. 7.

71 ETBI Post-Primary Board of Management Terms of Reference, p. 2.

participating in the organisation and management of the DCC.<sup>72</sup> The term ‘Trustee Partner’ is no longer used to refer to any diocesan or religious order partner. Rather, they are simply referred to as ‘other bodies’ involved in the organisation and management of the DCC.

106. The original Model Agreement, between the County Dublin VEC and the Archbishop of Dublin, required that the Board of Management would be composed of ten members as follows:<sup>73</sup>
- 3 members nominated by the appropriate religious authority;
  - 3 members nominated by the VEC;
  - 2 parent representatives, and;
  - 2 teacher representatives.
107. The Model Agreement also set out that minority religious representation on Boards of Management would be considered by the VEC where requests for representation were received, and that a person nominated to represent a minority religious group would fill an additional place.<sup>74</sup>
108. The Model Agreement provided that the Board of the relevant college shall be responsible for the ‘government and direction’ of the College; that the Board shall have the ‘general direction’ of the conduct and curriculum of the College, that it shall ensure there is religious worship and religious instruction for all pupils in the College except those who are exempted; and that a Chaplain nominated by the relevant religious authority will be appointed. A Selection Board, comprised of two representatives of the relevant religious authority, two representatives of the VEC and an inspector nominated by the Minister, would be responsible for the appointment of teaching staff, subject to the prior approval of the VEC. However, the ETBI confirmed that the Minister no longer nominates an inspector to selection boards in DCCs.
109. ETBI informed the Scoping Inquiry about the role of the religious orders in DCCs, and confirmed that the role of Catholic Church bodies under the Model Agreement was in relation to:
- Staff appointments (via representation on the selection board);
  - Nominees to the board of management of the DCC;
  - Nomination of a chaplain, and;
  - Confirmation of the religion teacher’s suitability.

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72 Ibid, p. 3.

73 As discussed by Hyland and Milne, *Irish Educational Documents* Vol. 2 (1992) at pp. 278-279.

74 See also, O’Flaherty, p. 92.

110. ETBI, however, informed the Scoping Inquiry that while the original Model Agreement was often used as a template for agreements between the DCCs and other bodies who were involved in the organisation and management of the schools, including Catholic religious orders, that was not always the case.
111. Whilst ETBI were of the view that the above bullet points concerning the role of the religious orders in DCCs were likely to be standard in all agreements between an ETB and religious orders, ETBI could not definitively state that that was the case, since it did not have sight of the agreements for all DCCs.
112. The Scoping Inquiry queried whether the religious orders had a role in determining the characteristic spirit of the DCCs. The Model Agreement was silent on this issue, but the 2015 Handbook suggested that the religious orders had such a role. ETBI responded to say that it understood that it had previously been the case in some DCCs that the religious order involved influenced the characteristic spirit of the school, whether arising out of the entitlements from the Model Agreement or otherwise.
113. However, ETBI stated that characteristic spirit was not clearly defined, or indeed compelled to be addressed, until such time as the Education (Admission to Schools) Act 2018 required a statement setting out the characteristic spirit of the school to be included in the admissions policy for every school; from then, all ETB schools, including DCCs, were confirmed as being multi-denominational.
114. ETBI also stated that it is likely that there are Model Agreements in existence where a religious order has been given an express role in determining the characteristic spirit of the DCC concerned.
115. ETBI provided the Scoping Inquiry with a list of all DCCs where there was a Model Agreement with a religious order for the organisation and management of the DCCs. This describes the DCCs listed as multi-denominational or inter-denominational, save for one DCC which is described as Catholic, where the diocese of Cloyne is the 'other body'.

**(b) *Appointment of Chaplains to DCCs***

116. The 2024 manual provides that the ETB will appoint a chaplain to a DCC in accordance with the Model Agreement for DCCs and nationally agreed procedures for such appointments.<sup>75</sup> The ETB appoints the chaplain who is employed in an *ex-quota* capacity in the DCC. The chaplain is a full-time member of the staff and must fulfil the requirements of the ETB and abide by the regulations of the Minister for Education.

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75 ETBI Post-Primary Board of Management Terms of Reference, pp. 22 and 27.

117. The duties of the chaplain and the appointment process have been agreed nationally between the relevant management bodies, the second-level teacher unions, and the Department of Education.<sup>76</sup> The religious order concerned is entitled to nominate the chaplain.

**(c) *Religious worship/instruction and appointment of teachers of religion***

118. The original Model Agreement provides that the religious worship or religious instruction given to any pupil will be in accordance with the denomination to which the pupil belongs.<sup>77</sup> Religious instructions of 2 hours per week is to be given to all pupils, unless parents request in writing that the pupil be withdrawn from religious instruction. The principal is responsible for arranging the religious worship and instruction and ensuring pupils attend.

119. The Committee and the Board of Management are required to ensure that there are sufficient teachers in the school to give religious instruction. Teachers of religious instruction can be priests or lay people who are suitably qualified for the purpose.

120. The original Model Agreement provides for a 5-persons selection board made up of 2 religious representatives, two VEC (now ETB) representatives, and a Department of Education inspector nominated by the Minister.<sup>78</sup> The selection board interviews and ranks the candidates. The VEC make the appointments in accordance with the shortlist, unless there is good and sufficient reason not to do so.

**(vi) *Are DCCs Religious Order Run Schools?***

121. The above section sets out the general framework for the involvement of religious orders in DCCs, which may be subject to variation.

122. In particular, it may be the case that the terms set out in the original Model Agreement are not included in other Model Agreements between the religious orders and the ETBs or are varied in such agreements.

123. What is clear is that:

- (i) The religious orders are not patron bodies of DCCs; the ETB is the sole patron.
- (ii) Religious orders are entitled to 3 nominees on the Board of Management pursuant to the original Model Agreement, but this may vary in accordance with individual Model Agreements entered into between various ETBs and religious orders.

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76 *ibid*, p. 27.

77 *ibid*, para 12 (ii) – (xi).

78 *ibid* para 6.2 (i) to (vi).

- (iii) Some religious orders may have an express entitlement to influence the characteristic spirit of the school, depending on the terms of the Model Agreement concerned; however, it is not known whether and how many Model Agreements contain such terms. It seems to have been the case that although the original Model Agreement does not reference characteristic spirit, in some DCCs at least, where a religious order was involved, the religious order had an influence on the determination of the characteristic spirit of the school, although characteristic spirit was not clearly defined. It seems that, since 2018, all ETB schools, including DCCs are expressly multi-denominational or inter-denominational schools (with one exception), notwithstanding continuing religious order/diocesan involvement on foot of agreements with the ETB.
  - (iv) Religious orders are entitled to representation on the selection committee in appointing staff to DCCs under the original Model Agreement, and this may be a common term across other Model Agreements.
  - (v) The only functions over which religious orders appear to have sole control, under the original Model Agreement, is the appointment of a chaplain and the approval of Catholic religion teachers for DCCs. It seems likely that this will be a common term across all Model Agreements.
124. Ultimately, the Scoping Inquiry decided to include in the category of religious order run schools only those schools where a religious order or a trust body established by a religious order, is or was a patron or co-patron of that school.
125. It may well be that there is a case to be made that various religious orders' involvement in DCCs was such as to justify the view that they were 'running' the school in a practical sense, in some form of partnership, legally formalised or otherwise, with the relevant ETB. This may have been particularly the case where a VEC and a Catholic religious order-run school merged, when DCCs first began to be formed in the 1970s. However, we simply have no evidence of what occurred in individual schools beyond the terms of the handbooks and manuals that have been made available to the Scoping Inquiry. It is not apparent, on their face, that the degree of religious involvement went so far as to allow DCCs to be fairly described as religious order run schools.
126. However, given the timeframe for the Scoping Inquiry's work, and the possibility that varied arrangements pursuant to Model Agreements may exist between the ETBs and the religious orders in respect of the DCCs, it was not possible to definitively determine that all DCCs should be regarded as religious order run schools.

127. The Scoping Inquiry did not therefore include DCCs in its information-gathering exercise regarding the numbers of allegations of historical sexual abuse arising in religious order-run schools. The status of DCCs and the extent of religious order involvement in such schools is, however, an issue that may need to be reconsidered by a future inquiry.

#### **(vii) Voluntary Schools**

128. Voluntary schools were, and continue to be, in the private ownership of:<sup>79</sup>

- Religious orders or diocesan authorities, in the case of Catholic schools;
- Boards of governors, in the case of Protestant schools; and
- Private individuals, in the case of some privately-run schools.

129. The historical position of voluntary schools was certainly one of private religious control. One author, writing in 1981, observed that the majority of secondary schools were owned by religious groups and were run under the auspices of religious authorities.<sup>80</sup> The management of secondary schools was also said to have been exercised in the main by religious orders or by denominational boards, each controlling its own network of schools.<sup>81</sup>

130. Of the 531 secondary schools in existence in the State in 1979, 443 were owned by Catholic religious orders and 31 by Catholic diocesan colleges; 33 were owned and controlled by lay Catholics; 23 were Protestant schools; and a small amount of schools were said to cater for other denominations.<sup>82</sup>

131. O'Flaherty, writing in 1994, noted that in response to the declining number of religious in teaching from the 1970s onwards, religious managers of Catholic voluntary schools began to devise new management strategies to perpetuate the Catholic Church's role in secondary schools. This required that a devolved system of management be introduced in order to guarantee the denominational character of the schools into the future should the religious clergy withdraw from schools.<sup>83</sup>

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79 Glendenning, (2nd ed), [2.66].

80 Coolahan, p. 215.

81 *ibid.*

82 *ibid.*

83 O'Flaherty, p. 93.

132. By 1985, a Board of Management structure for Catholic voluntary schools had been agreed between the relevant stakeholders. This provided that a Board would have eight members:
- Four members nominated by the patrons of the school;
  - Two parent representatives; and
  - Two teacher representatives.
  - The principal of the school is also entitled to attend Board meetings as a non-voting member.<sup>84</sup>
133. Management of voluntary Catholic secondary schools, being the day-to-day operation of the school, is carried out by the Board of Management/Manager and Principal of each school.
134. Governance of such schools is, on the other hand, the responsibility of a range of private religious and lay bodies. One author, writing in 2012 on the governance of voluntary Catholic secondary schools, summarised the governance as such schools in the following terms:<sup>85</sup>
- Bearing in mind both the provisions of Canon Law and Civil Law, governance relates to the functions of patrons or trustees as the final decision-making authority of the owners or holders of the title deeds of the property or enterprise. Patrons and trustees have both a moral and legal responsibility to maintain schools in accordance with a particular ethos or founding intention. In the case of diocesan Catholic secondary schools, governance or patronage of these schools is exercised by the bishop of the diocese in conjunction with diocesan trust boards where such exist. The higher superiors of religious congregations, as trustees of the school property and education enterprise, exercise governance in schools owned by congregations where Education Trust Companies have not been established. Where Education Trust Companies exist, governance is exercised by the Board of Directors appointed by the members of the Company. The Board of Directors may delegate many of their functions to personnel working from an education office established specifically for the purpose of exercising governance. In lay owned Catholic secondary schools the function of governance is carried out by the owners or representatives of the owners.
135. As is clear from the foregoing, Catholic voluntary secondary schools, whether fee-paying or otherwise, if run by a religious order (or formerly run by a religious order) are squarely within the Scoping Inquiry's Terms of Reference.

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84 O'Flaherty, p. 112.

85 Madigan, [3.33].



## E. Current role of the Religious Orders: Educational Trust Companies

### (i) Designation of a Catholic School

136. In order to be designated as a Catholic school within the eyes of the Catholic Church, Canon law requires that schools must be acknowledged as Catholic by the relevant ecclesiastical authority or operate under the jurisdiction of an ecclesiastical *Public Juridic Person* ('PJP'), which is a legal entity under Canon law.<sup>86</sup>

### (ii) Educational Trust Companies

137. Educational trust companies were created in the context of steadily declining religious vocations;<sup>87</sup> from 1999 religious orders began to set up trusteeships to ensure that the religious ethos of their schools would be protected in the future. These trusts were in the form of companies, with the directors being a number of lay Catholics who would carry out the patron's functions. Boards of Management would then report to these companies.<sup>88</sup>
138. The Scoping Inquiry is grateful to APTCS for confirming the number of schools trusts and the date of the establishment of each as follows:

Name	Year Created
Spiritans Educational Trust (formerly Des Places Educational Association)	1999
Loreto Education Trust	2003
Ceist	2007
Mount Anville Education Trust	2007
Edmund Rice Schools Trust	2008
Le Chéile	2008
Presentation Brothers Schools Trust	2009

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86 Madigan, [4.3].

87 McManus, at p. 283, states that in the 1960s almost half of teachers in secondary schools were priests or members of religious orders, but by the 1990s this figure had fallen to 12%.

88 McManus, p. 283.

139. Separately, a Jesuit Education Trust is in the process of incorporation. While a company is registered, it is in the process of seeking charitable status and, at present, the Jesuit Order remain the trustees of their schools.
140. It appears that in voluntary secondary schools there is currently a wide variety of trust models in operation, but concerted efforts are being made to consolidate a number of these trusts under the Association of Patrons and Trustees of Catholic Schools Ltd.<sup>89</sup>
141. The APTCS very helpfully offered to assist in liaising with the patrons and trustees of secondary schools which are currently or were previously run by religious orders in respect of information concerning the number of allegations of historical sexual abuse that had arisen in their schools. The APTCS explained that the primary repository of any allegations of sexual abuse would be the individual Boards of Management of each school. While they are required to confirm to the trustees that they are keeping the records and policies of the school up to date, they do not typically provide information about abuse allegations to the trustees. The Board would only send an allegation of abuse to the trust concerned if the allegation was against a member of the Board of Management. However, they accepted that in practice the trust might well be aware of such an allegation if they were providing support to the school in responding to it.
142. The APTCS advised the Scoping Inquiry that most trusts had not taken over congregation records and that schools hold records in their own right. It was emphasised that there is no ultimate repository of such information. Generally, schools do not have historic records, with the exception of roll books. The APTCS further advised that allegations are often made to the congregation but that, if the allegation does not relate to a member of a congregation, it may go to the school instead.
143. The APTCS accepted that most of the trusts have a legal link to their founding congregations, with the founders of the schools' trusts being members of the relevant congregations. Limited powers are reserved to the members of the school trust, and the Board of Directors exercises the day-to-day control over the trusts. The Directors have the role of managing the organisation, running it, and directing funds. In contrast, members of the trust have the aim of continuing the religious ethos of the school. However, the members appoint the Directors of the trust. In some cases, land formerly held by the founding religious order has been handed over to a school's trust, in which case the trust has control of anything pertaining to the land.

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89 Glendenning, [1.28].

144. An exception is the Presentation Brothers School Trust, who stressed in a June 2023 meeting that they have no legal link to the Presentation Brothers. They noted that on the very rare occasions where the Presentation Brothers School Trust received an allegation from an individual, they referred allegations relating to the period after the formation of the trust to the individual Boards of Management concerned. If the allegation related to a period predating the establishment of the trust, they would explain this to the person concerned and refer them to the Presentation Brothers.
145. It appears that the transition from direct governance of schools by religious orders to the education trust company model has involved a growing lay involvement. One author described the process as follows:<sup>90</sup>
- Prior to the setting up of Education Trust companies on the part of a number of religious congregations, governance of all religious owned schools was exercised by the higher superiors for the time being who acted as trustees of the school property and educational enterprise. They appointed members of the congregation as managers and principals of the secondary schools. Sometimes the same person filled both roles. When Boards of Management were introduced, the religious trustees continued to exercise their right of governance by formally appointing the individual Board members including the teacher and parent nominees as well as their own Trustee nominees, one of whom would be chairperson. With the passage of time, some congregations set up education offices and delegated many of the functions of governance to these offices.
146. Certain trust bodies are established as ecclesiastical PJPs and have also registered as companies under Irish law. Other trusts, because they continue to have close links with their congregations, have not become PJPs but are nonetheless registered as companies. Such companies are then eligible for charitable status, being an education trust. In such education trusts, the Memorandum and Articles of Association of the company identifies it as a 'Company Limited by Guarantee and Not Having a Share Capital'.<sup>91</sup>
147. The extent of religious order control of these educational trust companies varies, with some remaining closely controlled by their congregations.<sup>92</sup>

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90 Madigan, [3.35].

91 Madigan, [3.41].

92 Madigan, [8.10-8.14].

148. The CEO of CEIST, writing in 2018, explained that its sister company, the Educena Foundation, which holds the ownership of the properties of the schools, has the primary objective of ensuring that CEIST has the properties it requires to deliver second level education and to provide CEIST with the annual funding it needs to allow it fulfil its trustee obligations.<sup>93</sup> The two-company structure was put in place as different expertise would be required for both entities, and also so that, if Educena held surplus funds over and above those required to fund CEIST operations, they could be gifted back to the founding congregations.
149. Generally, the members of the educational trust company appoint the board of directors, and delegate most of their power to the directors.<sup>94</sup> Members may retain their powers in relation to matters such as dismissal of members and/or directors, amendment to the Memorandum and Articles of Association, sale of property or other financial transactions of a high value, amalgamation or closure of schools, or change in the use of property or education facilities operated, owned or controlled by the company.<sup>95</sup>
150. The directors of the company are responsible for the governance of schools, including the appointment of Boards of Management, the determination of school policies, and the management of a school's finances. The directors may also be considered the administrators of the PJP under Canon law.
151. Separately, the regulatory regime imposed by the Charities Act 2009 on all charitable bodies applies to almost all schools in Ireland, except for ETB schools and private schools.<sup>96</sup>

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93 Griffin, 'CEIST: the first 10 years of a lay Catholic educational trust in Ireland', *International Studies in Catholic Education* (2018) 10:1, 66-80.

94 Madigan, [8.18].

95 Madigan, [8.19].

96 Glendenning, [5.10].

152. Some 75% of school are now within a trust structure. The remaining 25% of schools are still held by individual religious orders. The Department of Education provided the following breakdown of the current patronage of schools in Ireland:

Patron	Number of schools
Carmelite Order (Irish Province)	1
CEIST Company Limited by Guarantee	110
Coláiste Thuar Mhic Éadaigh Teoranta	1
Conference of the Methodist Church in Ireland	1
Congregation of the Missions (Vincentians)	2
Congregation of the Most Holy Redeemer (Redemptorist Fathers)	1
Council of Alexandra College	1
Des Places Educational Association Company limited by guarantee	6
Dominican Fathers	1
Edmund Rice Schools Trust	59
Glenstal Abbey School	1
Handmaids of the Sacred Heart	1
Incorporated Society for Promoting Protestant Schools in Ireland	3
La Sainte Union Sisters	1
Le Chéile Schools Trust Company Limited by Guarantee	51
Loreto Education Trust	16
Marianist Community	1
Marist Brothers (Province of West Central Europe)	3
Marist Education Authority	3
Mount Anville Sacred Heart Education Trust Company Limited by Guarantee	1
Order of Cistercians of the Strict Observance (Trappist Monks)	1
Order of Friars Minor (Franciscan Fathers) Irish Province	1
Order of St Augustine (Augustinians)	2
Presentation Brothers Schools Trust	5
Regina Mundi (Cork) Ltd	1
Religious Sisters of Charity	6
Salesian Fathers of Don Bosco	2
Society of Jesus (Jesuits)	4
St Conleth's Ltd	1
Teresian Association Ireland	1
The John Scottus Education Trust Company Limited by Guarantee	1

### **(iii) Potential Difficulties for litigants arising from the transfer of assets to trusts**

153. Religious orders are unincorporated associations and do not have a legal existence separate and distinct from their members. As such, religious orders cannot hold property in their own name,<sup>97</sup> and assets are generally held by trustees for the benefit of the religious order and/or their members. The creation of school trusts has led to the largescale transfer of school property into these trusts, which can potentially create difficulty for survivors of abuse seeking to recover damages awarded in civil litigation.
154. Trustees are limited by the terms of the trust deed (or the terms of the arrangement between members where no formal trust is in place) when determining what can be done with trust property. Where trust property is held for the general purposes of an unincorporated association, whether trustees may access trust assets to meet liabilities associated with civil damages claims by victims of sexual abuse will be dependent on the terms of the trust deed. Thus, assets held by a charitable trust may be out of reach of plaintiffs.
155. It should also be noted that suing unincorporated associations can be very difficult, as unincorporated associations cannot sue or be sued in their own name, rather individual members at the time of the relevant wrongdoing have to be identified. The Supreme Court's judgment in *Hickey v McGowan*<sup>98</sup> means that unincorporated associations cannot be held liable for wrongful acts committed by their representatives while acting on behalf of the unincorporated association. Instead, liability falls to the individual personally responsible and, depending on the circumstances, on the other members of the association at the time of the wrongdoing, who may be found to be vicariously liable.
156. The Law Reform Commission has published a consultation paper which suggests that the company limited by guarantee (CLG) mechanism, provided for by the Companies Act 2014,<sup>99</sup> may be used, *inter alia*, to protect third parties with potential claims against unincorporated associations.

## **F. Unrecognised or Independent Schools**

157. As set out above, parents are entitled to educate their children as they see fit, subject to the child concerned being provided with a certain minimum education, as required by the Constitution. Thus, parents may send their children to any school of their choosing, or to no school, subject to that proviso.

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97 See, for example, *Bray Boxing Club and Taylor v Wicklow County Council* [2021] IEHC 182.

98 [2017] 2 IR 196.

99 'Liability of Clubs, Societies and Other Unincorporated Associations' LRC CP 68 – 2022 (15 December 2022): [https://www.lawreform.ie/\\_fileupload/consultation%20papers/LRC%20-%20CP%2068%202022%20Full%20Text%20W%20Cover.pdf](https://www.lawreform.ie/_fileupload/consultation%20papers/LRC%20-%20CP%2068%202022%20Full%20Text%20W%20Cover.pdf).

158. A non-recognised or independent school is any school which is not recognised under s. 10 of the Education Act 1998. Such schools do not receive any funding from the State, given their unrecognised status.
159. The criteria for the recognition of a school are set out in 1998 Act and include an assessment by the Department of Education that there are sufficient schools in the particular area and it is not necessary to fund another similar school. Many of the private primary schools run by religious orders are unrecognised schools.
160. The National Educational Welfare Board had oversight of non-recognised schools under the provisions of the Education (Welfare) Act 2000 (**'the 2000 Act'**).<sup>100</sup> However, that function was transferred to Tusla under the Child and Family Act 2014 (**'the 2014 Act'**).
161. The functions of Tusla arising from the 2000 Act are to ensure that each child attends a recognised school or otherwise receives a certain minimum education, and to assist in the formulation and implementation of the Government's policies and objectives concerning the education of children. The 2000 Act requires parents to register, and Tusla to maintain a register, of all children in receipt of education in a place other than a recognised school. Tusla is also obliged to assess whether the child being registered is receiving a certain minimum education, as required by the constitution. Tusla retains a discretion to refuse to register a child.
162. The 2000 Act permits Tusla, or a person authorised by Tusla,<sup>101</sup> (**'an authorised person'**) to assess the education that is, or is proposed to be, provided including the materials to be used, and the time that is to be spent educating the child. If Tusla is unable to determine the matter following a report from the authorised person, it may, with the consent of the parent, cause the authorised person to attend the place where the child is being educated to observe the education the child is receiving, inspect the premises where the child is being educated and the equipment and materials being used in the education of the child. Tusla may also carry out an assessment of the emotional, physical, and intellectual development of the child including assessing the child's knowledge of certain subjects, and proficiency in certain exercises or disciplines as the authorised person considers appropriate.
163. Once Tusla is satisfied that a non-recognised school is providing a certain minimum level of education to its students, Tusla may register the students without any further assessment of the school, provided the school notifies Tusla of the students concerned. The section also permits Tusla to carry out assessments of a registered child at such intervals as may be required.

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100 Section 10(1) of the Education (Welfare) Act 2000.

101 Section 14(5) of the Education (Welfare) Act 2000.

164. Tusla has confirmed that there are 59 unrecognised schools in the State. A list of these schools is set out at Appendix 11. Some nine schools run by religious orders/educational trusts set out on Tusla's list of unrecognised schools are within the remit of the Scoping Inquiry.
165. However, the historical picture in relation to private primary schools may be far broader. One author, writing in 1982, noted that 'In 1978/9 there were 110 private primary schools with an enrolment of 19,105 pupils. Most of the schools are situated in the urban districts of Dublin and Cork. Such schools are frequently run by religious orders and are linked to state-supported secondary schools run by these communities'.<sup>102</sup>

## **G. Conclusions on categories of schools 'run by religious orders'**

166. In considering what is meant by schools 'run by religious orders', regard must be had to the complex nature of religious involvement in education since the inception of state-funded education in Ireland.

### **(i) The inclusion of educational trusts**

167. Many religious orders, whether their schools are held by trusts or otherwise, say that they no longer have any active role in the running of their schools due to small numbers remaining in their order or the age profile of their members. The introduction of Boards of Management, which started in the mid-1970s, affects the question of what person or entity can be said to be running schools, particularly in relation to day-to-day management. More recently, there have been significant changes in the legal ownership of schools, and thus the patronage of schools because of the creation of educational trusts.
168. It seems to the Scoping Inquiry that an investigation into schools run by the religious orders must encompass circumstances where the religious orders concerned were the patrons or co-patrons of the school, regardless of the extent to which that order was actually involved in the day-to-day running of the school, or whether the principal or staff were members of the religious orders concerned. Given the primacy of the patron bodies in the governance structure of schools, and the continuing influence of the religious orders on those patron bodies and schools, the Scoping Inquiry views schools where a religious order had been the patron of a school in the past or was currently a patron/co-patron of a school, as within its remit.

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102 Coolahan, p. 182.



169. In this regard, it should be noted that it will be necessary that both the orders and the educational trusts/companies limited by guarantee be asked to co-operate with any future inquiry into schools, given that there will likely be an issue of obtaining records concerning historical allegations made to schools after the creation of such trusts. In the experience of the Scoping Inquiry, complaints were sometimes made to the schools directly, sometimes to the Gardai and/or Tusla, and sometimes to the religious order concerned. However, often the complaints were not made to all of these bodies.
170. When the Scoping Inquiry sought information from the religious orders about the numbers of allegations of sexual abuse made in day and boarding schools they run or formerly ran, we were informed by many of them that, since their schools were now vested in educational trust companies, they had no access to information held by their schools. It was necessary for the Scoping Inquiry to approach the patron association, APTCS, to seek their co-operation in obtaining the information sought. APTCS is made up of patrons and trustees of Catholic second level schools, including representatives of Catholic schools' trusts. Some 267 Catholic voluntary secondary schools are now held in trusts. The APTCS represent both these school trusts and the remaining patrons and trustees of Catholic voluntary secondary schools. The Scoping Inquiry is very grateful to APTCS for their assistance in this regard.
171. In order to obtain information in respect of primary schools formerly run by the religious orders, the religious orders informed us that it was necessary for them to seek this information through the relevant bishops, who in turn passed on the Scoping Inquiry's questionnaire to the schools.
172. This situation underlines the reality of the legal position that the schools themselves are in many cases no longer under the direct control of the religious orders.

**(ii) The distinction between patronage and other forms of involvement by religious orders**

173. In some cases, the extent of religious orders' involvement or control in particular categories of schools was uncertain in light of the mixed secular and denominational governance of those schools.

174. Community schools, as highlighted by their representative association ACCS, are multi-denominational in nature,<sup>103</sup> where religious education as opposed to religious instruction is taught. On the other hand, community schools have Catholic religious co-patrons, in the form of religious orders, Catholic dioceses, or sometimes both. Nonetheless, having considered the details of community schools' current policies, guidance to patrons, and staff appointment processes, kindly provided by ACCS, it is fair to conclude that the present-day position is not one where community schools could be properly described as run by their religious co-patrons. In contrast, the historical position is uncertain, and in all likelihood varied between different schools depending on the religious orders involved. It seems that, certainly in the early years of the establishment of such schools, particularly where the school was formed as a result of the amalgamation of existing schools in the locality, the members of the relevant religious orders sometimes continued as principals or teachers in such schools. Given the case law establishing that community schools clearly required Catholic religious instruction, and for staff to be nominated by the religious order patrons, the Scoping Inquiry took the view that on balance community schools fell within its Terms of Reference. We therefore included such schools when gathering information regarding the number of allegations of historical sexual abuse in such schools.
175. In the case of Designated Community Colleges, they are formally non-denominational schools and do not have religious order patrons. Catholic religious orders were still involved in the governance of such schools as 'other bodies'. What this distinction meant in practice historically is difficult to determine at this remove without sight of the individual model agreements for each school. Ultimately, the Scoping Inquiry decided to only include those schools where a religious order (or an educational trust established by a religious order) is or was a patron or co-patron of that school. A future inquiry may wish to revisit this with the benefit of access to further information.

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103 Pursuant to the agreed Characteristic Spirit Statement for Community Schools under the Joint Patronage of ETBs and Catholic Religious Patrons.

**(iii) Consideration of the categories of schools to be included in a future inquiry**

**(a) *The exclusion of non- religious order run schools***

176. The limits of the Scoping Inquiry's remit in considering only historical sexual abuse in schools run by religious orders was a source of dissatisfaction amongst some survivors, many of the religious orders, and certain other denominations, in particular the Methodist Church in Ireland who approached the Scoping Inquiry in this regard. A frequently expressed view was that the Terms of Reference of the Scoping Inquiry were too narrow and that confining the consideration of historical sexual abuse in schools solely to schools run by religious orders was illogical and unfair.
177. In relation to Catholic schools, the absence of diocesan schools from the remit of a future inquiry may give rise to anomalous situations. There are a number of schools, particularly primary schools, which historically were run by religious orders, but were transferred to diocesan control. Where a diocese takes over the running of a school from a religious order, it is likely that the staff in the school will remain in place. This could lead to circumstances where an alleged lay abuser (and possibly an alleged clerical abuser) may continue to abuse after the transfer of the school to the diocese. Any allegations arising after the transfer, even concerning a survivor abused pre-transfer would risk falling outside the scope of a future inquiry by virtue of the transfer, even though both the survivor and the alleged abuser may have remained in the school. In addition, information about how allegations of abuse were handled post-transfer, what was known to the diocesan authorities when they took over the school, and other such issues could also be rendered outside the Terms of Reference of a substantive inquiry confined to solely looking at religious order-run schools.
178. These types of difficulties beg the question as to whether the distinction in considering solely schools run by religious orders is in truth logically sustainable.

**(b) *Objections to the exclusion of non- religious order run schools***

179. Survivors who alleged that they had been subjected to clerical sex abuse in schools run by Catholic dioceses or in schools run under the auspices of other religious denominations expressed concern and sometimes anger at the fact that allegations of historical sexual abuse in those schools were outside the Scoping Inquiry's Terms of Reference.

180. A number of religious orders also objected to what they saw as the narrow Terms of Reference of the Scoping Inquiry because they felt that they were being singled out for scrutiny and that it was inherently unfair to look only at their schools, and to exclude other Catholic-run schools, and schools run by other religious denominations. This view has been expressed directly to the Scoping Inquiry during meetings that it had with the religious orders in May 2023 and January 2024, and it was evident from the views expressed in the course of the Scoping Inquiry's religious order engagement process that this sentiment was widely held amongst the religious orders consulted.
181. In addition, the Methodist Church in Ireland expressed its concern to the Scoping Inquiry that the Inquiry's Terms of Reference were confined to allegations of historical sexual abuse in schools run by the religious orders. The Methodist Church contacted the Scoping Inquiry directly on this issue stating that it was the view of the Methodist Church that all schools having a relationship with a religious body or church, and not just those run by a religious order, should be included in the Scoping Inquiry, or indeed in any future inquiry concerning historical sexual abuse in day or boarding schools.

*(c) Consequences of a wider remit in a future inquiry*

182. The Scoping Inquiry's view is that it is very difficult to objectively justify the exclusion of other Catholic-run schools and schools run by other denominations. In this regard it should be recalled that the number of primary and secondary schools run by religious denominations other than the Catholic Church is relatively small.<sup>104</sup>
183. If any future inquiry were tasked with examining sexual abuse in schools where a Catholic bishop was the patron, this would include national schools, diocesan secondary schools, as well as community schools and comprehensive schools under the patronage of a Catholic bishop.
184. Based on data provided by the Department of Education and ACCS of current school patronage, an indicative list of the additional schools that would be considered were Catholic diocesan patron schools included in the Terms of Reference of a substantive or future inquiry are as follows:
- 2,714 Catholic diocesan primary schools;
  - 40 Catholic diocesan secondary schools;

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104 The Department of Education's statistical bulletin for 2021 sets out that by the end of 2020 Catholic schools still comprised the vast majority of primary schools in the country with 88.7% of primary schools having a Catholic ethos in 2020: Department of Education Statistical Bulletin July 2021, Overview of Education 2000 – 2020, p.4.

- 22 Community schools with diocesan patrons (in addition to those schools with a religious order co-patron);
  - 14 Comprehensive schools with diocesan patrons.
185. This would represent a large number of additional schools. In addition, were schools run by other denominations to be included, this would involve a smaller number of additional schools. The Department of Education's statistics indicate that currently there are some 230 schools in this category:
- 191 Primary schools;
  - 29 Secondary schools.
186. Again, these numbers are indicative only, being based on the numbers of schools currently in existence. In particular, these figures do not take account of schools that have now closed or been amalgamated within each category.
187. In addition, there would also be schools with no religious patron, such as community colleges, community national schools, and Educate Together schools.
188. The Scoping Inquiry, of necessity, has not been in a position to inquire into the numbers of allegations of sexual abuse in any of the above schools, or been able to form a view as to the prevalence of abuse in a such schools. Nor has it sought the views of survivors of such schools. It is not therefore in a position to offer any view as to the scale of the problem, the preferences of such survivors as to what should be done, or the likely timescale and cost involved if a future inquiry were to be set up to investigate such issues.
189. Nonetheless, the Scoping Inquiry is of the view that it is unfair to those survivors who have suffered sexual abuse in such schools to exclude them from any investigation of the extent and scale of such abuse or how it was handled. As part of our Terms of Reference, the Scoping Inquiry is to set out a potential framework for a Government response into historical sexual abuse in day and boarding schools run by religious orders 'that could also form a template for future inquiries'.
190. In this regard, it is our view that the framework we propose in this Report can also form the basis for an inquiry into historical sexual abuse in schools run by the Catholic Church more broadly as well as schools run by other denominations. We are of the view that an inquiry into all schools, denominational or otherwise, is the fairest approach to take.

## **Chapter 13:**

# **The Position of Special Schools**

- A. Introduction
  - (i) The Status of Special Schools
- B. Previous Consideration of Sexual Abuse in Special Schools
  - (i) CICA's Inclusion of Special Schools
    - (a) Consideration of mainstream schools by CICA
    - (b) The extent of investigation of certain residential special schools
  - (ii) Other Processes Considering Sexual Abuse in Special Schools
  - (iii) Lessons from CICA: The Context of Abuse in Special Schools
- C. The High Incidence of Sexual Abuse in Special Schools
- D. Conclusion

## A. Introduction

1. The Scoping Inquiry has given separate consideration to the position of special schools run by religious orders. The records of allegations of historical sexual abuse in special schools run by religious orders are set out separately in this Report to highlight the particularly high figures of recorded allegations in relation to these schools.
2. From the statistics provided by the Department of Education it appears that there were 135 special schools in the 2020/2021 school year.<sup>1</sup> Historically, as occurred with mainstream education, the provision of education for persons with disabilities was exclusively provided by religious orders and voluntary bodies.<sup>2</sup> By the foundation of the Irish Free State in 1922, 8 private voluntary charitable institutions had been established, mostly by religious orders.<sup>3</sup>
3. A White Paper on The Problem of the Mentally Handicapped was published by the Department of Health in 1960.<sup>4</sup> It stated that the number of residential places for people with intellectual disabilities needed to be doubled from the 3,200 then available to about 7,000.
4. The Commission of Inquiry on Mental Handicap Report in 1965 ('the 1965 Report')<sup>5</sup> reflects a mixture of day and residential schools operating at that time, along with special classes in 'ordinary' national schools. It noted that:<sup>6</sup>

There are, at present, twenty special national schools for the mentally handicapped. The average number on the rolls totalled 1,434 pupils in 1964. Ten of these schools are part of residential centres and ten are day schools. Some of the residential schools admit day pupils and pupils whose homes are sufficiently near may attend on a five day residential basis, returning home each weekend. In addition to the 1,434 pupils mentioned there are in hospital schools and in other special schools for the physically handicapped a considerable number of pupils who suffer also from mental handicap. There are 28 special classes in ordinary national schools, mainly in Dublin, which cater for slow learning pupils ... The total number of mentally handicapped

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1 As noted elsewhere, the Scoping Inquiry is concerned with the historical position in relation to non-recent incidents of abuse in living memory, which we have taken to be incidents involving school pupils between 1927 and March 2013, 10 years prior to the establishment of the Scoping Inquiry.

2 D. Glendenning, *Education and the Law* (3rd edn. Bloomsbury, 2023), [7.03].

3 M. Shevlin, 'Historical Overview of Developments in Special Education in Ireland' in B. Walsh (ed.) *Essays in the History of Irish Education* (2016, Palgrave MacMillan), p. 184-185.

4 Department of Health, *The Problem of the Mentally Handicapped* (Dublin: Stationery Office, 1960), available at <https://www.lenus.ie/handle/10147/593379>.

5 The Commission of Inquiry on Mental Handicap, *Report* (Dublin: Stationery Office, 1965), available at <https://www.lenus.ie/handle/10147/243761>

6 *Ibid.*, at p. 34, para. 34.

children for whom special education is provided is, therefore, in the region of 1,600. Special schools are allowed the same holidays as ordinary national schools.

5. The 1965 Report provides a table of services available for persons with intellectual disabilities, with reference to whether the centre was recognised as a special school and whether it was a residential or day school. Some 14 of the 30 special schools listed in the 1965 Report are recorded as being administered by religious orders.<sup>7</sup>
6. The Commission of Inquiry on Mental Illness was established 1961 and its report in 1966 ('the 1966 Report') noted that there were a limited number of schools for children in need of psychiatric care:<sup>8</sup>

Most children in need of psychiatric care can receive education in the normal school system. Some, however, fail to learn or to keep up with their contemporaries and require a special form of education. As yet, the provision made for such education is limited. There are schools at the Child Guidance Clinic, Rathgar, Dublin (average enrolment 26.6), at Benincasa, Sion Hill, Dublin (average enrolment 26.9), at St. Declan's, Northumberland Road, Dublin (average enrolment 32.9) and at St. Loman's Hospital, Ballyowen, Dublin (average enrolment 29.8). These special schools accept children who are emotionally disturbed, or have severe learning disorders and cannot be catered for in the normal school system. The Department of Education makes provision for schools at residential centres for the mentally handicapped. The Commission assumes that it will make similar provision for schools at the residential centres recommended in paragraph 93.

7. A High Court case relating to educational provision in 1996 recorded some 117 special schools in operation at that date.<sup>9</sup> The Association of Parents and Friends of Mentally Handicapped Children (later, St. Michael's House), opened their own special school in Rathmines in 1960, which was the first special school founded, funded and managed by an association of parents. It appears that this was the first national school recognised by the State that was not managed by a religious authority.<sup>10</sup>

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7 Commission of Inquiry on Mental Handicap, *Report* (Dublin: Stationery Office, 1965), 35-42.

8 Commission of Inquiry on Mental Illness, *Report* (Dublin: Stationery Office, 1966), p. 72. Available at <https://www.lenus.ie/bitstream/handle/10147/45690/8634.pdf?sequence=1&isAllowed=y>.

9 In *O'Shiel and ors v Minister for Education and Science and ors* [1999] 2 ILRM 241, Laffoy J notes that 'There are approximately 3,200 recognised schools in the State catering for about 460,000 pupils. There are 117 special schools catering for about 7,500 pupils. The recognised schools are private in the sense that they are not publicly owned, but they are funded by the State and they must operate an open enrolment policy. The established schools, of which there are nine, are owned by the State and were established as Model schools prior to 1922'.

10 M. Shevlin, 'Historical Overview of Developments in Special Education in Ireland' in B. Walsh (ed.) *Essays in the History of Irish Education* (2016, Palgrave MacMillan), p. 186.



### (i) The Status of Special Schools

8. The 1965 Report also provides information as to the status of special schools as national schools and the role of the State in funding such organisations:<sup>11</sup>

Special residential and non-residential schools which provide suitable education for the mentally handicapped are recognised by the Minister for Education as national schools and special arrangements in regard to staffing, time-table and curriculum apply to them. As in the case of ordinary national schools, the Minister pays teachers' salaries and allowances and makes grants towards the cost of erecting and furnishing new schools, of reconstructing, painting, heating and cleaning existing schools and of transporting pupils to schools. In addition, he bears the cost of providing special training for teachers of the mentally handicapped and he makes grants towards the cost of providing teaching aids and materials. (emphasis added)

## B. Previous Consideration of Child Sexual Abuse in Special Schools

### (i) CICA's Inclusion of Special Schools

9. In considering the position of special schools as part of the Scoping Inquiry's work, one issue that arose was whether special schools should be included in any future inquiry or investigative process where a number of those schools had already been the subject of review by the Commission to Inquire into Child Abuse ('CICA'). One might reasonably contend that to investigate the same institutions would not be a good use of public resources.
10. It is certainly the case that some special schools run by religious orders were the subject of the CICA's investigation committee report. The final published CICA investigation committee reports refer to a number of special schools:
- (i) *CICA Investigation Committee Report Vol. I* Chapter 13 addresses St Joseph's School for Deaf Boys, Cabra, and refers to allegations of sexual abuse by lay teachers, brothers, and peer sexual abuse.
  - (ii) *CICA Investigation Committee Report Vol. II* Chapter 15 addresses St Mary's School for Deaf Girls, Cabra, and refers to allegations of sexual abuse by visiting priests.
  - (iii) *CICA Investigation Committee Report Vol. II* Chapter 16 addresses Mary Immaculate School for Deaf Children, and does not refer to allegations of sexual abuse.

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11 Commission of Inquiry on Mental Handicap, *Report* (Dublin: Stationery Office 1965), p. 33-34.

(a) *Consideration of mainstream schools by CICA*

11. However, to some extent the same can also be said to be the case in relation to mainstream schools. The CICA Investigation Committee Report includes a chapter on abuse by a former Christian Brother in a series of mainstream schools including national schools and a Presentation Sisters' convent.<sup>12</sup>
12. Chapter 7 of the Third Interim Report records 4 hearings into national schools as having taken place, and 2 complaints of sexual abuse investigated in national schools at that date.<sup>13</sup> It notes that there are other complaints into national schools pending investigation. The Christian Brothers are the subject of a chapter of the Investigation Committee's Report, albeit primarily in relation to their industrial schools.<sup>14</sup> Chapter 17 of the Confidential Committee's report presented evidence given by 70 witnesses of their experiences of abuse in schools in Ireland between 1932 and 1992.<sup>15</sup>
13. Substantial numbers of pupils of non-residential mainstream residential primary and secondary schools also made complaints to CICA. For example, Table N of CICA's Third Interim Report refers to 29 complaints involving 6 special schools and 165 complaints regarding 123 primary or secondary schools:

Type of Institution	No. of institutions in each class	Number of Complaints	Approximate Percentage %
Foster Care	11	11	0.5
Hospital	24	41	2
Industrial School	52	1,423	67.7
Magdalene Laundry	7	7	0.3
Orphanage	16	92	4.4
Place Of Detention	2	15	0.7
Primary/Secondary	123	165	7.9
School	4	165	7.9
Reformatory School	6	129	6.1
Residential Home	1	3	0.1
Secure Unit	6	29	1.4
Special School	15	21	1
Other			
<b>TOTAL</b>		<b>2,101</b>	<b>100</b>

12 CICA Investigation Committee Report Vol. I, p. 583.

13 CICA, Third Interim Report (December 2003), p. 86. Available at <https://childabusecommission.ie/wp-content/uploads/2022/04/abuse.pdf>.

14 CICA Investigation Committee Report Vol. I, Chapter 6.

15 CICA Report Vol. III Confidential Committee, Chapter 17, para [17.04].

14. However, as noted in the Third Interim Report, many of the allegations involved only one complaint for each school and were therefore not capable of being investigated by the Investigation Committee. Due to section 13(2)(c) of the Commission to Inquire into Child Abuse Act 2000, the Investigation Report was limited to considering cases where there was more than one allegation of abuse by a named individual because the legislation provided that its report 'shall not contain findings in relation to particular instances of alleged abuse of children'.
15. This meant that though national schools with one complaint could be investigated, no findings from the investigations of national schools could be reported because they predominantly involved single complaints in relation to single abusers.<sup>16</sup>

*(b) The extent of investigation of certain residential special schools*

16. As occurred in the case of national schools, a number of special schools came within the CICA's remit, but were not investigated because there were insufficient complaints.
17. In addition, of those special schools where there were sufficient numbers of complainants, there were practical difficulties in respect of hearing witnesses arising from both ongoing Garda investigations and disagreements with legal representatives that prevented full hearings taking place.
18. These issues resulted in the chapters on Our Lady of Good Counsel, Lota, Glanmire, Co Cork ('Lota'), and the Schools for the Deaf being primarily based on discovered documentation, submissions made by relevant parties, and evidence from a limited number of witnesses (in the case of Lota). The findings that could be made in the absence of full hearings were necessarily limited. The issues limiting the investigations in relation to those institutions are recounted in the CICA Investigation Committee report as follows:<sup>17</sup>

5.07 ... the discovered documentary materials were examined for information as to abuse during the relevant period. Significant documents were sent to appropriate parties for comment, where those parties had not produced the discovered material, and any comments received by way of submission were then taken into account in the chapters on these two institutions.

5.08 A similar method was adopted in investigating Our Lady of Good Counsel, Lota. This institution was the subject of a series of six separate Garda inquiries, which were continuing while the Committee was pursuing its work. A limited number of witnesses had already been heard by the Investigation Committee prior to 2003, and that testimony, together with documentary evidence, formed the basis of the chapter on the institution.

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16 CICA, Third Interim Report (December 2003), p. 87.

17 CICA Investigation Committee Report Vol. I, Chapter 5.

**5.09 One category of institution that was not included in full Investigation Committee hearings comprised three schools for deaf children.** It was clear that members of the deaf community wanted to participate. In the consultation period that took place in early 2004, Mr Kevin Stanley and other officials of the Irish Deaf Society attended meetings and offered assistance, and were enthusiastic about their members' desire to be part of the investigation process. The numbers of persons (109 in total) who notified the Investigation Committee that they wished to participate in its proceedings in respect of deaf schools were as follows:

- St Joseph's School for Deaf Boys, Cabra – 65
- St Mary's School for Deaf Girls, Cabra – 23
- Mary Immaculate School for the Deaf, Beechpark, Stillorgan – 21.

**5.10 Unfortunately, it proved impossible to arrange full hearings for these institutions. The principal difficulty was in getting statements from a sufficient number of former residents of these institutions.** There had been a protracted and unproductive correspondence between the Committee and solicitors representing the great majority of the deaf complainants about the taking of statements, and the period of time that was necessary for that purpose, and the cost of doing so. The result was that little had been achieved even by late 2005. It was impracticable to prepare all the necessary materials and to arrange hearings in these cases. Obtaining statements from complainants was only the first step in putting all the pieces together to enable full investigative hearings to take place. **Since that first step was not satisfactorily completed in a reasonable time, there was no question of all the other necessary procedures being completed so as to enable hearings to take place.**

**5.12 In the circumstances, limited investigation of these institutions was also carried out by way of analysis of documentary material.** (emphasis added)

19. In respect of those institutions into which there was no hearing of evidence, interviews were taken. Subsequent parts of the CICA Investigation Committee report describe the process whereby complainants were interviewed by a member of the CICA legal team as follows:

**5.15** For those institutions which the Committee was not investigating by way of hearings, all the complainants were invited for interview.

...

5.18 The interviews had two primary purposes: first, to furnish a means of checking or cross- referencing, to ensure that all relevant topics arising in an institution had been properly considered; and, second, to give everyone who wished to do so a means of participating in the work of the Investigation Committee.

5.19 The interview process was greatly valued, and witnesses participated in substantial numbers. A total of 552 people ultimately attended for interview.

20. Thus, the question of whether special schools run by religious orders have already been investigated in a public inquiry must be considered in the context of the limitations of CICA's consideration of this category of school, namely:
- (i) Only residential special schools fell within CICA's remit;
  - (i) CICA could only investigate and report findings for schools where it had received more than one complaint;
  - (i) While there were special schools with high numbers of complaints, ongoing Garda investigations and difficulties with legal representation and the taking of statements from witnesses prevented full hearings of those institutions.

**(ii) Other Processes Considering Sexual Abuse in Special Schools**

21. There have been other previous reports into specific services for persons with disabilities. There may be some consideration of whether there is merit in the same territory being covered again by an eventual inquiry.<sup>18</sup> This would ultimately be a matter for the eventual inquiry to consider in determining which schools should be investigated as part of particular modules.
22. Some persons abused in special schools may have applied for redress under the Residential Institutions Redress Board ('RIRB'). The RIRB was a compensation scheme for former residents of certain residential institutions that fell within CICA's remit.<sup>19</sup>

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18 For example, see the Western Health Board report on an inquiry into the Holy Family School and Brothers of Charity Services in Galway, published in November 2007, available at <https://www.hse.ie/eng/services/publications/disability/mcoy-boc.pdf>

19 The Residential Institutions Redress Board Act 2002.

23. Notably, the RIRB was limited to compensation for abuse of students in residential institutions. The Minister for Education and Science at the time, Dr Michael Woods TD, stated that the scheme was intended to address a very particular circumstance, namely abuse in residential care and was 'not, and was never intended to be, a panacea for every injustice committed on children'.<sup>20</sup> Regarding the exclusion of non-residential institutions, the Minister stated:<sup>21</sup>

... public authorities had formal, and in most cases statutory responsibility both for the placing of the children in the institutions and the regulation of the operation of the institutions. To a significant degree the State, through these public bodies, replaced parents as the natural protector and carer of the children concerned. This placed a heavy responsibility on public bodies for their welfare. A similar responsibility did not apply in the case of children who attended ordinary schools and for the most part continued to live in their homes and communities.

24. As a result, while residential pupils of special schools were entitled to redress from the RIRB, day pupils in special schools had no such right.

25. Persons who received RIRB awards would have signed a statutory waiver.<sup>22</sup> The entitlement of such persons to be part of a potential future redress process in those circumstances would require close consideration.

26. One potential issue for a future inquiry is that certain statutory provisions restricting the use of information provided to the RIRB may mean persons who applied to the RIRB may feel they cannot provide evidence to a future inquiry.<sup>23</sup> However, it appears that documentation relating to an RIRB application could be shared with a future inquiry notwithstanding the restriction contained in section 28(1) of the 2002

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20 Dáil Debates 7 November 2001, Vol 543 No 3 Col. 940.

21 *ibid*, Cols. 940–941.

22 Every person who received a RIRB award would have signed a waiver when accepting the award, as required by s. 13(6) of the 2002 Act, to waive their right of action and to discontinue their proceedings in relation to the relevant institution: 'Where an applicant accepts an award (including an award reviewed under section 15 the applicant shall agree in writing to waive any right of action which he or she may otherwise have had against a public body or a person who has made a contribution under section 23(5) and to discontinue any other proceedings instituted by the applicant, against such public body or such person, that arise out of the circumstances of the application before the Board'. Section 13(12) of the 2002 Act also provides that persons who received RIRB awards shall not institute civil proceedings concerning an institution covered by the RIRB arising out of substantially the same facts as complained of to the RIRB.

23 Section 28 of the Residential Institutions Redress Board Act 2002.

Act.<sup>24</sup> Such information could be shared, where appropriate, with a future inquiry because sections 28(5A) and (5B) of the 2002 Act exempts the giving of documents, information or evidence to a body/person 'conducting a hearing, enquiry or investigation in relation to, or adjudicating on, any matter' from the prohibition contained in section 28(1).<sup>25</sup>

27. Section 28(6) of the 2002 Act separately prohibits a person publishing information concerning an application or an award that refers to any other person by name or which could lead to the identification of any other person including an applicant, a relevant person or an institution:

(6) A person shall not publish any information concerning an application or an award made under this Act that refers to any other person (including an applicant), relevant person or institution by name or which could reasonably lead to the identification of any other person (including and applicant), a relevant person or an institution referred to in an applicant under this Act.

28. In *MB v Collins*,<sup>26</sup> the Court of Appeal held that s 28(6) would not prevent an applicant to the RIRB disclosing their own information regarding the making of an award as part of a discovery process. The Court emphasised that the prohibition in section 28(6) was on publication as opposed to disclosure:<sup>27</sup>

However, subs. (6) unlike subs. (1) is a prohibition against publication of information – not simply disclosure. The prohibition against publication is not a bar to disclosure as part of a discovery process, and is in any event concerned in these proceedings only with the plaintiffs' own information.

29. From this preliminary review, it would appear that a person who made an application to the RIRB could share their own information with a future inquiry.

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24 In *F McK v OL* [2011] 1 IR 263, at 270, the Supreme Court confirmed that a Circuit Family Court conducting a hearing into the provision of maintenance could require the respondent to disclose details of an award made under the 2002 Act, given the provisions of s. 28(5B).

25 Introduced by s 34(h) of the Commission to Inquire into Child Abuse (Amendment) Act 2005.

26 [2018] IECA 146.

27 [2018] IECA 146, para 10.

### (iii) Lessons from CICA: The Context of Abuse in Special Schools

30. Many persons abused in special schools run by religious orders came forward to CICA's Confidential Committee. The CICA Confidential Committee Report notes that the Confidential Committee heard 58 witnesses in relation to complaints of abuse at 14 institutions.<sup>28</sup> It refers to hearing evidence of 36 reports of sexual abuse in special needs schools and residential services.<sup>29</sup>
31. Evidence was heard regarding 28 named staff and 9 unnamed staff who sexually abused witnesses in special need facilities.<sup>30</sup>
32. The Confidential Committee's report included the following breakdown of the category of alleged abusers arising in relation to complaints by pupils of special schools:

Position of reported sexual abusers	Males	Females
Religious		
- Authority figure	1	0
- Care staff	16	0
- Teacher	1	0
- Ancillary workers	1	0
- External clergy	1	0
Lay		
- Care staff	1	1
- Ancillary worker	6	1
Visiting professional	1	0
Weekend or holiday placement carer	1	0
Volunteer worker	1	0
General public	1	0
Co-resident	23	4
TOTAL	54	

28 CICA Report Vol. III Confidential Committee, Chapter 13, 'Special needs schools and residential services', para 13.03.

29 *ibid*, para 13.26.

30 *ibid*, para 13.54-55.



## C. The High Incidence of Sexual Abuse in Special Schools

33. The figures set out in relation to records of historical sexual abuse in special schools indicate a high prevalence of alleged abusers in particular special schools.
34. As referred to elsewhere in this Report, a number of religious orders that ran special schools have indicated that their records of allegations of historical sex abuse in their schools show that across 17 special schools there are some 528 recorded allegations of historical abuse recorded in relation to 190 alleged abusers.<sup>31</sup>
35. This high prevalence of child sexual abuse in schools for children with disabilities is unfortunately reflective of the general trend of persons with disabilities being more likely to suffer sexual abuse in childhood. The Central Statistics Office ('CSO') has recently reported a widespread survey of sexual violence, the results of which *inter alia* indicate that 'people with a disability experienced sexual violence as a child at a higher rate (35%) than those without a disability (26%)'.<sup>32</sup>
36. International studies similarly indicate that disabled children and young people appear much more likely to be sexually abused than the wider population. The Crime in England and Wales Survey of 2019, reported that disabled participants were twice as likely as non-disabled participants to describe experiences of child sexual abuse.<sup>33</sup> More than one in eight (13.4%) respondents who were disabled said that they had been sexually abused in childhood.<sup>34</sup> Other studies have similarly reported disabled people as being more likely to be abused.<sup>35</sup>
37. When considering the figures in the table above, it goes without saying that 190 alleged abusers in relation to 17 special schools is a very high number of alleged abusers. Moreover, one must consider that the tendency in previous inquiries has been to uncover individuals with multiple allegations made against them.<sup>36</sup>

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31 See Chapter 9 and Appendix 7.

32 The Central Statistics Office 'Sexual Violence Survey 2022 – Childhood Experiences' report of 22 June 2023, available at: [https://www.cso.ie/en/releasesandpublications/ep/p-svsce/sexualviolencesurvey2022childhoodexperiences/keyfindings/#:~:text=People%20with%20a%20disability%20experienced,without%20a%20disability%20\(26%25\).](https://www.cso.ie/en/releasesandpublications/ep/p-svsce/sexualviolencesurvey2022childhoodexperiences/keyfindings/#:~:text=People%20with%20a%20disability%20experienced,without%20a%20disability%20(26%25).)

33 Report of the Centre of Expertise on Child Sexual Abuse, *The scale and nature of child sexual abuse: Review of evidence* (June 2021).

34 *ibid*, p. 21.

35 P. Sullivan and J. Knutson, 'Maltreatment and disabilities: a population based epidemiological study' (2000) 24(10) *Child Abuse and Neglect* 1257–1273. This study reports disabled people as 3.4 times more likely to be abused.

36 This is discussed in Chapter 23.

38. In CICA it was noted that 36 individuals were each named in more than 20 allegations:<sup>37</sup>

Number of Allegations	Number of Individual Respondents	Approximate Percentage %
1	757	63.35
2-10	353	29.54
11-20	49	4.10
20+	36	3.01
TOTAL	1,195	100

39. Similarly the Dublin Archdiocese report<sup>38</sup> refers to one individual who admitted abusing over 100 children and another who abused countless more. The Commission therefore indicated that it was important not to equate the number of known complaints of abuse with the total number of actual instances of abuse.<sup>39</sup>
40. As such, the fact that there are allegations in relation to 190 alleged abusers in special schools may ultimately mean that far more than 528 allegations of historical child sexual abuse may emerge in the event of a full inquiry.

## **D. Conclusion**

41. The Scoping Inquiry has given particular consideration to the position of special schools in circumstances where some special schools were considered as part of CICA and as part of the RIRB. It might therefore be suggested that a future inquiry should not consider such schools again.
42. However, as appears from the above, it is evident that only a limited number of such schools were considered as part of CICA. Further, even where some special schools were considered, it appears that the investigations conducted were limited in light of practical difficulties in respect of hearing witnesses arising from both ongoing Garda investigations and disagreements with legal representatives that prevented full hearings taking place.

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37 CICA, Third Interim Report, p. 192.

38 Report of the Commission of Investigation into the Catholic Archdiocese of Dublin (2009), Part 1, [1.9].

39 *ibid.*

43. In light of that limited consideration of special schools in CICA, and the sheer volume of allegations recorded by the religious orders in respect of such schools, the Scoping Inquiry considers that special schools should be within the scope of a future inquiry.
44. In particular, it is the view of the Scoping Inquiry that given the high concentration of allegations in a limited number of schools, consideration should be given to a module of a future inquiry considering allegations of historical child sexual abuse in special schools.

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