



***Coimisiún Imscrúdúcháin (Nithe Áirithe i dtaobh Seirbhís
Míchumais san Oirdheisceart agus Nithe Gaolmhara)***

***Commission of Investigation (Certain matters relative to a disability
service in the South East and related matters)***

Marjorie Farrelly S.C.

Sole Member

Sixth Interim Report

14th November 2019

Contents

- 1. Introduction..... 3
- 2. Progress of the Commission’s work – overview. 3
- 3. Module 7 and other remaining hearings..... 5
- 4. Progress in the drafting of the Commission’s report..... 7

1. Introduction

- 1.1 The purpose of this report is to apprise the Minister of Health of the following:
- An overview of progress of the Commission's work since the fifth interim report was submitted on 5th April 2019.
 - Work plan for Module 7 and other remaining hearings.
 - Progress in the drafting of the Commission's final report.
- 1.2 This interim report is made to the minister pursuant to section 33 (3) of The Commissions of Investigation Act 2004 ('the Act').
- 1.3 The scope of the range of issues forming part of the Commission's investigations in Modules 1, 2, 3A, 3B, 3C, 4, 5A and 5B have been attached to the Commission's earlier interim reports. The scope of Module 5C was subsequently sent to the minister.

2. Progress of the Commission's work – overview.

- 2.1 An overview of the Commission's activity during the period under review is contained in Table 1.

Table 1

Activity	Report
Hearing days since last report	37
Witnesses scheduled / heard since last report	20
Total number of transcripts of evidence to date	206
Total number of witnesses heard and number of appearances	131 over 305 appearances
Number of additional pages of disclosure provided to	1,997 pages

the Commission since last report.	
Total number of directions issued since May 2017	182
Preparation for the hearing of Module 7.	<p>This includes:</p> <ul style="list-style-type: none"> • Hearing arrangements • Contacting witnesses and resolving availability issues • Preparation of witness schedules • Distribution of core documentation • Preparation for examination of witnesses
Drafting of final report	<p>Ten areas of investigation derived from the modules are under active drafting with progress status ranging from 'close to completion' to 'in progress'. Drafting, in some instances, is currently subject to evidence yet to be taken and to the review of submissions that may be received.</p>
S.34 Distribution of material, (including findings and conclusions).	<p>Material relating to Module 1 and Module 2 are being made ready for distribution on a phased basis with distribution intended to be commenced in the coming weeks. Material relating to Modules 3A, 3B and 3C are significantly advanced and expected to commence distribution in January 2020.</p>

3. Module 7 and other remaining hearings

Group hearings

- 3.1 The manner in which the Commission has investigated certain issues set out in the terms of reference at group hearings has been described in each of the Commission's earlier reports.
- 3.2 The Commission has scheduled hearings at the start of December, 2019 and will be scheduling hearings in January, 2020, dealing with the following matters to be covered by Module 7 as set out at Section 3 of its Fifth Interim Report of 5th April 2019 -
- Issues relevant to the decision by SEHB/HSE not to make an application for wardship for Grace in the period from 1996 to 2009.
 - Issues of Grace's personal presentation that may assist the Commission in establishing the facts on matters relevant to her care from 1989 to 2009 in accordance with the particular questions raised in the terms of reference.
- 3.3 In addition the Commission proposes to complete the taking of evidence in relation to the involvement of An Garda Síochána together with the remaining evidence in Module 5C, which the Commission anticipates will be completed by early 2020.
- 3.4 To date a substantial proportion of witnesses have given evidence at private hearings involving a number of witnesses who have been directed to give evidence to the Commission and permitted to be present during the taking of certain evidence from other witnesses.
- 3.5 This has provided the most effective method of dealing with disagreement and difference and for getting to the truth in investigating events that took place with the backdrop of contributions from, involvement of, and interactions between a large number of witnesses.

- 3.6 The Commission intends to take the evidence completing the investigation of the wardship issue, the outstanding matters relating to the role of An Garda Síochána, and the remaining evidence in Module 5C in this manner.
- 3.7 The Commission envisages that this will complete the taking of evidence in group hearings by the Commission.

Individual hearings

- 3.8 The Commission will then proceed to hear evidence from witnesses individually to gather evidence on Grace's personal presentation. This evidence will be taken in January 2020, subject to any witness issues arising.
- 3.9 The Commission will also take evidence from witnesses individually for the purposes of its enquiries into the "Other Matters" to be considered under Part IX of its terms of reference. The Commission is satisfied that this approach is the most appropriate method for an examination of these aspects of the terms of reference.
- 3.10 Module 7 matters, as identified in the Commission's fifth interim report, are as follows:
- Issues with respect to the response to a Freedom of Information request for documentation by Grace's mother in 2008.
 - Whether there was, in accordance with the terms of reference, any deliberate or attempted suppression of information in relation to Grace's case.
 - Whether there was, in accordance with the terms of reference, danger of deliberate destruction of files by the HSE.
 - Whether there were, in accordance with the terms of reference, threats made, as alleged, by the HSE to the funding of the agency whose staff made protected disclosures in relation to Grace's case.
- 3.11 As set out in the Commission's last report, a considerable body of documentation has been disclosed to the Commission, generated in the period from 2010 to 2016,

pertaining to Grace's case. The task for the Commission in analysing all of this documentation has been described in its earlier reports. The Commission, in line with the approach it has taken throughout the investigation of identifying core documents, will extract from this documentation core items of probative value that will assist in establishing relevant facts on matters of concern. The Commission will focus on this material in taking evidence individually from witnesses.

- 3.12 The Commission is satisfied that this approach will continue to achieve effective investigations in the most timely and cost effective manner. As previously advised, the Commission at all times keeps the approach to the inquiry under review.

4. Progress in the drafting of the Commission's report.

- 4.1 A considerable amount of work has been underway in connection with the analysis of evidence taken at hearings, consideration of any submissions received and on the writing of draft chapters setting out the facts established, for inclusion in the draft final report.
- 4.2 Notwithstanding that there are further areas of inquiry under the terms of reference for Module 7 in which evidence is to be taken, the Commission has advanced preparations of draft chapters in a number of key areas of inquiry addressed in earlier modules.
- 4.3 This work has enabled the Commission to advance to the stage where it can circulate material and draft findings with respect to some of the terms of reference to certain persons in accordance with section 34 of the 2004 Act and to consider any submissions that may be then made.
- 4.4 The Commission expects to be in a position to circulate draft material and draft findings to certain persons on aspects of the Commission's investigations considered during Modules 1 and 2 of its work, in the coming weeks.
- 4.5 The Commission has written to most of the persons to whom such material is to be sent, with a form of acknowledgement of the duty of confidentiality with respect to any material circulated, for signature prior to distribution of material by the Commission.

Material will be circulated after signed acknowledgments are returned to the Commission.

- 4.6 The Commission intends to circulate draft material and draft findings to certain persons on aspects of its investigations considered during sub modules 3A, 3B and 3C of its work in January 2020. The preparation of these three draft chapters is significantly advanced.
- 4.7 A draft chapter addressing the matters enquired into in module 4 is also significantly advanced and draft materials together with relevant draft findings will be distributed to the appropriate persons commencing in February 2020.
- 4.8 The Commission will continue to investigate the matters set out for its work at Part IX of the terms of reference, while proceeding with distribution of draft material and draft findings from further modules to appropriate persons, as described.
- 4.9 While the Commission considers that it is expeditious and appropriate to circulate draft material and draft findings on a module by module basis, certain writing in progress must, having regard to the issues examined, await the totality of the evidence before draft findings can be properly considered.

Dated this 14th day of November 2019


Marjorie Farrelly S.C.
Sole Member.