

CLIFTON DIOCESE CHILD PROTECTION COMMISSION  
RESPONSE TO THE CUMBERLEGE ENQUIRY

1. We welcome the opportunity to make submissions to the enquiry. The recommendations of the Nolan Report (to which we will refer as ‘Nolan’) have now been in operation for five years, and valuable experience has been gained during that period. Many matters which were, and could not have been, considered in detail by Nolan have now come to the fore, and we hope that this enquiry will result in positive further recommendations for the future.

2. In our view, the areas which need to be considered are as follows-

1. Accountability.
2. The extent to which bishops and dioceses follow COPCA procedures.
3. Enforcement of procedures.
4. Training of priests.
5. Cultural issues
6. Resources.
7. Future of COPCA.
8. Vulnerable adults.
9. Rights of those unjustly accused.

We will consider these areas in turn.

ACCOUNTABILITY.

3. (a) Accountability of the CPC.

The terms of engagement of many Child Protection Co-ordinators (CPC) provide that the CPC is accountable to the diocesan bishop, and this follows the suggested terms of reference prepared by COPCA. We query whether this is the correct word to use; what does ‘accountable’ mean in this context? In our view, while the duty of the CPC is to give advice to the bishop, the term ‘accountable’ could mean that he or she is seen as subject to the supervision of the bishop in the exercise of

professional duties. This error has been compounded by some bishops who have described themselves as the line manager of the CPC.

4. This is not merely a semantic dispute. The CPC must be seen as completely independent, subject only to the advice and support of the Commission in that diocese. The worst case scenario would be if the bishop himself were the subject of enquiry; the practice now seems to be that the CPC of another diocese would investigate such a case, but this is a somewhat improvised solution. In such a case the CPC of the diocese would in any event have to take the decision to refer to another diocese, so even at that stage complete independence must be guaranteed. We suggest, therefore, that the model terms of engagement of a CPC should provide that it is the duty of the CPC to advise the bishop, and that, in the exercise of his or her professional duties, the CPC is accountable only to the Commission. It would be for the Commission to decide who was to be the line manager for professional purposes. (We accept that, for practical reasons, a line manager within the diocesan structure could be appointed to deal with such bread and butter issues as annual leave, pay and conditions etc).

A CPC is employed by the diocese. He or she has the normal employment rights of an employee. It is possible, however, that a bishop, or other administrative authorities in a diocese, could seek to terminate the employment of a CPC. To protect the independence of the CPC we recommend that the Commission should always be asked to concur in such termination.

There is a related issue of whether the bishop must accept advice given, but we deal with this below.

(b) Accountability of the Commission.

5. It follows from what we have said above that the Commission must also be independent of the diocesan structure and of the bishop. We accept that members of the Commission must, in the first instance, be appointed by the bishop. This should normally be on the recommendation of the existing members of the Commission who will be best placed to know who is most suitable. The issues which arise from this are the bishop's right to remove an individual from the Commission and whether there should be fixed terms of appointment.

Practice varies from diocese to diocese. In our view, without some system of fixed terms, there would be a danger that the Commission would become a self-perpetuating oligarchy. Against this must be balanced the fact that suitable members of a Commission in certain fields are frequently few and far between, and it would make no sense to remove a valuable member of a Commission after a term of years as a matter of course.

We suggest that members of a Commission should be appointed for fixed terms (e.g. three or five years) but that these should be renewable (without limitation on the number of renewals). In this way, it would be possible to encourage suitable members to continue to serve, while allowing the bishop, normally on the advice of the Chair, to change membership periodically.

© The trustees.

6. Nolan, and the COPCA model terms of engagement, provide that the CPC is accountable to the diocesan trustees. We recognise that the trustees are the ultimate employer of anyone working in the diocese and so might consider that there is accountability to them. However, we question whether the CPC should be accountable in any sense to trustees in the exercise of his or her professional duties. Any attempt by trustees to exercise control over the CPC or Commission would be highly regrettable, and, to avoid any doubt, we recommend that any reference to accountability to trustees should be removed.

#### THE EXTENT TO WHICH BISHOPS AND DIOCESES FOLLOW COPCA PROCEDURES.

7. We are aware that highly placed individuals in some dioceses consider that COPCA exercises undue influence over them and that they are free to disregard or amend national policies as they see fit. We consider that the bishops, as a body, should renew their commitment to national policies and that this expression of commitment should be regarded as binding on all bishops.

We have already mentioned the issue of whether a bishop should have to follow the advice of the CPC. There can be very few examples of a bishop refusing point-

blank to follow such advice in any way. However, there are examples of bishops who say that they will deal with a problem ‘in their own way’. This could lead to an amateurish and wholly inappropriate way of trying to deal with a problem. We therefore recommend that it should be made clear that bishops are required to act on the advice which they are given.

## ENFORCEMENT OF PROCEDURES

8. All dioceses report that attendance of priests at diocesan training days is, at best, incomplete. It is encouraging that those organising such events report that those priests who attend are generous in their tributes to the value of the events; most priests say that their awareness has been greatly improved and that they have learnt much of which they were not aware before.

It is all the more depressing, therefore, that there is a substantial proportion of priests in every diocese who simply fail to attend such events. We cannot speculate on why they do not attend. It is unlikely that their failure stems from outright hostility in most cases (though it is worrying that most dioceses report small numbers of priests attending who are contemptuous of the procedures and, in some cases, actively try to sabotage the events). We accept that in most cases, a combination of pressures of work and a feeling that they are familiar with the problems is the most likely reason. However, the fact remains that these priests are not receiving the training which they should receive and which the bishops, following Nolan, have decreed they must have.

10. Some dioceses report the further problem of bishops who are unwilling to discipline priests for failure to attend. In our view, the only way to secure high levels of attendance is that the bishop should require his priests to attend and take appropriate action should they refuse, including where necessary an interview with the priest or priests concerned and a written undertaking to attend. We do not understand why some bishops are unwilling to be more prescriptive and we recommend that this should be national policy adopted by the bishops’ conference.

## TRAINING OF PRIESTS.

10. A problem associated with the last heading is the formation of priests. We understand that efforts which were made, following Nolan, to introduce issues of child protection into seminary training have more or less disappeared. This is extremely worrying, especially because most of the examples of contemptuous and hostile attitudes mentioned above occur among younger priests, many of whom will have been trained post-Nolan. We recommend as strongly as we can that training in child protection awareness be re-introduced in seminaries. We suggest also that, as in most professions, priests should be obliged to undergo continuing professional development, and that this should include child protection. (This obligation already exists in the case of chaplains to hospitals, colleges, and prisons.)

Further, although this is beyond the scope of our remit, we question whether applicants for seminary training are adequately screened to identify potential future problems.

## CULTURAL ISSUES

11. The Church in our diocese (and country) has become much more globalised, multi-ethnic and multi-cultural in a very short time. Many from Africa and India who have joined our communities have very different cultural attitudes to children, and corporal punishment is not only frequent and sometimes rather brutal; teachers and catechists from these societies are expected to act according to these norms (and their own catechists do so with no difficulty). Many people from such societies just do not understand our contemporary concern for Child Protection. This raises issues of education and supervision and we consider that the Commission should address these new cultural issues.

## RESOURCES

12. We are aware that the child protection offices of many dioceses, (not including our own) are severely under-funded and are unable to fulfil all the functions

allotted to them. This is extremely short-sighted on the part of the dioceses concerned and could well lead to scandals being overlooked or inadequately handled. We are well aware of the financial problems faced by many dioceses, but consider that child protection must be at the forefront of calls on diocesan funds. Linked with this is the problem of funding COPCA. We are aware that, due to financial difficulties, COPCA is unable to fill its staffing complement, and other vital parts of its work are hampered. As we say below, we consider that an active and efficient central organisation is essential to the effective operation of child protection within the church, and the church authorities simply must make the money available for those functions to be carried out.

### COPCA

13. We understand that it has been suggested that COPCA be disbanded and dioceses told to organise their own system of child protection. In our view this would be disastrous and would completely undermine any claim the church might have to have understood and determined to deal with the problems of child abuse within it.

Having said that, we agree that COPCA has largely fulfilled its role defined by Nolan, and that its precise remit should be re-examined. We still need a national body to ensure the Church fulfils its obligations but once the policies are all completed the main part of COPCA's initial work will be finished. It could then be downsized but be given a regulatory role, perhaps akin to that of the Catholic Education Service. Dioceses would no longer then have to make such a huge contribution to the national office; it follows, of course, that any savings should be ring-fenced for diocesan Child Protection offices. In this way it would be possible to gain better resourcing locally but retain COPCA.

In summary, we do not want to see COPCA disbanded but do believe its function needs to change. However, we repeat our principal concern, namely that, if COPCA were to be downsized, diocesan financial contributions must be definitely ring-fenced. Otherwise, we can foresee that Dioceses would happily use the savings for purposes other than Child Protection.

## VULNERABLE ADULTS

14. The church is on the brink of imposing responsibility for vulnerable adults on to child protection Commissions. We have to say, as strongly as we can, that this would be a disaster. Protection of vulnerable adults is a vital function for the church, and there is indeed a real problem to be faced. However, it is entirely different in kind from child protection and requires a separate sort of expertise. Most members of child protection commissions would regard themselves as incompetent to advise on such problems. For example, almost all the members of our Commission would feel obliged to resign if this obligation were imposed on them.

Moreover, all CPCs and supporting staff are already at best fully committed and at worst grossly overworked. It would simply be impossible for them to take on the additional tasks relating to vulnerable adults.

If the church wishes to provide protection for vulnerable adults it must do so by means of a separate organisation which it must find the resolve to fund separately from child protection.

## RIGHTS OF THOSE UNJUSTLY ACCUSED

15. Anyone involved with priests in child protection work, and anyone who reads the Catholic press, will be aware of the unease felt by many priests about the invidious position in which they think they are placed. Fears are frequently expressed about the perceived lack of natural justice in the process, and what many priests regard as a modern version of a witch-hunt which can occur. There are related problems over the reliability of 'recovered memory syndrome'. We consider that these are fears which must be faced and dealt with; the whole process of child protection cannot be effective if a substantial number of clergy feel that it is unjust.

It seems to us that there are two aspects to consider. The first is the standard of proof which should be applied, and the second is the process which the church should employ to deal with complaints of injustice.

As to the standard of proof, one frequently hears complaints that, since the Crown Prosecution Service has taken no action, investigation of any allegation should be abandoned. This betrays a simple lack of understanding of the difference between criminal and civil standards of proof which can be illustrated by reference to the

standard of proof used in the related field of applications to the court for care or supervision orders for children. Here, the standard is that of the balance of probabilities, which is a lower standard than that required for a criminal prosecution, and this is, in fact, the standard applied in virtually all civil proceedings. Bearing in mind that the welfare and protection of children are the aims of the church's child protection policies, there is no reason to depart from this principle when investigating complaints of child abuse in the church, and this point should be articulated more strongly than it has been in the past.

16. A more difficult problem is that of the priest or individual against whom either no action is taken or against whom an unsuccessful prosecution is brought. Such individuals frequently consider that their name has been cleared and that they are entitled to return to their previous roles. It sometimes happens that the Child Protection Commission considers that, notwithstanding the acquittal, the individual is still not a safe person to return to parochial duties.

At present, although there is a COPCA procedure for dealing with such cases, it is left to individual bishops to make the final decision. This is unfair both to the individual concerned and to the bishop, and we suggest that there should be a new procedure to handle such matters, in the event that the injured party wishes to take the matter further and to challenge the provisional findings of the bishop. In the absence of a fair domestic tribunal to adjudicate on these matters, it can only be a matter of time before a priest or other individual brings a successful claim against the church based on breach of his human rights.

A good model exists in the Anglican church. Many centuries ago, bishops sat as judges in their own diocesan courts. Then this changed, and the office of Chancellor, or bishop's legal officer, was instituted, the Chancellor becoming the judge on behalf of the bishop. This system has endured to this day, the Chancellor being normally a senior and experienced lawyer from the professional or academic worlds who sits, with assessors, on an occasional basis as and when required.

We suggest that this model be adopted for the Catholic church. In this way, priests and others could be assured of receiving a fair and impartial hearing and justice would be seen to be done.

Roger Bird

28 September 2006.