

Cumberlege Commission

Response from the Archbishop of Cardiff

1. I firmly believe that the recommendations in Lord Nolan's report have been implemented very well indeed and have fulfilled very well the "desirable outcome" mentioned in 2.5.1 of the report:

"A key issue here is to what extent policy should be developed and agreed nationally and to what extent each diocese, reflecting the formal independence of bishops and dioceses, should develop its own. Our view is that the most desirable outcome would be a single set of policies adopted throughout the Church in England and Wales (including religious orders). So, while we recognise that bishops and religious superiors are each fully responsible for their own policies and arrangements, we recommend that they work together through the National Child Protection Unit (see Recommendation 16) to develop and implement such a single set of arrangements."

The structures now in place in every Diocese, together with the establishment of COPCA (NCPU) have greatly enhanced the work of the protection of children and vulnerable adults and have given the Church an excellent framework to ensure an organised and consistent approach to this very complex matter. Having good, sensible and experienced people on the Diocesan Child Management Team has given great confidence to the Bishop, clergy and people, that the protection of children and vulnerable adults is a serious business, which will be to the benefit of the whole Church and society at large.

Some of the barriers to it working well are:

- a) A certain rigidity and legalistic approach to some of the processes and a lack of common sense in their application;
- b) Well-meaning but overly "zealous" individuals who see everything in black and white terms, and who seem unaware that there are inevitably some very grey areas which need experience and prudent judgement in their resolution;
- c) A lack of appropriate flexibility and adaptation in the application of the norms and processes, without in any way overthrowing the principles;
- d) A misapprehension that what is issued from COPCA is advice and guidance, rather than what is sometimes *perceived* as authoritarian dictat.

I am not aware that there is any urgent need for more to be done in terms of structures and processes, nor of any obvious "gaps" in what has been developed very successfully in principle through the good offices of COPCA.

2. This is a very sensitive area fraught with difficulty. Getting the balance right, in order to better protect children and vulnerable adults, whilst at the same time making sure that the accused is treated justly, fairly, whilst firmly upholding the presumption of innocence until proven guilty, has in some cases proven extremely difficult. I do believe we need to look very carefully again at this problem so that any conflict of rights can be resolved fairly and justly. Having said that, I have no simple solution to offer, and it may be that all we can do is to be very aware of the problem and try and resolve such issues as best we can in individual cases.

3. Overall, my answer to this question is yes. Having virtually “started from scratch”, so to speak, COPCA fulfilled Lord Nolan’s recommendation (although I have no knowledge about the extent to which the central database of information has been developed).

4. My one reservation is the mountain of paperwork which has been produced and what I consider to be the overly detailed prescriptions of some of the guidelines, especially for parish representatives. I am afraid that faced with such huge quantities of detailed prescriptions, some people will be entirely put off taking on the responsibility of “parish representative”. I really do think that some of these documents ought to be drastically reduced to a much shorter “bullet-point” document which is more readily digestible and will reduce the possible anxiety for some such representatives as to whether every last “jot and tittle” has been complied with.

I think COPCA does have a very important role and will do in the future, although with experience growing in the Dioceses, and the passage of time, its role will be able to be reduced. There will inevitably be changes in what is regarded as good practice over the years, and I think there will always be a role for a “central body” to whom Bishops, Religious Superiors and Child Protection Officers/Co-Ordinators can turn to for advice and guidance in difficult and complex cases, and which will maintain and keep up to date a central database.

4. I can only speak with conviction about my experience here in the Archdiocese of Cardiff. I think they are working well. We are all learning from experience, and I have great confidence in the Child Protection Officer, the Co-Ordinator and Management Team of the Archdiocese, and the many very generous and dedicated volunteers who are committed representatives in all our parishes.

We are all still learning, but my impression and experience is that overall they are efficient and effective, and that through on-going training and formation even better standards will be achieved in the years ahead.

5. My response to this question is somewhat ambivalent! I am not sufficiently expert in this whole field to say with any authority whether the policies and practices are an example of excellent practice. I have no problem with the overall thrust of the policies which I believe have alerted all of us to the reality of child abuse and the appalling consequences of such abuse for the victims. The painful process of becoming more aware of this, and having to develop the necessary structures to deal with it, has helped all of us in the Church to be much more vigilant, and more responsible and responsive to allegations of abuse, and hopefully has also helped us along the road of dealing with them with Christian charity, and with fairness and justice.

That having been said, I do believe we need to reduce, if possible, the huge amount of sometimes complex documentation which in some cases could hardly be described as “user friendly”, to use the modern jargon. I am a little afraid that the sheer volume of these documents, and the minutely detailed provisions, will have the effect of putting people off getting involved, and ultimately putting at risk all we are trying to do.

I should also like to make two other more general comments. First, that I think at times there has been a *perception* that both COPCA, and some Child Protection Management Teams/Protection Officers/Co-Ordinators, still do not fully understand the structures of the Church as established by the Code of Canon Law, and that ultimately, to quote the Nolan Report “... we recognise that bishops and religious superiors are each fully responsible for their own policies and arrangements.” (2.5.1)

Whilst recommending that there should be policies and practices which would be “adopted both by bishops and their dioceses and by religious superiors and their orders”, the complex and hierarchical structure of the Church and the autonomous nature of the Bishop’s authority in his own Diocese was also recognised and accepted. “Whilst it is true that the Church is a hierarchical organisation, the common belief that, for example, the Archbishop of Westminster has complete authority over matters affecting the different dioceses in England and Wales is not the case. Each diocesan bishop exercises his power autonomously though not in a totally independent manner. He must act in accordance with the norms of canon law, and in communion with the whole episcopal college and with its head, the Pope. In canon law, every diocesan bishop has equivalent status, and only the Holy See has the power to control and limit the exercise of the bishops’ power. Religious orders are governed by their own specific law and constitutions and, in general, the diocesan bishop has no capacity to intervene in their internal affairs. He does, however, have a certain authority over individual members of those orders and congregations whom he has given permission to exercise a pastoral ministry in his diocese.” (3.1.11)

This is not to argue that the Bishop is free to act arbitrarily and autocratically. The Bishop too needs to be aware of the policies and procedures, which, in my view, he must be free to adapt slightly if need be, according to the particular circumstances of the individual case. What must never be forgotten is that in relation to his priests, he is the only one in the Church who has authority over them (apart from the Holy See), and nobody else. If he does not treat them fairly and justly according to the Canon Law of the Church, he himself is accountable to the Holy See, to whom any aggrieved priest always has recourse.

Some priests certainly have the perception that the measures introduced over the past five years have been draconian and have deprived them of their legitimate rights under the Code of Canon Law. Personally I believe this to be a false perception, with the admitted exception that “Administrative Leave”, as required by our current procedures is “provided for in canon law within the context of a judicial trial initiated by the Church.” (3.5.16) Therefore, in strict Canonical terms, it cannot be enforced outside the context of a full, Canonical judicial trial, although his Bishop could perfectly legitimately invite the priest to go on “administrative leave”. Apart from preventing any interference with the accuser, his or her family and witnesses, such “administrative leave” seems to me to be eminently sensible too from the priest’s point of view. I cannot see how a priest who is accused of abusing a child, even though innocent, could comfortably and fruitfully exercise his pastoral ministry, given all the media attention which accompanies such cases, and the inevitable concerns, doubts and questions which arise in the hearts and minds of his parishioners. There is also the danger, if the accusation has become public, that the priest himself could be in danger from ignorant and violent “vigilantes”.

Having recognised this “anomaly”, the Nolan Report added, “we underline the necessity of the Church to have satisfactory administrative procedures to achieve the withdrawal of the priest or deacon from contact with children in those circumstances where a judicial procedure has not been, or cannot be, initiated by the Church. It is well understood in professions such as teaching that suspension in these circumstances does not imply guilt.” But here again I think there is a problem in that many people looking on believe that “there is no smoke without fire”, with the consequence that a priest’s (or the teacher’s) good name and character is besmirched, even though at the conclusion of an investigation he is cleared of any wrongdoing. I don’t think there is any simple resolution to that difficulty.

However, “Administrative Leave” as understood in the Nolan Report, could be dealt with by local legislation by the Bishops of England and Wales, but such legislation would require “recognitio” by the Holy See before it could come into force.

I hope this response is not too general, but I did not want to clutter it up with numerous examples. However, I should be very happy to give aural evidence to the Commission if that would be deemed helpful.

The Most Revd. Peter Smith
Archbishop of Cardiff
21st September 2006