

COMMISSION TO INQUIRE INTO CHILD ABUSE

INVESTIGATION COMMITTEE

DIRECTION FOR PAYMENT OF COSTS

WHEREAS:

- A.(1) The Commission to Inquire into Child Abuse (the Commission) is established under section 3 of the Commission to Inquire into Child Abuse Act, 2000, (the Act of 2000).
- (2) The Investigation Committee is a Committee of the Commission established under section 10 of the Act of 2000
- (3) At its Second Public Sitting held on 20th July 2000 the Commission declared that it proposed to grant to-
- (a) each person who should come to the Investigation Committee to make an allegation or allegations of abuse legal representation by a solicitor and one counsel or his choice for the hearing in the first Phase of its work and
 - (b) each person and/or body against whom an allegation of abuse is made legal representation by a solicitor and one counsel of his choice for the hearing in the first Phase of its work.
- B.(1) Section 32 of the Residential Institutions Redress Act, 2002 substituted for section 20 of the Act of 2000 two sections, that is to say, section 20 and section 20A.
- (2) Sub-section (1) of section 20A provides that the Investigation Committee may allow a person appearing before it to be represented by counsel or solicitor or otherwise.
- (3) Sub-section (2) of section 20A provides that, subject to sub-section (3), the Commission may pay such reasonable costs arising out of the representation referred to in sub-section (1) to the person so represented as are agreed between the Commission and that person or, in default of agreement, such costs as may be taxed by a Taxing Master of the High Court.

- (4) Sub-section (3) of section 20A, which outlines the circumstances in which an application for costs of appearing before the Investigation Committee may be refused, is not material to this Direction.
- C.(1) In the course of the hearing of allegations made by the Complainant referred to at 3 in the Schedule hereto against the Management Respondent referred to at 1 in the Schedule hereto (Reference: IC/0103) and in the course of the preliminary inquiry into allegations by the Complainant referred to at 4 in the Schedule hereto against the Complainant referred to at 2 in the Schedule hereto (Reference IC/0164) issues were raised by the Management Respondents in relation to the impact of the consequences of lapse of time since the occurrence of the events alleged to constitute abuse and allied matters on the fulfilment by the Investigation Committee of its mandate to make and publish findings.
- (2) Recognising the significance of the issues to the implementation by the Investigation Committee of its statutory mandate and the generality of application of the issues in relation to the inquiry it was conducting, it was determined that a Procedural Hearing of the Investigation Committee would be held in public to hear (following submission of written submissions) oral submissions on the relevant issues, which were the subject of an Issue Paper the terms of which were agreed, and that the parties listed in the Schedule hereto would participate in, and be legally represented by the solicitors mentioned in the schedule hereto and counsel briefed by such solicitors, at the Procedural Hearing.
- (3) The Procedural Hearing took place on 26th, 29th, 30th and 31st July 2002.
- (4) At the end of the Procedural Hearing it was declared that each party represented at the Procedural Hearing would be entitled to the costs of participation on the same basis as a party would be entitled to costs of an issue of a similar nature in the High Court, the costs to be taxed in default of agreement.
- (5) At a resumed hearing on 27th November 2002 the Investigation Committee heard legal argument from the legal representatives of the parties referred to at (1), (2), (3) and (5) of the Schedule hereto as to the basis on which such costs should be taxed-whether on a party and party basis or as between solicitor and client.
- D. Having regard to –

- (1) the significance of the issues addressed at the Procedural Hearing, (2) the generality of the application of those issues to the conduct of its inquiry,
- (3) the special nature of the participation of the parties in the Procedural Hearing, in that each was regarded as being representative of the category of participants in the process of the Investigation Committee to which such party belongs, and
- (4) other relevant matters,

the Investigation Committee has determined that it is just and equitable that the costs of parties who participated in the Procedural Hearing should be quantified and discharged by the Commission on the basis hereafter set out.

NOW it is hereby **DIRECTED** pursuant to section 20A of the Act of 2000 that each of parties listed at (1) to (4) inclusive in the Schedule hereto shall be entitled to be paid by the Commission such reasonable costs arising out of representation in connection with and at the Procedural Hearing as, in default of agreement, may be taxed by a Taxing Master of the High Court on the following basis:

1. The costs of each party shall be taxed on the same basis as the costs of a similar issue in the High Court would be taxed as between solicitor and client.
2. For the avoidance of doubt the limitation on the representation by counsel before the Investigation Committee declared at the Second Public Sitting on 20th July 2000 shall not apply to this Direction.
3. The Rules of the Superior Courts 1986 relating to the taxation of costs (including the provisions relating to review) shall in so far as is practicable apply in the taxation of the costs hereby directed to be paid.

Dated: 4th December 2002

Ms. Justice M. Laffoy
Chairperson
Commission/Investigation Committee

Schedule

	<u>Party</u>	<u>Solicitor on Record for Party</u>
1.	First Management Respondent	Arthur O Hagan
2.	Second Management Respondent	Maxwell Weldon & Darley
3.	First Complainant	Lavelle Coleman
4.	Second Complainant	George Daly and Co.
5.	Minister for Education and Science	Chief State Solicitor
6.	Attorney General, representing the public interest	Chief State Solicitor