

The Cumberlege Commission

Review of the Nolan Procedures for the Protection of Children

Submission of the Archbishop's Council
of
The Diocese of Westminster

September 2006.

1. Whether you think the implementation of Lord Nolan's report, "A Programme for Action", has worked?

Given an overall view of the Nolan Recommendations and their implementation, it is felt that the Catholic Church in England and Wales has a single and coherent policy. This has been agreed by all the bishops, is transparent and provides a high standard of procedure and regulation for good practise in the field.

The implementation has been carried out in a particularly difficult time where a culture of blame has been promoted by the Media. This has meant that efforts to be pro-active in establishing "best practice" in the procedures for the protection of children has been dogged by the constant need to be reactive and the search for scandal and "cover up". Had the implementation of the report occurred at a time when there was not such public interest and media attention, the implementation could have been more smoothly completed. However, it should be said that the focus of public interest also brought a level of urgency to the implementation, and a need to complete the work recommended by the report.

What more needs to be done?

There remain, in our estimation, four significant areas for further progress:

1. Administrative Leave in historic cases. In the case of investigation of 'historic cases' it is felt that a priest should not be treated in the same way as when a current allegation is being investigated, particularly in terms of being obliged to leave the presbytery immediately.
2. A person's right to his good name. There is an urgent need to preserve a priest's right to his good name, and to assume that an individual is presumed innocent until proven guilty. There is some tension with the paramountcy principle for if it is incorrectly applied there can be a strong implication that a person is guilty or needs to be treated as though he is guilty, from the moment an allegation is made.
3. The preservation of the good relationship between a bishop and his priests. The requirement for a bishop to stand in a 'neutral space', or to distance himself from a priest, from the moment an allegation is made through to the conclusion of any proceedings or trial, has damaged the relationship between a bishop and his priests. Priests have felt abandoned.
4. Cases which are not prosecuted. Where an allegation has been made but not subsequently pursued by the Crown Prosecution Service or the Police, both priest and Diocese are left in a "no-man's land". The Nolan procedures require that the case goes to the Child Protection Commission who may either assess the case themselves or require an independent assessment to be undertaken. However, where it has proved to be the case that such an assessment judges that the priest presents "low risk" to children and therefore the individual becomes unappointable. The present procedure lacks a judgement, which might perhaps be given by a diocesan tribunal, about the likely guilt of an individual. At present, the assessment begins from an assumption of guilt and questions as to the level of any future pastoral ministry are never properly aired.

Lesser concerns: It remains true that some parishes do not yet have trained and competent Child Protection Representatives. It is also true that the culture of Child Protection has not yet been accepted by some clergy and laity who appear to pay lip service to the procedures without fully recognising the need for a change in their own behaviour. While not in any way abusive or offensive their behaviour may lay them open to false allegation or complaint. Some clergy and laity have not understood that this matter calls for a constant vigilance on their own part rather than just a compliance with structures and bureaucratic requirements.

The implementation concerns and involves several thousand existing volunteers. If these had been employees, implementation could have been imposed by dictat and sanction. There needs to be a continued change of heart where parishioners and priests are eager to implement procedures for the safeguarding and well-being of children. There are still some people who think the Church authorities are being over zealous in this regard.

Most people were, and still are, completely oblivious to the impact of abuse on a child. They have no experience, in the main, of dealing with victims and the traumas that abuse causes within a person.

The implementation has 'worked' in making it acceptable for a person to bring forward an allegation in the knowledge that it will be dealt with according to established procedures. It has also worked in helping people to grow in their awareness of the implications of abuse.

There has been some difficulty in formulating national policies on the hoof but now that these policies are published and implemented the situation should improve everywhere.

Where are the gaps? As stated above, there are four significant concerns which require careful consideration, and some lesser concerns which are largely concerned with attitudes and education. To date, the network of people working to apply the procedures is not complete. Everybody directly concerned with Child Protection, from the members of the Diocesan Child Commission to the volunteers working in the parishes need to be aware of the single structure in which they are all involved. To an extent, this sense of cohesion will establish itself in time, but it will not happen by default.

In addition to the above, further gaps in the operation of the current procedures include:

- There exists no professional structure available to priests, similar to the union which might protect teachers or police-officers in similar circumstances.
- The word "abuse" is used in a wide-ranging and non-specific way, which leads to confusion,
- There has been a difficulty in revisiting allegations that the alleged perpetrator had thought had been dealt with by the Diocese and the authorities and were therefore closed. These have perhaps been wrongly named 'historical allegations'
- The police are sometimes slow in carrying through their investigations and this has caused stress to the accused who remains in limbo, often for many months.
- The lack of "partnership" with the Police and Statutory Authorities has manifested itself in long delays and confused and overlapping processes, particularly with regard to the issuing of statements. (However, in many ways the actual partnership between the Diocese and the police is really quite good and there is a good degree of collaboration.)
- The role of "Administrative Leave" as a temporary withdrawal from ministry has caused resentment and confusion,
- The duties and obligations of the Diocese/Religious Order towards a priest either convicted of an offence or assessed as unsuitable for ministry are unclear, particularly in the areas of accommodation and financial provision,
- The duties and obligations of the Diocese/Religious Order for the provision of legal advice for an accused priest are unclear,
- The duties and obligations of the Diocese/Religious Order towards a cleric who is laicised following a conviction are unclear,
- There is uncertainty about the appropriate Insurance provision required by Dioceses and Religious Orders in matter of Child Protection.
- There is a lack of distinction between priests visiting from abroad and priests visiting from other dioceses concerning the required testimonials of suitability.
- In a large diocese such as Westminster, it is difficult for one full time and one unpaid person to keep fully in touch with what is happening in every parish in terms of appointing and training volunteers in awareness and procedure. This problem will lessen when all existing volunteers have been fully processed and we are simply dealing with newcomers.
- There remains a lack of cohesion between Canon Law and British Law. The recommendations are vulnerable to strong challenge at canonical level, leaving diocesan authorities in a precarious position.

- There continues to be scepticism concerning the role of the "Psychological Assessment" and the concept of "Low Risk" in defining any future priestly ministry for a priest
- The lack of policy and procedure when a priest, who is not charged, refuses to undergo assessment or who contests the findings of an assessment.
- The lack of policy when a priest admits to inappropriate or abusive behaviour before entering seminary.
- There remains no distinction between an isolated action for which there may be genuine remorse and forgiveness, and addictive or repetitive abuse.

What are the barriers to it working well? The implementation of the report cannot be successfully completed unless everyone concerned with child protection recognises that their own behaviour has to change and risks be avoided. No end of regulations and procedures will ensure the protection of children unless individuals recognise their own personal responsibility.

A particular barrier lies in the lack of understanding of the nature of priesthood and the effect on an individual priest when an allegation is made. This is quite different from the effects on a teacher or police officer who is suspended during a similar enquiry.

2. Whether you think that the processes introduced nationally and locally in the dioceses and religious orders have struck the right balance between creating a safe environment for children and vulnerable adults and being fair and just to those who serve the Church community.

By and large the processes reflect what takes place in a secular organisation when an allegation is made. The difference with priests is that, in order to safeguard children, the priest not only has to leave his job but his home as well. Because of the public and trusted nature of his role, the priest suffers immediately from the glare of media, gossip and innuendo, even though only an allegation has been made which may prove to be groundless. This causes a sense of injustice amongst priests, and the threat of false allegations is clearly felt among the clergy. The issue relates to tied accommodation that is integral to the priest's place of work and it is hard to see a way round this.

The question of false and malicious allegations is covered in the National Policy. A declaration of not guilty or 'case withdrawn' does not of itself dissolve the allegation. In fact, in Westminster there has so far been only one false allegation. The priest in question was never removed from ministry and the matter was resolved by the statutory authorities with the utmost alacrity.

Over the past five years, discussions about the Nolan procedures have continually produced concerns about the prejudicial effect on clergy whenever there is any allegation. The clergy have felt very vulnerable. No-one would doubt the need for providing a safe environment for children but a priest's ministry can come to a very abrupt end as a result of a malicious and false allegation. The imposition of "Temporary withdrawal from Ministry" is a draconian measure. The priest loses his ministry, his home and is immediately the focus of gossip and innuendo which may concern an allegation of abuse twenty or thirty years previously. The time taken in processing a number of these cases has meant that (even where no fault is attached to the accused) irreparable damage has been done to the individual and to the communities.

It has been necessary, quite correctly, for the Church to come in line with other public services, where child procedures have been long established. The lack of procedures has meant that there have been hidden cases of abuse and appropriate measures need to be put in place, particularly because of the dimensions of trust that must exist within the confines of the Church and its ministry. However, there are priests and laity who consider that the procedures that currently exist makes victims of all the accused, whether or not they are guilty.

The damage currently done to falsely accused clergy and laity in matters of historical allegations could be greatly limited if the requirement to withdraw from ministry is dropped. (This, of course, would depend on the seriousness of the allegation in an individual case). It has been the experience in this country that some historical cases have come to nothing, with the verdict of "Not Guilty" being directed by the judge, and yet the priest has usually been removed from his parish and ministry for a considerable time. The priest is still required to undergo some form of assessment so that the Child Commission is satisfied about his suitability for ministry but this can be carried out without the glare of publicity.

The Paramountcy Principle for the protection of children will necessarily mean that, on occasions, a person may have to be withdrawn from ministry, but it is vital that some way be found of minimising the harmful effect this may have on the falsely accused and the community that he serves.

3. Lord Nolan recommended that a national child protection unity be established primarily to :

- Provide advice and consultation to the Conferences of Bishops and Religious on the protection of children and vulnerable adults
- Co-ordinate the development of national policies and procedures
- Give expert advice and moral support to dioceses and religious orders
- Collect and disseminate good practice
- Facilitate child protection training and awareness raising
- Monitor the effectiveness of arrangements locally and secure improvements where necessary
- Establish and maintain the central confidential database of information
- Liaise with the statutory agencies (including the Criminal Records Bureau)

Whether you think that the Catholic Office for the Protection of Children and Vulnerable Adults (COPCA) has fulfilled these functions?

Does it have role to play in the future?

If so, say what role that should be?

Are there any changes you think should be made to deliver that role?

This body has worked tirelessly to establish National Policies. As far as officers of the Diocese are concerned there has always been sensible and practical advice available without which it would have been impossible to handle adequately some of the allegations and situations with which the Diocese has been faced. It is difficult to imagine a situation where there is no national body to oversee and regulate activity at local level in the Dioceses.

The intended role of COPCA is laudable. There has been a need to establish nationally applied procedures rather than allow for a confusion of local measures. COPCA has succeeded in framing national procedures and co-ordinating the implementation of these procedures throughout England and Wales, in dioceses and religious orders.

There has been criticism of the level of bureaucracy employed by COPCA and its lengthy documentation. There has been confusion about the CRB checks and the purpose of the database and the information stored there. There has also been criticism of the costs of the office and there is

a common perception that COPCA is not sympathetic to the role of the priest and the nature of a priest's ministry and personal circumstances. Whether or not this perception is true, it has meant that there has been some suspicion that COPCA is not a moral support to dioceses and individual priests.

There is a continuing role for a central office to monitor and promote best practice throughout the Catholic Church in England and Wales. It is hoped that, having established structures and published essential materials, it's own activities could now be scaled down to a level of maintaining what is now in place.

Some criticism was voiced about the presentation of the first COPCA Annual Report which failed to make a distinction between current and historical cases and consequently inferred that new cases were arising on a weekly basis. COPCA acknowledged the criticisms and have amended the style of their report.

4. Whether you think the new organisational structure (introduced in the dioceses and religious orders) are working well?

Are they efficient and effective?

What, if any, improvements might be made?

To the greater extent, yes. However, there is still a lack of cohesion and smooth practice. This is probably inevitable given that the procedures are still new and there has been little experience. It is only in recent times that a full Diocesan Commission has been established and an independent chair appointed. However, there is a growing understanding, and an awareness that every case is different and that there will always be a need to apply the procedures according to the particular circumstances of each case.

5. Whether you think the policies and practices introduced in the wake of Lord Nolan's report are an example of excellent practice in the creation of a safe environment for children, young people and vulnerable adults?

If not, can you identify what are the most serious omissions?

The system is extremely sound. Parishes that follow the procedures will undoubtedly create a safe environment. It is noteworthy that a member of the Muslim Community announced on national radio that the Muslims needed a system for their schools, similar to that now implemented by the Catholic Church.

Generally speaking, there is no doubt that the policies and practices have already done good service for the protection of children. They have assisted dioceses in handling allegations and this has been particularly helpful in minimising the destructive effect that child abuse cases have on the life of the Church. The Church in England and Wales has been able to meet allegations with a standard and thorough procedure which promotes the paramountcy principle for the protection of children.

Cardinal Cormac Murphy-O'Connor
+George Stack
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