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Dear Professor Jay,

In the recent Public Hearings in the investigation into abuse in the Roman Catholic Church held in November and December 2017, there was evidence of a large number of cases where child sex abuse was strongly suspected or known but not reported to the civil authorities. The safeguarding professionals who had been called in by the Roman Catholic Church to reform its safeguarding all in effect said the same thing, that safeguarding in the Roman Catholic Church was essentially unreformable, that it was not reasonable to expect significant improvements to come from voluntary efforts by the church to improve its handling of safeguarding and that any improvements would therefore have to be the result of coercion from outside. These opinions came from those who had tried to reform the church from within and had failed.

Eileen Shearer spoke of the barriers to effective working, which clearly remained by the time she resigned as Director of the Catholic Office for the Protection of Children and Vulnerable Adults (COPCA).

"Priority seemed to be given, often, too often, to protecting the institution from open scandal and to dealing with things in-house, a mistrust of the statutory authorities, and there seemed to be a lack of awareness of their own lack of knowledge in a way, so that they were not open to accepting advice or receiving training and development.

"There is often reference in the evidence that I have read about the fact that the child protection policies nationally were not mandatory, which was not the intention, I believe, of Lord Nolan, and also that they might draft their own local policies."

Adrian Child, Eileen Shearer's successor as head of COPCA and its successor the Catholic Safeguarding Advisory Service (CSAS) was even stronger.

"If I could just, I suppose, add to that that I think the Catholic Church has had two excellent opportunities, through Nolan and Cumberlege, to get safeguarding right on a kind of, as I said, goodwill, internal basis, and whilst I think there's been a huge amount of effort by a lot of people, a lot of very good people, within the church, and I include some bishops and religious leaders in that, they haven't got it right, and that's in a 15-year period. So I don't see any value in tinkering around the edges and saying, "Here you are. Here is a third opportunity. Go away and sort this out yourself", so that comes back to my point I made a few minutes ago: I think there needs to be accountability and some kind of mandatory enforcement."

Dr James Whitehead, the outgoing headmaster of Downside School made a similar point

"Accountability is the fundamental problem. The members of the monastic community are not accountable unless they commit a criminal offence, obviously. But they are not accountable to anybody. They can go back and retreat to the abbey and, you know, after this, they will go back and enjoy their Christmas celebrations and not worry fundamentally about the impact, necessarily. There will be some bad PR for a while, potentially, but their livelihoods are never going to be at stake. They are going to go back and live in their grade I or grade II listed building and enjoy that for the future. So the issue of accountability is a real one.

I think the points that have been made in terms of the mandatory reporting I think are good ones, and I think the testimony that was given yesterday, arguing perhaps for a body which oversees more accountability within this area, I think I would fully support."

Jane Dziadulewicz, former safeguarding co-ordinator for the diocese of Clifton raised the same point and made the same recommendation.

"I think there is a huge problem around accountability, and this problem – the problem within the Catholic Church has been going on for years. I think unless a way can be found to ensure that bishops and religious leaders have no choice but to apply policies and procedures, we will continue to have problems in managing individuals accused of abuse and in keeping children safe within the Catholic Church.

"I think perhaps there needs to be some kind of body that holds the church accountable, which could result in financial fines or criminal sanctions if these policies and procedures aren't applied, in the similar way by -- across other agencies. There is just nothing. The church ultimately doesn't have to do these things if it doesn't want to.

"Once this inquiry is over, if nothing happens as a result of this inquiry, the church can continue in the way it's continued for years, and so people can -- will be able to access the services that the church has offered to children and families for years and the same problems will arise where offenders will be able to target children and abuse again."

From evidence we know our clients intend presenting, we have every expectation that the issue of abuse being suspected or known but not reported will be a recurring theme throughout most or all of the investigations within the scope of the Public Hearings project. In addition, recent news articles about foreign aid charities such as Oxfam and Christian Aid and about sports clubs such as Crewe Alexandra and Manchester City indicate that the issue of non-reporting is potentially a major problem in other areas within the scope of the Inquiry but which have not yet been made the subject of an investigation within the Public Hearings project.

The question of mandatory reporting as a possible remedy for the current lack of accountability is therefore going to arise repeatedly, since it is hard to think of any other measure that will be effective in changing the behaviour of those people and organisations who know how to report suspicions of abuse but make a definite decision not to for various reasons.

According to research commissioned by the Office of the Children's Commissioner ("Protecting Children from Harm" 2015) only one in eight abused or neglected children currently comes to the attention of the local authority children's services. **Therefore, making recommendations for radically increasing this proportion is perhaps the largest single task the inquiry faces. If no measures to improve reporting are recommended, then all the inquiry's other**

**recommendations can at best only improve the situation for one eighth of abused children.** Mandatory reporting is a measure designed to achieve precisely this effect.

If the Inquiry is to make an informed recommendation concerning mandatory reporting, it is essential that it seeks and obtains the widest possible range of expert opinion on the topic, that it subjects those experts to questioning and invites them to debate the issues with each other. A wide variety of mandatory reporting arrangements are in effect in other countries and some are more effective than others.

In an Update Statement published on 27 November 2015, the chair of the Inquiry made the following statement.

"Alongside these twelve investigations that form the first phase of the Public Hearings Project, we plan to hold a series of expert hearings into questions of public policy which will feed into the recommendations we make. We propose to start, in the first half of 2016, with an expert hearing into the risks and benefits of mandatory reporting. We will also hold a hearing to explore the balance which must be struck between encouraging the reporting of child sexual abuse and protecting the rights of the accused."

This seminar never occurred.

On 21 July 2016, the government started a public consultation "Reporting and Acting on Child Abuse and Neglect". Mandatory reporting was one of the options explicitly raised in the consultation which closed on 13 October 2016. On 5 March the government published 'Summary of consultation responses and government action' in which it stated it intends to continue applying resources to improvements once referrals are received by the agencies including Local Authorities. **There were no recommendations to address under-reporting of suspected or known abuse arising in institutional settings.** The Government did not publish any of the submissions to the consultation, nor did it provide evidence to support its conclusions. The outcome keeps England and Wales among the 18% of developed nations<sup>1</sup> that do not operate some form of mandatory reporting.

In a preliminary hearing on 26 July 2016 forming part of the Lord Janner investigation, the government's public consultation was referred by counsel to the inquiry, and the following statement was made.

"Once that consultation window has closed, the Inquiry will hold a separate and independent seminar on mandatory reporting in order to discuss and ventilate the issues and arguments in a public setting and not merely in an executive context considering written submissions."

The consultation window closed over 16 months ago and the Inquiry has neither held the Seminar nor indicated when (or even if) it will be scheduled, even though a schedule of public hearings and seminars has been published well into 2019.

In our view it is vital that the seminar on mandatory reporting be scheduled as soon as reasonably possible, since it will inform the panel regarding calls for mandatory reporting that will in all probability occur during future public hearings. In addition we recommend that:

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<sup>1</sup> Daro, D. World Perspectives on Child Abuse 7<sup>th</sup> ed. International Society for the Prevention of Child Abuse and Neglect, Chicago 2006 p.26

- Given the importance and centrality of the issue, the seminar should last at least two full days and preferably three or four.
- The Inquiry should obtain from the Home Office copies of all the submissions made to the public consultation and invite all those who made submissions to speak at the seminar.
- All participants should be invited to the whole of the seminar, in order that debate directly between participants can occur and misunderstandings and misconceptions thereby be eliminated. (There are numerous misconceptions concerning the subject.)
- The Inquiry should commission a Rapid Evidence Assessment specifically on the topic of mandatory reporting and make this available to all seminar participants not less than a month before (and preferably 3 months before) the seminar so that written comments on it from participants can be made available to the panel ahead of time. The Rapid Evidence Assessment should give particular weight to quantitative studies, particularly where comparable figures are available before and after the introduction of some form of mandatory reporting in a jurisdiction.
- Anybody who has conducted any recent significant quantitative study on mandatory reporting in another jurisdiction should be invited to participate in the seminar and present the results of their research and the recommendations arising from it. (This applies particularly to the longitudinal studies of the effects of mandatory reporting by the research team led by Prof Ben Mathews of Queensland University of Technology.)
- Evidence should be sought from the Financial Conduct Authority concerning the operation of mandatory reporting in the financial services industry, where mandatory reporting of suspicions of money laundering applies to a range of individuals and organisations as a result of sections 330-333A of the Proceeds of Crime Act 2002 and related regulations.

We look forward to an early reply from the Inquiry on this matter.

Richard Scorer  
Principal Lawyer & Head of Abuse Slater & Gordon

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David Greenwood  
Partner & Head of Abuse Dept, Switalskis Solicitors

David Enright  
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Yours faithfully

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke.

**pp Slater and Gordon**