

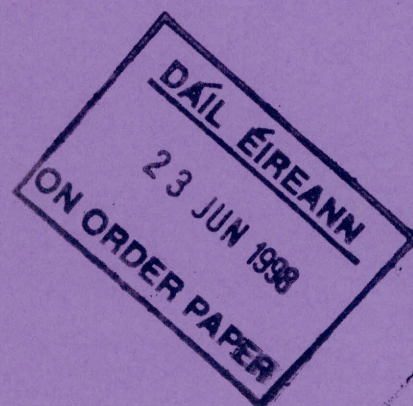
PN.5813

**FIRST INTERIM REPORT OF THE**

**JOINT COMMITTEE ON TOURISM, SPORT AND RECREATION**

**PROTECTION OF CHILDREN IN SPORT**

**JUNE, 1998**



An Comhchoiste um  
Thurasóireacht, Spórt agus Áineas  
Teach Laighean  
Baile Átha Cliath 2



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and Recreation  
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### Interim Report of the Joint Committee on Tourism, Sport and Recreation

In accordance with its Orders of Reference, the Joint Committee on Tourism, Sport and Recreation hereinafter called "the Committee" has received the Report of the Independent Inquiry into matters relating to child sexual abuse in swimming and has noted the conclusions and recommendations arrived at by Dr. Roderick Murphy S.C. The Committee has considered the recommendations and has annexed the said Report to this Interim Report for submission to each House of the Oireachtas, in the public interest, to facilitate discussions on the implementation of the recommendations with the responsible Minister/s and Minister/s of State and to enable members of each House and interested parties to submit their observations thereon to the Committee, for the purpose of facilitating it in the preparation of a final report. Such observations should be submitted to the Committee within 6 weeks of this date.

Proposed by Bernard Allen T.D.

Seconded by Mary Coughlan T.D.

Agreed by the Joint Committee on Tourism, Sport and Recreation

A handwritten signature in black ink, appearing to read 'Michael Ferris', written over a horizontal line.

Michael Ferris T.D.,  
Chairman.

17 June, 1998.

**REPORT OF THE INDEPENDENT INQUIRY  
INTO MATTERS RELATING TO  
CHILD SEXUAL ABUSE IN SWIMMING**

Houses of the Oireachtas

Submission made to the Minister for Tourism, Sport and Recreation and to the  
Minister for Education and Science on 27 May 1998

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## **Preface**

The Independent Inquiry into matters relating to child sexual abuse in swimming, which was announced on 9 February 1998, heard evidence over three months from more than seventy witnesses ranging from swimmers, parents, coaches, club committee members and officials of the Irish Amateur Swimming Association (IASA) and its Leinster Branch.

In addition, much time was taken up with investigative work and the examination of a large number of documents, papers and correspondence from the above and from the school particularly over the period 1989 to 1995. Many other parties made submissions and facilitated the Inquiry with papers and documents relating to Codes of Conduct in Sport and issues of sexual abuse generally.

It would not have been possible for me, as Chairman, to have dealt with all the evidence and submissions without the help of many others.

In particular, I owe a debt of gratitude to Fidelma Macken, SC, who acted as Counsel to the Inquiry, and to Mary Cooney who was Solicitor to the Inquiry. The organisation of the administration of the office of the Inquiry was promptly and efficiently undertaken by Vincent Coyne. Lorraine Dwyer, Deirdre Behan and Christine Ayres transcribed several thousand pages of evidence and were joined by Dolores Murtagh who continued producing prompt computer disks and worked overtime to ensure that the report was completed.

My thanks are due especially to witnesses who came forward to reveal, in some cases for the first time, the extent to which they felt trapped by the abuse they had suffered and how they had felt unable to complain.

Swimmers, whether they had suffered or not, were understandably initially reluctant to give evidence. As the Inquiry progressed more and more came forward. This took some courage and effort on their part to speak, in a few instances, of matters that they had not spoken of to anyone before. For those who had already made statements to the Gardai it was a further re-awakening of memories that they would have preferred to have left buried.

I have also to thank those members of committees of clubs, officials, coaches and parents who voluntarily and willingly gave evidence. I wish to thank, in particular, the incoming President of the IASA for her co-operation.

The IASA and its Leinster Branch, the named school and the two clubs made comprehensive submissions.

Over three quarters of the clubs affiliated to the Leinster Branch responded in detail to a seventeen section questionnaire on issues raised by the terms of reference of the Inquiry. Some indicated that the process of responding helped develop an awareness of the problems posed by abuse of children. The Inquiry thanks the committees of the clubs for their time and consideration in responding.

A special word of appreciation is owed to a small group of coaches/swimmers who first revealed the existence of abuse in Irish swimming in 1991/1992 in relation to the first coach.

In relation to the second coach, another group of parents and committee members became a thorn in the side of their fellow committee members and of organised swimming, by questioning the lack of reaction of the club to the suspension by the school of the second coach

Neither group were popular in questioning the response of the organisation to rumours and allegations of child sexual abuse. Yet events subsequently bear out the need for a more prompt response to such allegations in future.

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Dublin 7

27 May 1998

## **CHAPTER 1**

### **TERMS OF REFERENCE AND PROCEDURES ADOPTED**

On 30 January 1998, the Circuit Criminal Court sentenced a prominent swimming coach to imprisonment for a period of twelve years. The coach (the second named coach) had been charged with unlawful carnal knowledge, indecent assault and sexual assault committed against children whom he coached between 1 January 1976 and 31 December 1992. The offences took place during a period when the defendant was a swimming coach at a swimming club attached to, but independent of, a school.

Some years previously another prominent coach (the first named coach) had been charged with similar offences.

On 9 February 1997, the Government instigated an investigation and appointed Dr Roderick Murphy SC to examine the facts relating to the following matters:

- The arrangements which the Irish Amateur Swimming Association (IASA), the Leinster Branch of the IASA and affiliated clubs had in place since 1975 for the detection and prevention of child sexual abuse;
- The procedures, including functional responsibilities, which the IASA, the Leinster Branch and affiliated clubs had in place for securing compliance with these arrangements;
- The manner in which complaints in relation to sexual abuse made to the IASA, the Leinster Branch, affiliated clubs and a named school were dealt with over that period;
- The manner in which any complaints in relation to two named coaches reported to the IASA, the Leinster Branch, affiliated clubs and a named school were handled by them over that period;
- The arrangements which the IASA, the Branches and affiliated clubs now have in place to detect and prevent child sexual abuse, including arrangements while complaints are being investigated, and sanctions;
- The adequacy of arrangements now in place for the protection of children in swimming.

In order to establish the facts it was necessary to take evidence from swimmers, parents, coaches and officials and to review relevant documents.

The Inquiry heard evidence over a period of three months, often at weekends and at evening time in order to facilitate witnesses who, for justifiable reasons, were reluctant to give evidence and found it difficult to do so during working hours. Over fifty witnesses gave oral evidence at informal hearings which were recorded and transcribed. A further twenty gave evidence by conference call or by telephone.

Of these, twenty were swimmers; twelve were parents; seven were coaches; ten were officers of the IASA; nine were officers of the Leinster Branch; twelve were officers and committee members of the named clubs and nine were professionals in the area (psychologists, social workers, lawyers and academics). Some witnesses came in a dual capacity as parents and as members of club committees or of the Branch or Association. Some of the swimmers gave evidence of their experience both as swimmers and as coaches.

The IASA, the Leinster Branch, the two named clubs and the named school made written submissions which were, in almost all cases, limited to events after 1989.

In addition, written submissions and papers relating to the prevalence of sexual abuse of children and guidelines to detect and prevent such abuse were received from the Amateur Swimming Association in England, the Department of Education and Science, the Department of Health and Children, the Eastern Health Board, the Gardai, the Dublin Rape Crisis Centre, the Irish Society for the Prevention of Cruelty to Children (I.S.P.C.C.) and from the Grotius Programme at the School of Law, Trinity College, Dublin.

Where allegations arose or where there was any conflict of evidence, the allegations or conflicts were put directly to the parties concerned in order that they be given an opportunity to respond. In some cases it was not possible to come to a definite finding. In such cases the Inquiry Report limits itself in recording the allegation and denial.

All evidence given, whether by written submissions or by verbal testimony, was treated on the basis of strict confidentiality.

This confidentiality extended to all parties who gave evidence, swimmers, parents, officials and officers and representatives of the named school.

The Circuit Criminal Court, in the case of the second named coach referred to above, had ordered that neither the names of the victims nor the name of the club nor school be published.

The Inquiry has adopted the procedure of referring to the coaches as the first named and the second named; of referring to officers as President, Honorary Secretary etc., and of referring to officials, appointed by the officers from time to time, e.g. Team

Manager. It is recognised that most delegates to the IASA would not have performed any specific executive functions.

The Terms of Reference focus on structure and procedure in relation to prevention of, and complaints concerning, child sexual abuse.

A number of witnesses gave evidence of abuse outside the terms of reference. These witnesses had already made statements to the Gardai. A series of incidents had occurred in a non-affiliated swimming pool. One of the victims was not a member of the IASA though the alleged abuse took place in an affiliated club. In none of these cases were any complaints made to the Leinster Branch or to the IASA.

Necessarily much of the Report deals with an examination of the structure of swimming and the failure of the complaints procedure to deal with such abuse over the period, rather than the circumstances of the abuse itself.

The first chapter records the terms of reference and the procedures adopted. The next three chapters examine the structure and inter-relationships between the IASA, its Leinster Branch and the clubs affiliated to the Branch.

The manner in which complaints were made in relation to each of the named coaches is dealt with in Chapters 5 and 7.

Chapter 6 examines the manner in which complaints were made to the named school which had employed the second named coach.

Chapter 8 looks at the question of complaints from the point of view of the victims and examines the legal difficulties where there is a delay in making complaints.

It is important to outline the extent of contemporary awareness of the prevalence of child sexual abuse. General guidelines on procedures and reporting have emerged in the past decade. There is no legal requirement to report cases of suspected child sexual abuse.

The general guidelines and guidelines for the prevention of sexual abuse in swimming are outlined in Chapter 9.

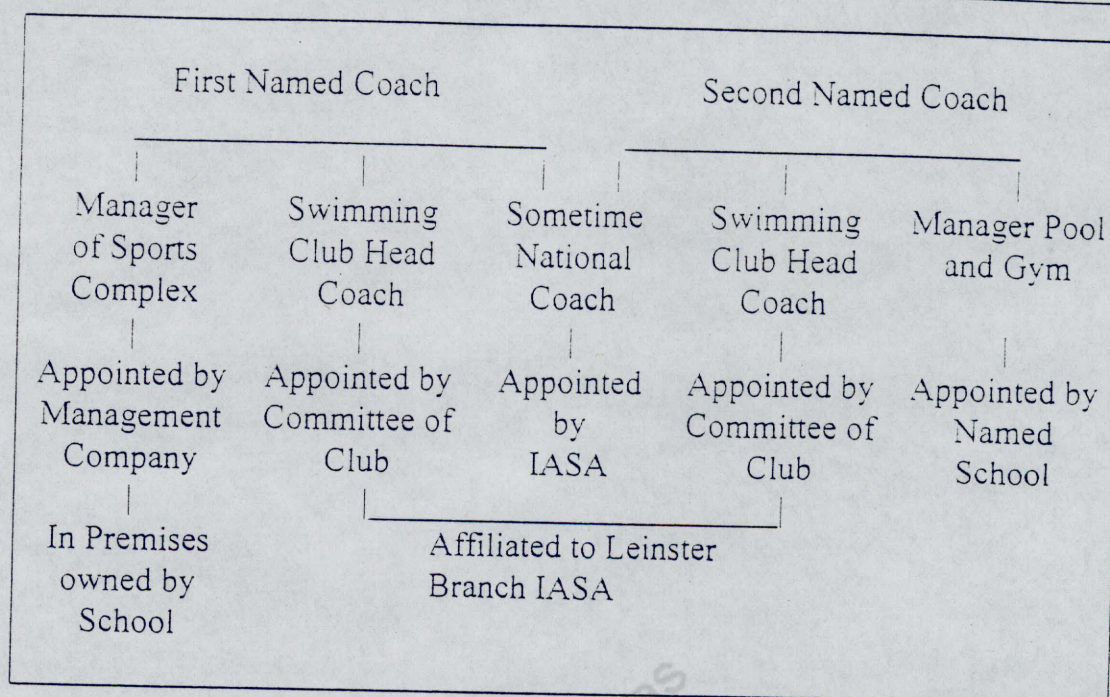
The response of the IASA and the Leinster Branch is examined in Chapter 10.

A summary of findings and ensuing recommendations complete the report in Chapters 11 and 12.

## CHAPTER 2

### THE IRISH AMATEUR SWIMMING ASSOCIATION

1. A brief history of Irish Amateur Swimming
  - 1.1 On 25 November 1893, the combined Councils of the Leinster and Ulster Amateur Swimming Associations met in Belfast for the purpose of forming the Irish Amateur Swimming Association (IASA). The combined Councils drew up a code of laws varying only slightly from those of the English Association to which the Irish clubs had previously been affiliated. In 1905, three Cork clubs formed themselves into the Cork Swimming Council and applied for affiliation and were accepted as the Munster Branch. It was not until 1952 that Connaught was granted full membership and representation. The Irish Amateur Swimming Association is now divided into four Branches governing each of the provinces of the island of Ireland and include the Irish Water Polo Association and the Irish Schools Swimming Association.
  - 1.2 In 1993, the Association celebrated its 100th anniversary. This was marked by the publication of "Swimming for A Century" by Fergus Barron, who had been President of the IASA in 1994. The book plotted the progress of the Association from its founding in Belfast.
  - 1.3 Barron describes how, as the Association progressed, the need for laws became apparent. For example in 1901, a lengthy court hearing took place between the Association and Morgan Dockrell, a student at Trinity College Dublin, who lost his claim to a number of swimming titles because he had not been domiciled in Ireland in accordance with the regulations of the sport.
  - 1.4 Each Branch of the Association comprises affiliated clubs whose headquarters are situated within the Branch's boundaries.
  - 1.5 The two clubs, the subject of this Inquiry, were among the most successful of the clubs affiliated to the Leinster Branch.
  - 1.6 One of these clubs is attached to, but independent of, the named school. In 1971, the school appointed the second named coach as manager of its new swimming pool, and as coach to the swimming club, which was already affiliated to the Leinster Branch of the IASA.
  - 1.7 The first named coach was appointed as manager of a sports complex run by a company and owned by, and within the grounds of another school. He founded a new swimming club in those premises in 1976. The club also became affiliated to the Leinster Branch of the IASA.



*Diagram 1: Coaches relationship with IASA Leinster Branch, Management Company and Named School (Paragraph 1.6-1.7).*

- 1.8 In 1988, the newly established National Lottery enabled the Department of Education to fund a Director of Swimming and an Administrator on a part-time basis. This seems to have been a significant attempt at professionalising Irish swimming. The first named coach was appointed Director of Swimming, but tendered his resignation in May 1990 on the grounds that the duties attached to the post were more than could be effectively undertaken by any one person on a part-time basis.
- 1.9 The IASA then decided that the post of Director of Swimming would be abolished and that the first named coach would retain such of the Director of Swimming's responsibility as was in keeping with the post of National Coach. In addition, a full-time National Development Officer was appointed, assuming most of the duties of the Director of Swimming and also heading up the administration function with an administrative assistant. This position was filled in January 1991. In February 1991, the first named coach resigned as National Coach and was replaced by the second named coach.
2. The Irish Amateur Swimming Association Ltd.
- 2.1 The IASA states that the "corporate manifestation" of the IASA is a Company Limited by Guarantee not having a share capital. The Memorandum and Articles of Association of the Company are dated 25 May 1985. The Company is expressed to be subject to the laws of that Association as may be in force, that is, to the IASA Constitution and Laws. The Memorandum of Association

of the Company provides that it administers rules and regulations as may be passed by the Association ... and to enforce and abide by the said rules and Constitution of the Association (Clause 2.2(d)). The Articles of Association provide that the Company shall at all times be subject to the control of the Association and its laws as may from time to time be in force (Article 5).

2.2 The Objects of the Company are considerably wider than those of the Association outlined at 5 below. These Objects are among others:

1. To promote amateur swimming in competition or otherwise and to bring together those interested in Ireland to achieve such objective.
2. For the above purposes to foster and develop swimming whether in competition or otherwise and to use the same, in promoting the development of physical and moral qualities that come from swimming, whether in competition or otherwise.
3. To consistently encourage interest and participation in swimming in competition or otherwise and to promote such programmes of education for the public and the media of the philosophy of the sport, and with a view thereto to take such steps as may be considered advisable to initiate and to carry out programmes of training, participation and competition in swimming.
4. To adopt, publish, amend and administer from time to time, standards of eligibility for membership of the Association and for competing in events promoted by the Association as may be determined by the Association in accordance with its constitution, rules and regulations, and to do all such other acts and things necessary to ensure conformity to and compliance with such codes and standards as may be adopted or promulgated by the Association, and to govern members, competitors and/or coaches of persons in any way connected with the objectives of the Association.
5. To function as a national Association for all provincial and Club constituent members of the Association, and as such to act pursuant to the rules, regulations and constitution of the national Association as may from time to time be adopted or enacted by the Association.
6. To receive from any persons or bodies moneys for the purpose of furthering the objectives of this Association.

There follow powers to invest, purchase, let, sell, mortgage and borrow moneys and to do or make any other acts or things which, in the opinion of the

Association, may be conducive or incidental to the objectives of the Association or the company.

- 2.3 There is a specific object in the company's Memorandum of Association to take over the property and assets of the Association. This reads as follows:
- to take over all property, assets, rights, benefits, easements and/or interests of the IASA and to promote competitions, events, training sessions, coaching sessions or meetings or events of any nature heretofore promoted and/or carried on by the IASA as maybe directed by the IASA within its rules, regulations and constitution.
- 2.4 The Objects Clause of the Memorandum of Association, in purporting to take over the Association might be seen as having the effect of dissolving the Association. This was clearly not the intention of the members. If this had been their intention, then in legal terms, the Association could no longer exist as an unincorporated body. Accordingly, it could not pass the rules and regulations which the company by its own constitution is bound to administer, observe and with which it has to comply.
- 2.5 More significantly, the company is obliged in Article 2(d) of its Articles of Association to elect its members and officers in accordance with the laws of the IASA as may from time to time be enforced. Thus Article 33 provides that the Annual General Meeting of the Company, held after the AGM of the Association, shall appoint the officers of the Company who shall be officers of the Association, be elected or appointed under the laws of the Association from time to time in force, and they shall hold office in the Company only for so long as they hold the corresponding office in the IASA.
- 2.6 Further, the Company has to observe and comply with the rules and regulations of the Association and its governing or superior bodies, or any international association or body to which the Association is or may within the terms of its rules, regulations and constitution become associated or affiliated.
- 2.7 The Executive Committee of the Company is subject to the control of the IASA and is subject to the laws of the IASA as may, from time to time, be in force. Given the dependence of the Company on the Association, it is clear that the Association was not taken over by the Company in 1985.
3. Amateur Status
- 3.1 Competitive swimming has for over a century been exclusively an amateur sport with officers and officials drawn from swimmers and parents of

swimmers who have given and still give generously of their time without personal profit.

3.2 The distinguishing feature of the organisation of Irish swimming is:

- (a) its amateur nature;
- (b) its all-Ireland scope and
- (c) its young membership.

3.3 The IASA is a voluntary association governed by a Constitution and Rules which have evolved over many years, and which were reprinted in their present form in 1991. The headquarters of the Association, according to its Constitution is in the province in which the Honorary Secretary resides. However, since 1989, its headquarters has been in the House of Sport in Dublin notwithstanding, that its Secretary resided in Belfast. The objects of the Constitution relate to the promotion and teaching of swimming, while its laws relate to championship and competition. Its laws in relation to complaints reflect the latter. The funds of the Association are to be applied exclusively to the objects of the Association or for any charitable purpose approved by the Council of the Association. No funds or other property of the Association may be paid to or distributed among, the members of the Association.

3.4 The competing members of any club wishing to affiliate must be amateurs as defined by the IASA law and the club must have published rules to that effect. The definition of an amateur is contained in Law 18.1 to 18.3 as follows:

18.1 A competitor is eligible to compete in competitions unless he has competitive swimming as his sole occupation or business on which he is financially dependant for a living. Any competitor eligible to compete should be registered with the IASA (his National Association).

18.2 Any financial advantage which a competitor gains based on athletic fame and/or competitive results must be approved, administered and controlled by the IASA. Such financial advantage shall not be available to the competitor before the end of his competitive career except for expenses.

18.3 Members of representative teams and officials while in the official competition venue are not allowed to wear, exhibit, or carry visible forms of advertising exceeding 16 square centimetres in area each. Words or numbers may not be repeated. These rules do not apply to design or trade marks of member or organisation committees. However, advertising for tobacco or alcohol is not allowed.

- 3.5 Witnesses did not agree on the definition of a professional in relation to the two coaches within the Terms of Reference. Given the essentially amateur nature of the Association and indeed, the prevalence of part-time coaches, one can understand why membership of a professional body, as distinct from experience and/or qualifications in lifesaving or coaching, would not be required. The terms and conditions of employment or other arrangements are a matter for each individual club. Some witnesses have commented on the essentially amateur nature of coaches and insisted that the two named coaches only received expenses. Their salaries as pool managers did not make them professional. Indeed the definition of amateur in Law 18 is restricted to competitors and not to swimming teachers or coaches.
- 3.6 Yet most coaches, especially the younger coaches are well qualified, either under English Amateur Swimming Association rules or as members of the recently formed Irish Association of Swimming Teachers and Coaches. The evidence indicates that it is intended to incorporate this Association as a company limited by guarantee and to provide for disciplinary measures for malpractice of members.
- 3.7 The Inquiry was unable to ascertain whether any disciplinary measures (if such existed) were taken by any professional body in respect of either coach. In some "away" events, it was possible for a coach to act both as coach and as team manager.
- 3.8.1 The swimmers who gave evidence and, indeed, many of the individual officials of the Leinster Branch and of the IASA did, however, regard the two named coaches as professional. Both coaches successfully developed their clubs in the early to mid 1970s in facilities provided by new schools.
- 3.8.2 Barron states "With the students as a captive recruitment base, ideal facilities on the doorstep and qualified fulltime professional coaches, many of these new clubs prospered. Indeed, the schools did too, as many established swimmers changed schools to avail of the ideal training facilities." (at Page 132)
- 3.8.3 According to the evidence of some parents who were members of the Committee of the clubs, coaches managed both club and pool and were club delegates to the Leinster Branch and to the IASA. Both coaches were members of the Technical Training Committee of the IASA and, although not members of the Selection Committee, influenced the selection of the national squad (see 6.4.2 below).

#### 4. Membership

- 4.1 The Membership of the Association comprises:

- (a) Members of clubs, associations and bodies which are affiliated to Branches;
- (b) Members of associations and bodies directly affiliated to the IASA;
- (c) Past Presidents of the IASA;
- (d) Honorary Life Members.

A club can be a member of an association or body which is directly affiliated to the IASA. This does not necessarily make it an affiliated club for competition purposes, unless it is directly affiliated to a Branch.

**Officers (7)**

President  
Four Vice Presidents  
Honorary Secretary  
Honorary Treasurer

**Executive Committee (13)**

President and Immediate Past President  
Four Vice Presidents  
Honorary Secretary  
Honorary Treasurer  
Water Polo Representative  
A Representative from each of four Branches

**Council (About 50)**

President and all Past Presidents  
Honorary Life Members  
Six Officers of the Association  
Eight Members from each of four Branches  
Three Water Polo Representatives  
An Irish Schools Representative  
A Representative from any Association directly affiliated to the IASA

**Members (Over 10,000)**

Members of Clubs Associations and Bodies affiliated to Branches  
(of which 6,500 are licensed swimmers)  
Members of Associations and Bodies affiliated directly to the IASA  
Honorary Life Members

*Diagram 2: Organisation of IASA (Paragraph 4.1-6.4)*

- 4.2 The Branch also comprises associations or bodies whose headquarters are situated within a Branch's boundaries or the majority of whose clubs are so situated. One assumes that this is not an automatic affiliation and that such associations or bodies must subscribe or pay affiliation fees to the IASA. The Leinster Branch is the largest with about fifty affiliated clubs.
- 4.3 In order to affiliate, the club, association or body must apply to the Branch furnishing a list of the names and addresses of the officers of the club, and a copy of their rules and constitution.
- 4.4 The total membership of the IASA mainly comprises all the paid up members of the clubs in each of the four Branches. About two-thirds of these are licensed for competition purposes and pay a licence fee to the IASA.

The current licensed membership of the Association, as recorded in the Annual Report for the years ending 30th August 1996 and 31st December 1997 is as follows:

Licensed Members of the IASA

Province	1997	1996
Leinster	2,908	2,742
Ulster	2,204	1,967
Munster	1,029	943
Connaught	360	374
Total	6,501	6,026

- 4.5 The returns by the IASA to the Department of Education and Science for 1997 give the total number of club members in the appropriate age group as follows:

Club Members of the IASA

	Under 18	19-25	Over 25	Total
Male	3,700	800	1,000	5,500
Female	3,200	720	870	4,790
Total	6,900	1,520	1,870	10,290

- 4.6 In relation to a provincial breakdown, the following figures were supplied to the Department of Education and Science by the IASA for 1997:

Club Members by Province

Province	Male	Female	Total
Leinster	2,220	2,000	4,220
Ulster	1,980	1,470	3,450
Munster	800	775	1,575
Connaught	500	545	1,045
Total	5,500	4790	10,290

- 4.7 Accordingly, over 40% of all registered swimmers are in the Leinster Branch.

Almost 70% of all swimmers are 18 years or younger.

Almost two-thirds of all members are licensed competitive swimmers who pay fees to the IASA and are, accordingly, included in the figures in the annual report.

5. Objects of the IASA

- 5.1 The Objects of the Incorporated Association are to:

- (a) promote the teaching and practice of swimming, synchronised swimming, diving, water polo, water safety and to stimulate public opinion in favour of providing proper accommodation and facilities;
- (b) draw up, publish and enforce uniform laws for the control and regulation of amateur swimming, synchronised swimming, water polo championships and competitions in Ireland, and deal with any infringement thereof.

- 5.2 There is no object in the Constitution and Laws of the Association which deals specifically with governance of swimming other than at competitions. There is no reference either to the overall development of swimmers as there is in the objects of the Company (see 2.2 above).

6. Government and General Direction

- 6.1 The Council of the IASA, assisted by the Executive Committee (6.3.3), is responsible for the government and general direction of the Association as provided for in Part 2 of the Constitution. The officers (6.3.4) are appointed by the Council.
- 6.2 The Council comprises: the President, Past Presidents and Honorary Life Members; the officers of the Association; eight members from each of the four Branches (32) and a representative of the Irish Water Polo Association, the Irish Schools Swimming Association and of any other association directly affiliated to the IASA. The Council may act with a quorum of twelve. The Council is empowered to appoint professional, technical and administrative staff; to take decisions on the meaning of any law of the IASA or on any matter not provided for in the laws, including any matter which is considered to be of immediate importance by two-thirds of the Council.
- 6.3 The Council is also empowered, by a two-thirds vote, to remove from office any member, other than a Past President, who by neglect of duty or by conduct tending to impair his or her usefulness as an officer or member, shall be deemed to have forfeited his or her position.
  - 6.3.1 The Council also has the power of discretion to set aside or suspend laws where good cause can be shown for so doing, subject to the approval of the Council at its next meeting.
  - 6.3.2 Several officers of the Association have stated that, though the Council could comprise between sixty to seventy members, that it was difficult to get a quorum (twelve excluding Past Presidents, as provided for in Law 11.1).
  - 6.3.3 Between meetings of the Council, the functions are carried out by an Executive Committee consisting of the President, immediate Past President, four Vice Presidents, a Secretary and Treasurer and one representative nominated by each Branch and another nominated by the Irish Water Polo Association.

Accordingly, there are thirteen members of the Executive Committee. The Executive Committee has authority to exercise and perform the function of the Council between meetings of the Council and to exercise powers of discretion to set aside or suspend laws where good cause can be shown for so doing, i.e. hardship, suffering, financial loss, natural justice; and to amend the laws of the IASA as necessary to take account of changes in the rules of FINA; subject to the approval of the Council at its next meeting.

- 6.3.4 The officers of the IASA are elected by the Council. Officers comprise the President, four Vice Presidents and the Honorary Secretary and Treasurer. While the President of the IASA changes each year, in rotation, representing each Branch, the executive offices of Honorary Secretary and Honorary Treasurer are more permanent.
- 6.4 The Executive Committee has also the authority, without reference to the Council, to appoint eight committees consisting of between four and six members with two notable exceptions, to exercise a general superintendence of the work of all committees.
  - 6.4.1 The first exception is the Appeals Committee which hears and determines appeals against any penalty imposed by the Council or Executive or against any decision if leave to appeal has been given by the Appeals Committee.
  - 6.4.2 The second is the Selection Committee of four persons, one nominated from each affiliated Branch, which selects swimmers to represent Ireland in international or other officially sanctioned swimming contests. Evidence given to the Inquiry suggests that the influence of the named coaches and particularly, of the first named coach prevailed on this Committee, though neither were members.
- 6.5 It seems, accordingly, that the Executive Committee may exercise all the powers and functions of a Council. In practice, given the difficulty of getting a quorum, these powers could, in an extreme case, be exercised by a quorum of twelve. What is perhaps most significant is that the Council or the Executive Committee can change laws subject to approval of Council but without reference to the general membership (see 6.3.3 above).
- 6.6 The Annual General Meeting is not a meeting of amateur swimmers but a meeting of the Council. Neither licensed swimmers (6,501 in number) nor members generally (10,290) have a right as members to notice, attendance or voting at the AGM.
- 6.7 Under the constitution and laws of the IASA a swimming club, in order to be affiliated to the IASA, has to have rules and a constitution. It has furthermore to send a list of the names and addresses of the officers of the club to the IASA. However, it is clear that a professional swimming teacher or coach might not alone be a member but also an officer of an affiliated club and indeed, could act as a club delegate to the IASA. The only restriction is that a professional swimming teacher or coach may not represent or hold office in the IASA or any Branch thereof. However there is no definition of professional (see above at Paragraph 3.5).

- 6.8 While the IASA requires each affiliated club to have a committee, there is no control procedure to ensure that the committee manages the club or that the club rules contain appropriate complaint procedures. Indeed the focus of the constitution and laws of the IASA is on the organisation and management of swimming events, the application of swimming laws and the keeping of records. Under its judicial laws, the IASA asserts jurisdiction over swimmers, by accepting as binding all sentences of disqualification or suspension passed by the Federation Internationale de Natation Amateur (FINA) and the national amateur swimming bodies affiliated to FINA as the only governing bodies of the sport in their respective countries.
- 6.9 The structure of organised swimming is itself, unclear. Many officials believed that the function of the Association and its Branches related only to registration and competitions and the recording thereof. Indeed FINA itself adopts this approach, notwithstanding the more general objectives to promote and encourage the development of swimming in all possible manifestations, throughout the world.
- 6.10 On this basis the responsibility for the safety of swimmers, and the avoidance of the possibility of sexual abuse would seem to lie almost exclusively at club level. However at club level one is dealing with a much less organised amateur membership drawn from parents of children who swim and normally for only such time as their children are swimming. Not alone is the organisation voluntary but it is also very transitory at that level.
- 6.11 Yet the clubs are the effective seat of management and direction. However, where there is no true committee structure, however transitory, there is a real danger that the effective control of the club is in the hands of the coach. It is abundantly clear from all witnesses, swimmers, parents and officials that the first named coach controlled and directed the club to the point of excluding parents from any decision making and indeed from the training sessions of their children. In the case of the second club, the existence of an organised committee was not sufficient to detect or prevent the occurrence of abuse, even though it would appear that some members of the committee were aware that the pool was unsupervised while children were training. Parents were discouraged from remaining at the pool during training.
- 6.12 It is in the nature of such a voluntary body that some members are reluctant to get involved at local committee level and, through that, at Branch and Association level. It is also a feature of voluntary committees that some sitting members do not sufficiently encourage others to take part or to participate in the structures of the organisation.

- 6.13 Those who do take on the burden of management and control in voluntary bodies have a corresponding responsibility to ensure that the objectives of the organisation are complied with in a safe manner. Where the focus is on young people, there is a correspondingly higher obligation to safeguard their health, safety and welfare. It is perhaps significant in this context that young swimmers, although members of the IASA, had no say nor indeed any vote, as to the appointments to the IASA or to the Branch.
- 6.14 The funding of the IASA and its Leinster Branch is not adequate to provide the necessary professional administrative backing needed. The total income of the IASA limited for the 16 months to 31.12.97 was £328,859 (£246,644 on an annualised basis which was approximately 80% of the income for the previous year). Grants were up by over 50% but subscriptions and affiliation fees were down by over 30%. Public funding as a proportion of total income was 77% in 1996 and 85% in 1997. Subscription and affiliation fees were 15% and 12% in comparison.
- 6.15 Operating expenditure, on an annualised basis was marginally down. Grants (Department of Tourism, Sport and Recreation and Olympic Council of Ireland) payable, on an annualised basis, were 10 % less than the previous year, which was, of course, an Olympic year.
- 6.16 The international meet expenses, in contrast, were almost a fifth more, on an annualised basis. The increased cost (note X to the accounts) were in team travel and support costs.

## 7. Complaints

- 7.1 Within the IASA, in relation to complaints, there are five levels of what the IASA in Part 4 of its Constitution calls "judicial authority": the Referee, the Branch Executive, the IASA Executive, the IASA Council and the Appeals Committee. They are empowered to deal with protests, appeals against referees' decisions and complaints. It is clear that their jurisdiction is within the context of competition. Provision is thus made for protests and appeals against Referees decisions. It is notable that the laws of the English Amateur Swimming Association (ASA) are more developed and deal also with suspension and club discipline. Indeed, the ASA empowers a club to discipline a member for a breach of the club rules by suspension or expulsion, provided that the member is informed of the alleged offence and is given reasonable opportunity to defend himself or herself.
- 7.2 In relation to child protection, the ASA Laws (Law 62) provide that their Chief Executive, on receipt, *inter alia*, of notification that an individual has been charged with an offence; is subject to investigation or other evidence which

causes the Chief Executive to conclude that an individual may have committed an offence, then in any such event the Chief Executive may impose on the individual an interim suspension from any event or activity promoted or authorised by the ASA or any other body directly or indirectly affiliated to the ASA.

- 7.3 Moreover there appears to be some ambiguity with regard to the right of the IASA Branch Executive Committee to deal with complaints:

The Executive Committee of a Branch is empowered to hear and decide:

- (a) appeals against a decision of the Referee in connection with Protests;
- (b) complaints about any matter over which the Branch exercises jurisdiction, provided always that the right to hear and determine any such complaints shall be reserved to the Council or the Executive Committee of the IASA.

- 7.3.1 In its submission, the IASA states that while the IASA has power to hear and determine complaints, such power is also vested in the Branches. In the ordinary course, (pursuant to Rules 32 and 33) complaints are made to the Branch in which the subject matter of the complaint took place, in the first instance. This is to allow for a right of appeal to the IASA (pursuant to Rule 34) which relates to any person who feels aggrieved by a decision or inaction of a Branch Executive Committee. However, that Rule provides that the decision must involve an interpretation of IASA laws, bylaws, rules or regulations, or the conditions governing IASA competitions.

- 7.3.2 Officers acknowledge that there was no clarity regarding the jurisdiction of the Branch: swimmers and their parents expressed frustration and exasperation regarding the insistence by both the Branch and the IASA that they would only deal with complaints which were made strictly pursuant to the rule book.

- 7.4 Under the IASA Constitution, the definition of a complaint might be read as being wide enough to include complaints covered by the Terms of Reference. A complaint is defined as a "formal expression of dissatisfaction, by any person, club, body or association", with an action of any other person, club, body or association in connection with the sport.

- 7.4.1 The rule has been informally invoked and accepted by the IASA as covering general complaints including complaints relating to sexual abuse. The corresponding ASA definition of complaint specifies that grounds may include actions behaviour or practice which bring the sport into disrepute.

- 7.5 In attempting to deal with complaints other than protests appeals and complaints related to breach of competition rules, the IASA provisions are, however wholly inadequate. The insistence by officials of the Branch or IASA in treating concerns or allegations of a general nature, strictly by reference to the formal procedures, may have hampered the making of formal complaints and the facility to notify officers of improper behaviour and abuse of power. Where one insists on a formal complaints procedure, one deprives members of a free flowing system of communication. This procedure also may have provided a justification for officers to defer dealing with rumours, allegations and complaints not formally made.
- 7.6 Clear communication channels, confidential non-judgmental listeners and well used complaints procedures are prerequisites in resolving conflict. The more sensitive the nature of the conflict, the more important the need to listen.
- 7.7 Allegations were made to the Inquiry that the very formality of lodging a complaint under the IASA laws ensured that few complaints were made. The procedure requires the submission of a statement of the complaint in writing to the Honorary Secretary of the Branch in which the subject of the complaint took place. The procedure requires a detailed written statement of the action with which the complainant is dissatisfied and the reasons for dissatisfaction.
- 7.8 A complaint must, according to the provision of Rule 33.2:
- (a) be accompanied by a fee of £10.00 and
  - (b) reach the Honorary Secretary not later than 14 days after the incident which gave rise to it. Where a complaint is received outside the time limit the Branch Executive may extend the time if the complainant can show good cause for the delay.
- 7.9 There is an absence of complete records before 1989, other than those relating to registration of members. It is difficult to evaluate how complaints were dealt with prior to that date. Officers of the Association were adamant and the Inquiry accepts that no complaints coming within the Terms of Reference of this Inquiry were made to the IASA before that date.
- 7.10 It should perhaps be noted that none of the victims who gave evidence were aware of a complaints procedure existing. Accordingly, one might conclude that an examination of the provisions relating to complaints of sexual abuse is scarcely relevant. But this did not accord with the evidence. In the first instance, when complaints of sexual abuse were eventually made (in the case of the coach first mentioned), and when the first formal complaint was received

(in respect of the second coach), the complainants were required both by the Leinster Branch and by their club to make their complaints formally.

- 7.11 This formality could well have the effect of the complainants abandoning their complaint. Indeed it is difficult to interpret the evidence given by victims and by parents other than by finding that Rule 33 discouraged complaints. There appears to have been an attitude of disbelief and a desire that the problem would go away, which was justified by reliance upon the view that a person accused of serious abuse is entitled to his good name until convicted in criminal proceedings. This was compounded by a reliance upon the use of such phrases as "the matter is *sub judice*" to remove the need for action by the Branch and the IASA on receipt of such complaints of abuse after the matter was being investigated by the Gardai.
- 7.12 This response must be understood in the context of the state of awareness of the prevalence of child sexual abuse at the time (see Chapter 9).
- 7.13 The IASA, in common with other organisations, had no formal arrangements for complaints regarding child sexual abuse when complaints in relation to each named coach were made

## 8. International Events

- 8.1 Law 37 of the IASA deals with international competitions and states that these are to be held under the laws of the Federation Internationale de Natation Amateur (FINA). The Law states that all officials in charge of Irish international teams shall be appointed by the IASA Executive Committees. Law 37.3 does not, however, detail the duties to be undertaken by officials, nor indeed, what officials should be so appointed.
- 8.2 Law 39.2 dealing with reports of misconduct, provides that all teams, including national representative sides or individual swimmers or officials, shall remain within the jurisdiction of the IASA during the period of time from their departure from Ireland until their return to Ireland. Any team, individual swimmer or official alleged to have been guilty of misbehaviour or unfair practice during such period, shall (again within fourteen days of their return) be reported to the Honorary Secretary of the IASA who shall bring the report to the notice of the Executive Committee of the IASA, such Committee being the sole authority to consider the report and determine the action to be taken. A number of such reports did come to the notice of the IASA within the period of the Terms of Reference but none related to abuse.

- 8.3 FINA is the world-wide swimming sports organisation whose main objective is to promote and encourage the development of swimming in all possible manifestations throughout the world.
- 8.4 The only reference to safety is in relation to World Championships and FINA open water swimming events where a Safety Officer must be appointed.
- 8.5 There is also a requirement for a Medical Officer, who is responsible to the Referee for all medical aspects relating to the competition and to competitors. The Medical Officer must inform the local medical facilities of the nature of the competition and ensure that any casualties can be evacuated to medical facilities at the earliest opportunity. The Officer must ensure that a medical inspection is made of each competitor prior to the start of the competition and report any persons who, in their opinion, are unfit to compete to the Referee and to the management committee. The Officer in conjunction with the Safety Officer must advise the Referee if, in their opinion, conditions are unsuitable for the competition.
- 8.6 The Inquiry made contact with the Director of FINA, Cornel Marculescu, and the Honorary Secretary of the Medical Committee, Dr James Malcolm Cameron, with regard to guidelines or codes of conduct for children, especially on attending training or competition events abroad. Both confirmed that the FINA Constitution and Rules do not deal with such matters. This was a matter for each local organisation.
- 8.7 However, according to the evidence of many witnesses, the opportunity for abuse is greater at international training sessions and at meets than on home territory. The swimmers prepare strenuously for international events and are more likely to be with and under the domination of the coach to a greater extent than at home. Moreover, the distance and unfamiliar surroundings, particularly for the younger swimmers, makes them more in need of emotional care and, accordingly, more at risk.
- 8.8 In relation to misconduct, all teams including national representative sides and individual swimmers or officials remain under the jurisdiction of the IASA from departure to return, under the law detailed above. Under that law, the Executive Committee of the IASA is the sole authority to consider the report of any misbehaviour and determine what action to be taken. It should be noted that the second named coach was complained of with regard to a disciplinary matter, unrelated to the Terms of Reference of this Inquiry, which arose during the Moscow Olympics. There is also evidence that at some international events there was no clear demarcation of responsibility for team managers.

- 8.9 Concerns were raised by some witnesses regarding the role, and level of expenses of officials at international events. Officials are referred to in Part 6 of the IASA Constitution and include a meet manager, a referee, starter, director of judges, finish, turn and stroke judges, director of time keepers and of recorders. The list represents the emphasis on competition organisation. There is no reference to team manager yet most witnesses regarded the team manager as a key official.
- 8.10 Some who were regarded as officials or as team managers stated that they merely went as parents of swimmers and paid their own way. They did not feel that they went abroad in an official capacity and indeed, believed that they were not appointed as officials for the trips abroad. Nonetheless they felt that they fulfilled the role of looking after the swimmers adequately.
- 8.11 It is difficult to ascertain who were appointed as officials on the events abroad. There was no written statement as to what the duties of team managers or anyone else were.
- 8.12 The Inquiry can come to no firm conclusion regarding the adequacy of supervision in the past at international events but recommends that joint team managers be appointed for all away trips
- 8.13 The Inquiry, in the absence of records of team managers' reports and of detailed financial records, has no basis to make a finding regarding the expenses on trips. The Inquiry recommends that officials and officers make detailed disclosure to members of the expenses incurred so as to have greater transparency.
9. Honorary Life Membership
- 9.1 Membership of the IASA includes Honorary Life Members, even though they may have ceased to be a member of an affiliated club. The nature of the honour is detailed in Annex 3 to the Constitution. Election to Honorary Life Membership to the IASA is an exceptional honour which is not to be conferred lightly. In status, it ranks with the highest honour of the IASA, that of Past President. In consequence it tends to be conferred on persons who have not occupied the office of President of the IASA.
- 9.2 The purpose of this honour is to recognise distinguished service to the IASA. That is, service to the central governing body or the Association as a whole, as distinct from services (however exceptional) to a Branch. Service to a Branch is acknowledged, where appropriate, by conferring Honorary Life Membership of that Branch.

- 9.3 It would seem that distinguished service, although not capable of precise definition, depends on factors which include the length of service within the Association. However, lengthy periods of service in offices or positions requiring heavy burden of work and/or responsibility are to be carefully evaluated, and recommendations for Honorary Life Membership should be accompanied by a citation, dealing with the nature and the value of services rendered and a detailed history of the nominee's career in the Association.
- 9.4 In this context, it should be noted that the first named coach was granted an Honorary Life Membership in 1989 (see Paragraph 9.1 of Chapter 5).

Houses of the Oireachtas

## CHAPTER 3

### THE LEINSTER BRANCH

1. The Irish Amateur Swimming Association (Leinster Branch) Limited
  - 1.1 The Leinster Branch of the IASA has been incorporated as a separate Company limited by Guarantee since 20 August 1991 as the Irish Amateur Swimming Association (Leinster Branch) Limited but was first established as a Branch of the Irish Amateur Swimming Association in 1894. The Objects of the company are similar to those of the IASA itself. The directors of the company refer to themselves as officers of the Leinster Branch and refer to the company as "the Leinster Branch". This report refers to the company as the Leinster Branch.
  - 1.2 The Objects Clause is "to promote amateur swimming in competition or otherwise and to bring together those interested in Ireland to achieve such objective".

In addition, one of its objects is to function as a provincial association for all affiliated clubs in Leinster and to act pursuant to the rules, regulations and constitution of the National Association.
  - 1.3 According to its Memorandum of Association it was formed to take over all the assets of the Leinster Branch. (Clause dd).
  - 1.4 The members of the Branch are the subscribers, the officers (President, Honorary Secretary and Honorary Treasurer) and two delegates from each club and one from local, private and schools associations. The number of clubs affiliated to the Leinster Branch varied from about 40 in 1991 to 49 in 1997. Accordingly, there are over 100 members of the Irish Amateur Swimming Association (Leinster Branch) Limited.
  - 1.5 In this way the Leinster Branch is an association of clubs. Swimming club members are members of the IASA.
  - 1.6 The executive committee of that Branch, 14 in all, include the officers of the Branch. A quorum for the executive committee is four.
    - 1.6.1 The executive committee of the Leinster Branch is elected by the members of the Leinster Branch.
  - 1.7 A complaints committee of six members is elected each year. The definition of a complaint and the procedure for lodging a complaint is identical to that of

the IASA Constitution; complaints must be in writing, accompanied by a fee of £10.00 stating the action with which the complainant is dissatisfied and the reasons for his dissatisfaction. The complaint must be made within fourteen days after the incident which gives rise to it.

- 1.7.1 The Financial Report for the year ending 31st August 1996 is the latest which is filed within the Companies Registration Office. The Leinster Branch submitted to the Inquiry a summary statement for year ending 31st August 1997 and the preceding five years.
- 1.7.2 The income for the last year, £22,000, shows a 10% drop in income from 1996 (£25,000) and an insignificant increase in administration expenses (under £22,000).
- 1.7.3 In respect of the previous year the income comprised capitation and affiliation fees of £14,000; an IASA grant of £7,000 and surplus on galas and sea swims of £2,500.
- 1.7.4 Almost half of the expenditure for that year related to squad expenses. This net figure contains an income levy on swimmers of over £2,000. On the expenditure side it includes travel, food and accommodation of £10,800.
- 1.8 The Leinster Branch submits that, while the activities of the Branch and those of its affiliated clubs do not exclusively involve children, children represent a significant sector of the sport. With regard to the governance of the Branch this is undertaken by a Council which meets four times a year including the Annual General Meeting. It would seem, however, that the ordinary management of the Branch is undertaken by the executive.

## 2. Organisation

- 2.1 The executive tends to meet on a monthly basis while the Branch Officers (President, Secretary and Treasurer) meet as the occasion requires between executive meetings or as necessary to deal with exceptional matters.
- 2.2 The Branch has ten subcommittees. The frequency of meetings of the subcommittees is dictated by the functions they perform. The subcommittees, including the complaints committee, according to the submissions of the Branch, have not tended to keep minutes of meetings but instead present an oral report at executive meetings.
- 2.3 The Leinster Branch submits that the IASA exercises no independent control over the Branch and says that its authority is derived primarily from affiliated clubs. While the Branch maintains that it is not a member of the IASA it is

entitled to elect eight representatives to the Council of the IASA and one representative onto the executive committee. In addition, it can nominate a Vice President of the IASA.

- 2.3.1 The Constitution of the IASA provides that the IASA shall be divided into four Branches for the general governance of the sport. The Memorandum of Association of the Leinster Branch provides that the Branch is to function as a provincial association for all affiliated clubs in Leinster and as such to act pursuant to the rules, regulations and constitution of the National Association, that is, the IASA.
- 2.3.2 There is, accordingly, a clear dependence by the Branch on the IASA.
- 2.4 All affiliated clubs are entitled to be represented on the Council of the Branch and are subject to its jurisdiction. Affiliation with a Branch is a precondition of members of the club becoming members of the IASA and it is through the Branch that the clubs become involved in the governance of the IASA.
- 2.5 In all other respects the clubs are independent organisations, subject to the control of their own members and subject to their own rules. The Leinster Branch submits that it has no jurisdiction over the internal affairs of a club, save for the jurisdiction to investigate complaints connected with the sport upon which it may make any order or determination as is appropriate.
- 2.6 While there is no obligation on a swimming club to be affiliated to the Leinster Branch, affiliation is the only route to competitive involvement both nationally and internationally in the sport. In this way the Leinster Branch has a direct relationship with swimmers as an organiser of sporting events, provincial teams, certain training events, provincial tours abroad, dealing with complaints and appeals and nominating officials for swimming events.
- 2.7 The Branch is essentially people driven, and is dependent on the voluntary participation of individuals, many of whom perform a number of roles within the swimming world, including active participation at club level. This is indeed clear from the inter-relationship between the executive committee members of the IASA, the Leinster Branch and the affiliated clubs.
- 2.7.1 Notwithstanding this active participation the Leinster Branch lacks the professional administrative backing that the largest Branch of an amateur organisation necessarily needs. While the IASA has a modest premises and a small staff since 1989, the Leinster Branch operates, as the IASA used to operate, out of its officers' homes.

- 2.8 The formulation of swimming policy is a matter dealt with at IASA level to which the Branch may contribute. The Branch does not have any function in selecting swimmers for or in organising national events.
- 2.9 The Leinster Branch does not have records dating back to 1975. Indeed there are few documents available prior to 1990.

Houses of the Oireachtas

## CHAPTER 4

### THE AFFILIATED CLUBS

#### 1. Affiliation

- 1.1 Not all clubs need to be affiliated to the Branches of the Irish Amateur Swimming Association. However, in order to compete swimmers must be members of clubs which are affiliated to a Branch. Only those clubs which are affiliated are subject to the rules, regulations and constitution of the IASA.
- 1.2 The Constitution of the Leinster Branch, provides at Rule 8 that:
  1. The competing members of any club wishing to affiliate must be amateurs as defined by the IASA and each club must have a published rule to that effect.
  2. Clubs applying for affiliation, or when so required, shall forward to the Branch Secretary a list of its officers and a copy of its rules. The amount of one year's affiliation shall accompany each application, this fee to be returned if the application is refused.
  3. Affiliation fees shall be decided by the Branch from time to time.
    - (a) Affiliation fees shall be paid within one month of the conclusion of the Annual General Meeting, failing which, clubs shall not be eligible to compete further or to vote until the current fees are paid.
    - (b) The Council may remit the whole or part of any affiliation fee on the representation of a local, private, schools swimming association or club.
- 1.3 The Branch was incorporated as a company limited by guarantee in 1991 and adopted the above rule in its Articles of Association.
- 1.4 By way of addition the Articles now provide:
  - The executive committee of the company shall have complete discretion as to whether to affiliate a club to the company or not, and
  - Club affiliation fees shall be decided by the company in general meeting from time to time.

2. Classification of Clubs

- 2.1 Most clubs were formed between 1972 and 1980. Some are of considerable antiquity, having been founded in the 1880s and 1890s. Seven clubs were founded in the 1990s.
- 2.2 The number of affiliated clubs in the Leinster Branch have increased from 40 at the beginning of this decade to 49 in 1996/97. Most of these clubs have young swimmers. Four are Masters clubs which, by definition, may only have members who are 25 years or upwards. One is a University club which is unlikely to have organised swimming sessions for members under 18.
- 2.3 Accordingly, the number of affiliated clubs in the Leinster Branch that are likely to have children swimming is not more than 35 in 1991/92 and 44 in 1996/97.
- 2.4 Detailed questionnaires (as in Appendix 1) were sent to 44 clubs. The response rate was over 75% (34 clubs). Many clubs went to considerable lengths in completing the questionnaire.
- 2.5 Not all responded to each question: some on the basis that they were not relevant.
- 2.6 In most cases coaches tended, and at present, tend to report to the entire committee. Three reported to the Chairman in the past and five reported to the Chairman at present.

3. Arrangements for Prevention and Detection of Child Abuse

- 3.1 No club had any written arrangements for the prevention or for the detection of child sexual abuse before 1990. One had written arrangements for prevention but not for detection between 1990 and 1995; six had written arrangements for both prevention and detection of child sexual abuse after 1995; nine had unwritten arrangements for prevention and six had unwritten arrangements for detection.
- 3.2 Three had written and a further three had unwritten procedures in place for securing compliance with these arrangements. The officer responsible for compliance varied between President and Honorary Secretary. Some clubs indicated that the committee was responsible.
- 3.3 With regard to the unwritten procedures the clubs who replied indicated that these ranged from specific rules, such as the coach never being left alone on the poolside, to more general observations regarding parents attending training

sessions and having an open system of communication within the club. With regard to procedures almost all indicated that the Code of Ethics and Good Practice and the IASA Code applied to their clubs.

4. Procedures for Complaints

- 4.1 About half of the clubs had unwritten arrangements for complaints; about one-third had none and one-sixth had written arrangements for complaints. Some clubs included a copy of the relevant rule. Most clubs indicated that any member (including children) were free to have any subject discussed at a committee meeting.
- 4.2 Three of the clubs indicated that there had been allegations and complaints of child sexual abuse and gave details of these in the four detailed questions which followed. In all cases the allegations and complaints referred to matters before 1992.
- 4.3 While it is outside the Terms of Reference, two allegations were made by swimmers in relation to other coaches. One of these coaches worked in an affiliated club, where instances of very serious abuse were alleged to have occurred over twenty years ago. The matter was not complained of to the Leinster Branch or the IASA. The other occurred in a non-affiliated club, and was more recent. In each case the children were very young.
- 4.4 No allegations and/or complaints of sexual abuse of children other than by coaches had been made to any club who replied to the questionnaire.

5. Awareness and Adequacy of Guidelines

- 5.1 In relation to guidelines few clubs were aware of relevant guidelines before 1995. Since then all clubs were aware of some guidelines. Most were aware of the Code of Ethics and Good Practice (chapter 9) and the IASA guidelines (chapter 10). Others included the English Amateur Swimming Association guidelines, the Stay Safe Programme, the British Water Safety Association Code, the I.S.P.C.C. and Dublin Rape Crisis Centre guidelines. Some had made copies of the Code of Ethics and Good Practice available to parents.
- 5.2 With regard to the adequacy of arrangements which the IASA, the Leinster Branch and the clubs have now in place for the protection of children in swimming, most clubs believed that the arrangements were adequate, but that procedures were not always followed.
- 5.3 A respondent to the questionnaire reported that the club had requested the Leinster Branch to hold an EGM to debate reports on child sexual abuse. The

Leinster Branch met with them but no EGM took place. It was also stated that there is no adequate way to detect child sexual abuse unless it is reported and this is more likely if there is an awareness of the issue. This is echoed to some extent by another respondent who suggested that an extra degree of vigilance is being brought about by virtue of the Inquiry.

- 5.4 With regard to arrangements to deal with persons against whom a complaint is made the answers were varied. Nearly all who responded to this question believed that such persons should be suspended and denied access to children while the investigation is underway. A few stated that complaints should be made to the appropriate authorities who alone should deal with the matter.
- 5.5 Some of the respondents stated that all clubs should be compelled to hold child protection meetings.
- 5.6 Only three clubs who responded to the questionnaire had appointed Children's Liaison Officers. Clubs stated that they were, as yet, unsure as to what training would be provided and how it would be funded.
- 5.7 One club responded that its Constitution was amended to include a provision for the introduction of controls relating to child abuse and to provide for the appointment of a Children's Liaison Officer.

6. Clubs' Comments on Protection of Children

- 6.1 The last question in the questionnaire invited comment on the protection of children in sport in general. Inevitably some comment was restricted to swimming. In particular, the view was expressed that all relevant professional advice should have been made available to the clubs by the IASA. IASA procedures would seem adequate, but there was a view that professionals would be best placed to assess their potential effectiveness.
- 6.2 One respondent expressed the view that there is no method of securing compliance as much coaching is done by amateurs. There was inadequate time, expertise and funding to investigate best practice and to employ best advice.
- 6.3 The Department of Education and Science Stay Safe and RSE Programmes were seen to be useful. The Code of Ethics and Good Practice in Children's Sport too, is listed as an improvement to the situation, but only insofar as its provisions are adhered to.
- 6.4 Some respondents expressed the view that insufficient thought is given to the needs of the child. The role of parents, too, was taken up by another respondent, who wrote of the necessity of parental common-sense and

vigilance. There is an onus on parents to ensure the safety of their children in a club and to remove the children from the club if they are not satisfied.

- 6.5 One respondent pointed out that there were no guidelines in place for helpers who were not coaches and suggested that screening be extended to all those who helped, taught or coached children.
- 6.6 Finally, it was suggested that there should be statutory immunity to protect persons who complain of child sexual abuse.

Houses of the Oireachtas

## CHAPTER 5

### THE FIRST NAMED COACH

1. First Swimming Club
  - 1.1 The first swimming club was founded in 1976 by the coach first reported to the IASA. It developed to be a leading club under his direction, attracting talented swimmers who obtained great distinction not alone in domestic competition but also in international events.
  - 1.2 The club operated from premises attached to one of the first of the comprehensive schools, which in addition to playing fields, had a modern gymnasium and a 25 metre swimming pool. The management of the swimming pool and gymnasium was carried on by a limited company (the management company). The directors of this company included the Principals of the school during their period of office, and local business and professional people whose children were involved in the school or sports. It is significant that many of these resigned as and when, their children ceased to have involvement in the school.
  - 1.3 The club thus included students from the school, but more and more established swimmers, who were attracted by the training and coaching facilities, also joined the club. Some of the swimmers have given evidence to the Inquiry that they came across the city to early morning training and back again to school; that they even changed school to facilitate training at the swimming club. Some others told the Inquiry that they missed out on school, or even slept at the back of classrooms, when eventually they did get to school after early morning training.
  - 1.4 It is in this context that Barron, author of "Swimming for a Century", has written about "the cult of the coach" which he observed was much in evidence in swimming. He also observed that top swimmers tended to move to whoever was considered the best coach with the best facilities. He has also stated that often, when performances were below par, the swimmers blamed the coach and moved to a new coach or a new club; and indeed, that sometimes swimmers were pushed too far too soon and left the sport prematurely. Those swimmers who gave evidence to the Inquiry gave an additional reason for swimmers moving or dropping out; that of psychological and/or sexual abuse.
  - 1.5 However, the reputation of the coach and the progress of swimmers in the club after it was formed did attract students and swimmers to the school. The first named club was regarded as the premier club in Ireland, and swimmers thus saw it as a serious club with professional coaching. There is no doubt that the

facilities and the expertise were far superior to that of many traditional clubs. Indeed, the club provided a setting where swimmers were worked hard and were highly motivated by the coach, who thus became the dominant club figure.

- 1.6 Such was this dominance, and it needs to be said, the trust and confidence which swimmers and parents, the management company and the school had in the coach, that no control mechanism was thought necessary. While the fees for the club were high, the parents were not requested, as in other clubs, to defray extraordinary expenditure. Indeed the evidence was that the coach secured considerable sponsorship from industry, such that it was he, more than the parents, who spearheaded fund-raising efforts, and did so very successfully. However, the manner and extent of such sponsorship does not appear to have been monitored.
- 1.7 This swimming club quickly became affiliated to the Leinster Branch of the IASA; in order to do so, it had to make a return detailing its committee. Unfortunately the absence of records from the club at this stage, compounded by the absence of complete records from the IASA and the Leinster Branch, has prevented the Inquiry from checking who was on the committee during the fifteen years from 1976 to 1991. However members of the club at that time have stated that they were unaware of the identity of members of the club committee; or else assumed that those who co-operated most were involved on the committee. One of these was later surprised to find that he was included in returns by the club in 1992.
  - 1.7.1 Members of the committee prior to 1993 appear to have been appointed rather than elected. They reported to the coach, raised funds and assisted in the organising of galas. They did not manage the club.
- 1.8 The Inquiry has no reason to believe that this perception did not accord with the reality of dominant coaches; a formalistic compliance with regulations of the IASA, and an absence of accountability. Nobody questioned the coach; his single minded determination to succeed, his dedication to swimming, his persuasiveness and, indeed, arrogance, instilled in the members of the club, both swimmers and parents, a perception of his greatness.
- 1.9 It must be said that, once appointed as Olympic Coach (he was coach to the Irish Squad in the Seoul Olympics in 1988) he seemed to dominate Irish swimming. The Technical Training Committee of the IASA, comprising the most successful coaches, influenced who was given a position on the international team. Where controversy arose regarding the choice of the Selection Committee, the first named coach's choice prevailed.

- 1.10 The coach resigned as Director of Swimming of the IASA in May 1990, allegedly on the grounds that he could not do this on a part-time basis. Many officers and swimmers told the Inquiry at the time they believed his resignation had more to do with the level of funding.
- 1.11 The Inquiry found it difficult to tie down the precise financial arrangement under which the coach was employed by the club. Such was the trust and unquestioning acceptance of the coach by swimmers and parents, that the issue was never raised nor, it seems, documented by the club. However, some doubts were raised with regard to expenses, particularly on foreign meets and training.
- 1.12 Closely connected to this apparent lack of financial control was the lack of control of the coach by the club committee itself. It is clear from the evidence heard, that the committee of the club was more a formality than a reality. In hindsight, this allowed an undesirable situation to arise. The catalogue of accusations levelled against the first named coach has caused a sense of betrayal, which has left those who were formerly members of earlier committees with a sense of guilt. They were also left with a sense of misgiving. This is evidenced by the statements made by parents who, again with a sense of trust and confidence in the coach, dropped their children off to early morning training, and indeed entrusted them to the coach for international events and away trips.
- 1.13 The coach was clearly an employee of the management company. But it is also clear that he was engaged (whether as employee or under contract is unclear) by the swimming club itself. While the fact of engagement is clear, the terms and conditions of engagement remain unknown and undetermined, both in the minds of swimmers and their parents and in the absence of records in the club at the time.
- 1.14 It is alleged that the first named coach stated that he had no records for the club for the 1970s; and that he used this as a ground in his subsequent court action to prevent the criminal charges against him being proceeded with. Yet swimmers who gave evidence spoke of the detailed swimming records he kept, the meticulous manner in which he dealt with his training programme at the time, and indeed the articles written by him at the time in *The Swimming Times*.
- 1.15 While it is strictly outside the terms of reference the Inquiry was told that, shortly before he was employed by the club, the coach had worked at another swimming club where it is alleged that he seriously abused a young swimmer. His contract was terminated, not for this reason, as the club committee were not then aware of any allegation of abuse, but because of insubordination and lack of accountability to the committee regarding the number of swimmers

attending and the return of fees paid. The President of the club has given evidence that she was not aware of any allegation of abuse at that time.

## 2. Overseas Trips

- 2.1 During the time that the first named coach was coach to the club, several swimmers gave evidence that overseas trips were largely unsupervised. In some cases it did not seem clear to swimmers who the team manager was. In other cases adults, who accompanied them, did not think that they, in turn, were team managers. It has been difficult to ascertain whether there were any formal appointments as team manager, as no club records seem to exist in the period 1989-1992. Those who were regarded as team managers by swimmers told the Inquiry that they had travelled as merely parents of swimmers (and not as team managers) and had paid for their own fares and accommodation.
- 2.2 Several swimmers alleged that they were locked into their rooms at night by the first named coach. The adults on trips abroad did not know about this and pointed out that it would be unusual to have accommodation which could not open from the inside. However, it is clear from the evidence of swimmers on different trips, one to Australia and the other to America, that they were indeed trapped in their rooms by their coach and were conditioned by him not to protest.
- 2.3 There was evidence that in relation to some of these incidents the parents involved complained to the coach first mentioned. The coach allegedly reacted by indicating that the swimmer was jealous, or was somewhat immature or that he would ensure greater supervision in future.

## 3. Evidence of Swimmers

- 3.1 The evidence of the swimmers was that the earliest alleged abuse and assaults had occurred in 1967 in respect of a young male swimmer then aged 11; in 1968 in respect of a young female also aged 11.
- 3.2 These incidents allegedly took place in other swimming pools where the coach worked. None of those clubs, in answer to queries put to them by the Inquiry had any written notice of complaints on the club files and, insofar as the present committees could ascertain from past committee members, no officer or member of the clubs were aware of any impropriety.
- 3.3 A third witness said that in 1975 when she was 13 she had stayed for a month with the coach when her parents were on holiday and she alleged that the coach slept with her and abused her. She confided in a school friend who encouraged her to speak to a priest. She said that the priest advised her to confront the

abuser and to ask him to stop. When she did she said that the coach slapped her across the face, called her a whore and told her to stay away from boys. The coach then ignored her but she said later forced her to perform oral sex with him. Abuse continued and the witness believed that the coach had intercourse with her in 1977 when she was 15.

- 3.4 A fourth witness alleged that when she was younger she had been abused over a period by others. In 1977, when she was aged 12 one of those who had previously abused her suggested that she accept a lift from the first named coach. She alleged that he abused her when driving her home. The witness said that she was not aware of the impropriety until she was aged 20 - she had no reference point as to what was appropriate behaviour.
- 3.5 Another witness alleged that she was indecently assaulted on a club trip to Holland in 1990 and raped in Florida in June 1991 by the first named coach.
- 3.6 A sixth witness alleged that she had been frequently abused by another person at the pool when she was between 11 and 13. Her abuser suggested she take a lift home with the first named coach when she was 12. When driving her home she alleges that he touched her inappropriately.
- 3.7 What is significant in all of these cases is the evidence of the swimmers that they did not complain to their parents nor to their clubs. More disturbing was the evidence that some were not aware of the impropriety of the alleged incidents. The evidence of one of the witnesses that a previous abuser suggested she take a lift from the first named coach was most disturbing.

#### 4. Complaints in relation to the First Named Coach

- 4.1 In relation to complaints against that coach there is no documentary record available from the club. Accordingly, it was not possible to verify if there was any written complaint made to the club before the coach left in early 1993. No evidence was given which would suggest that any written complaint was made. However, between December 1990 and January 1991 six senior swimmers discontinued training with the first coach and also left the swimming club: some left swimming altogether. However, no questions were asked as to why they had discontinued their training with the coach or why they had left the club.
- 4.2 Shortly before Christmas 1990, while the elite Irish swimmers were preparing to go to the World Championships in Perth, a male complainant, who had been allegedly sexually abused by the first named coach, was not, at first, selected as coach for the championships. He was then invited to go as a coach by the first named coach but at first declined this invitation. He confided in a female

assistant coach at this time that he had been abused by the first named coach over a period of years, when he was younger.

- 4.3.1 After the World Championships in December 1990, the complainant gave evidence that, in Perth on 1 January 1991, he told the Honorary Medical Officer of the IASA (and of the Leinster Branch) that this abuse had occurred. He says that that officer's advice was that it would be the complainant's word against that of the first coach, and that he should "get on with it". The officer was not aware of any other allegation of abuse until November 1994 at which time the first named coach had been successful in preventing the prosecution from proceeding.
- 4.3.2 The Honorary Medical Officer maintains that at the time there existed a doctor-patient relationship; that the conversation had in fact taken place before going to Perth; that the complainant was confused, and emotionally unstable, as a result of a head injury and that the complainant did not want the officer to report the matter.
- 4.3.3 The Inquiry finds that there is no conflict of evidence in relation to the conversation between the complainant and the Honorary Medical Officer regarding the notification of abuse by the first named coach in December 1990/January 1991. The officer was told and, for professional reasons of doctor-patient confidentiality, did not report the abuse alleged.
- 4.4.1 The complainant in evidence further alleges that he told the then President of the Leinster Branch of the IASA in February 1991 about the abuse by the first named coach. He is alleged to have replied that he would deal with the matter.
- 4.4.2 The assistant coach also arranged to meet the President of the Leinster Branch in early 1991 and alleges that she told him of the abuse. According to her, the President replied that he hoped that the matter would not break while he was President.
- 4.4.3 The Leinster Branch in its submission states that the then President of the Branch did not bring the making of any complaint to the attention of the Secretary or Treasurer or to any other member of the Branch.
- 4.4.4 There is no record of any action arising from either of these alleged complaints. On 4 November 1992, the President resigned and was subsequently arrested and convicted on 15 August 1996 in respect of matters unrelated to those within the terms of reference.
- 4.4.5 The President however, has written to the Inquiry to note that any finding made by it should explicitly acknowledge that he completely and without reservation

repudiates any allegation that he sought to or did impede the forwarding of any complaints made about the first named coach's behaviour.

- 4.5 In March 1991, the complainant alleges telling the National Development Officer of the IASA about the abuse. The National Development Officer gave evidence that he believed that nothing specific was said at the time and says that he did not know of the abuse until November 1992, when informed by another coach. He himself then informed the Secretary of the IASA.
- 4.6 In June 1991, the complainant says that he told the Secretary of the IASA. In evidence the committee member did not remember these alleged complaints and believed that the IASA had never got any official written complaints. She did not remember ever knowing even unofficially, but does remember rumours.
- 4.7 In November 1991, a parent (in another club) was told by the assistant coach of the club of the allegations and that the Gardai and the I.S.P.C.C. were also informed. The I.S.P.C.C. has no record of any such complaint in 1991 nor 1992. The first record on the Garda file is dated 15 December 1992. It was also alleged that the complainant told the President of his then club sometime in 1991 about the abuse but this is denied by the President.
- 4.8 The President of the IASA in 1992, had been told at the end of 1991 by a senior swimmer of complaints that the first coach was in serious trouble for molesting young children. The senior swimmer requested that the President organise a meeting at which the Gardai would be present. The President took legal advice. No meeting was held.
- 4.9 The Honorary Treasurer of the IASA in his evidence to the Inquiry said that he was aware of rumours before the Barcelona Olympics in the Summer of 1992 that a senior swimmer was going to expose a coach, but was not aware of the identity of the coach or the nature of the allegations and did not receive any complaint or hear of one.
- 4.10 The complainant attended a Psychologist in October 1992. The Psychologist took the view that he was obliged to report the matter to the Gardai and did so. The Garda investigation commenced shortly afterwards.
- 4.11 On 11 December 1992, a senior swimmer wrote to the Honorary Secretary of the Leinster Branch requesting a meeting with the executive. A special meeting was duly held on 15 December 1992 at which three complainants were in attendance. The complaints in relation to two of these were minuted.

- 4.12 The first complainant told the officers that the first coach had assaulted him and alleged that three young girls, then in their early teens and in the care of the coach, had been abused.
- 4.13 The second complainant complained of abuse involving a young girl over a period when she was aged between 9 and 14.
- 4.14 The third, according to the minutes, said that he did not wish to make a statement. However, according to an addendum to the minutes, that complainant told the officers that the first named coach had abused him over a considerable number of years but did not want minutes taken as he felt his statement would not be accepted.
- 4.15 There was no evidence given to the Inquiry that complaints were made directly to the first named coach, nor that officers, who had allegedly been made aware of complaints, had spoken to that coach.
- 4.16 The evidence of the complainants to the Inquiry is that they were not believed, that the complaints were treated as rumours, that one of the complainants wanted to take over from the first named coach and that the complainants had a hidden agenda in making the complaints.

## 5. Reaction of the Leinster Branch

### 5.1 The period prior to December 1992

According to the written submission of the Leinster Branch rumours had been circulating within swimming circles regarding various parties before December 1992. Individual members of the Branch Executive may have been exposed to these rumours but many such rumours were treated with disbelief or were attributed to internal rivalry within the sport. In accordance with the submissions of the Leinster Branch the issue did not crystallise until the meeting of 12th December 1992 when it became apparent that there was a serious problem of considerable substance that needed to be addressed.

- 5.2 Within the Terms of Reference of the Inquiry, the Branch made extensive submissions in relation to complaints. The Branch submits that the officers were guided by legal advice and, once the matter had been put into the hands of the Gardai on 15 December 1992, its responsibility ceased.
- 5.2.1 The Leinster Branch submit that it first became aware of child sexual abuse when, on 12 December 1992, a request for a meeting was received from a senior swimmer concerning serious allegations regarding the second named coach. The swimmer and two other complainants met with three officers of the

Branch: the newly co-opted President who had taken over from the President referred to above in November 1992, the Honorary Treasurer and the Honorary Secretary. At the then President's request, the Branch Secretary immediately contacted the Honorary Secretary of the IASA seeking an urgent meeting and outlined to the IASA the nature of allegations and the coach involved.

- 5.3 The IASA Honorary Secretary telephoned back indicating that she had received legal advice and would not attend a meeting that night but arranged a later meeting which was scheduled for 20 December 1992.
- 5.4 On 15 December 1992 the President and Honorary Treasurer of the Leinster Branch went to the local Garda Station to report the allegations and arranged for a meeting the following day with a Detective Inspector. The Detective Inspector informed the President of the Leinster Branch that an investigation was already in progress. The President told the Inquiry that he was advised by the Gardai to leave the investigation to the Gardai and to do nothing.
- 5.5 The following evening the Garda officers met the Vice President of the Leinster Branch who was a member of the club involved.
- 5.6 On 17 December 1992, the IASA cancelled the Branch meeting scheduled for the 20 December 1992. It was not rescheduled.
- 5.7 On 22 and 23 December 1992, the Branch officers sought and obtained legal advice as they were concerned about the participation of the first named coach in a coaching session scheduled for 2 January 1993, organised by the Branch, for juvenile swimmers. The President and Honorary Treasurer spoke with the coach on 23 December requesting him to stand aside from the event. The coach refused to stand aside and in turn threatened legal action. Witnesses gave evidence to the Inquiry that, while rumours abounded, no information was given to members of the club by officers of the Branch.
- 5.8 It was decided, having taken legal advice, to allow the event to proceed but to ensure the attendance of a sufficient number of parents and officials to supervise the event (which passed off without incident).
- 5.9 The issues were discussed by the Branch at a special meeting of the Branch on 6 January 1993 and at the following Executive meeting but were not minuted.
- 5.10 The Branch believe that the coach left the club before April 1993.

5.11 The father of the senior swimmer, who had left the club early in 1991 and who complained to the Leinster Branch, in turn wrote to the Leinster Branch on 4 January 1993 upbraiding them for their inactivity and expressing disgust at the holding of the training session on 2 January when the Branch had full knowledge that the coach was under investigation for serious offences. The Branch believes that this was the seed of future discontent between the Branch and complainants.

5.12 In March 1993, further discussions took place between the Branch Secretary and the Branch Solicitor. The matter was not minuted. The coach appeared before the Courts on charges in April 1993, at which stage the Branch believed that he was no longer involved in the sport and his whereabouts were thus unknown to the Branch.

6. Reaction of the IASA

6.1 The Executive Committee of the IASA became aware in late 1992 that the first coach's behaviour was the subject of a complaint to the Leinster Branch. The complaint to the Leinster Branch was made on 12 December 1992, and on 15 December 1992 officers of the Leinster Branch reported the matter personally to the Gardai and informed the IASA. The IASA submit that no complaint was made to them prior to this.

6.2 The IASA took legal advice. On 15 January 1993, the IASA wrote to the complainant advising him that:

“The IASA cannot act on a mere rumour and innuendo and the person concerned has a basic right to his good name and reputation unless and until first hand complaint is made in the first instance and thereafter justified”.

7. Reaction Subsequent to Legal Proceedings

7.1 The evidence of the school is that the coach was suspended on full pay by the management company on 20 January 1993. A year later, on 17 January 1994, the coach was suspended by the management company without pay. On 9 August 1994, the coach received payment of £19,000 in full and final settlement of his pay claim.

7.2 On 6 April 1993, the first named coach was charged with sexual abuse on the basis of the allegations which had been made against him *inter alia* by the complainant and others, who had not complained to the Leinster Branch or to the IASA. The coach had left the club sometime before 6 April 1993. A book of evidence in the case was served on the 26 June 1993, whereupon the

coach applied for judicial review both on the basis of the delay since the offences were alleged to have occurred, and on the basis that they were defined with a lack of precision. The High Court refused the coach's application in July but the Supreme Court allowed him to apply for a judicial review in December 1993. The review succeeded and proceedings were discontinued in September 1994.

- 7.3 During the time that the legal proceedings were ongoing, and throughout the years 1993 to 1994, the IASA took an approach to the first named coach which appears to have been rather ambivalent. The IASA submit that during 1994 they endeavoured to control the coach's attendance at swimming events. However, the Inquiry has found no decision in the minutes of the meetings for that period relating to the coach's attendance at swimming events.
- 7.4 However, in December 1994, the Honorary Secretary of the IASA sought and got advice from the Eastern Health Board who emphasised that guidelines needed to be developed within an organisation to be effective.
- 7.5 The Honorary Secretary of the Leinster Branch organised a seminar on 21 March 1995 with the Head Social Worker of the Health Board.
- 7.6 In April 1995, the coach attended a swimming gala and a children's coaching session at two swimming clubs affiliated to the Ulster Branch of the IASA at the invitation of a former officer of the IASA.
- 7.7 A number of complaints were made to the IASA between April and May 1995 protesting that the first named coach was still making an appearance at certain swimming clubs affiliated to the Ulster Branch. The Secretary of the IASA wrote to the clubs concerned on 26 May 1995 asking for an explanation as to the coach's participation.
- 7.8 In May 1995, the Honorary Secretary of the IASA spoke to a Social Worker in the Eastern Health Board who advised that the IASA was accountable for children's welfare and if they had reasonable grounds for concern regarding a risk to children, this would outweigh everything else. The Social Worker further advised that the IASA should take reasonable steps to inform, advise and alert swimmers and clubs.
- 7.9 Following this advice, the Honorary Secretary proposed writing to the clubs stating that the IASA had grounds for concern as the first coach, who had been charged with child abuse but had not been found guilty, had visited a number of clubs. The Honorary Secretary proposed advising the clubs that care should be taken to ensure that swimmers were not at risk.

- 7.10 The Honorary Secretary sought legal advice. No letters were sent to any of the clubs as proposed.
- 7.11 The complainant had written to the IASA on 1 February 1995 alleging his personal experience of abuse at the hands of the first named coach. By this time, the courts had found that the delay since the alleged abuse had occurred was a bar to proceeding with the prosecution. The IASA submit that, in view of the findings of the court, they were barred from investigating such complaints. Notwithstanding that, the complaint was later formally placed before the IASA in February 1996. Nothing was done, apparently again on the basis of advices received.
- 7.12 No responses appear to have been received. There were also complaints about the fact that the first named coach remained an honorary life member of the IASA, despite the allegations which had been made against him and despite the criminal proceedings having been initiated.
- 7.13 In February 1997, steps were taken to suspend the coach as an Honorary Life Member of the Association, on the grounds that he did not reply to letters sent to various addresses abroad where he might have been, requesting him to show cause as to why his suspension should not be made permanent. He had at that time, according to witnesses, left the jurisdiction to work in swimming in Scotland and later in the U.S.

## 8. Further Complaint

- 8.1 A further complaint was made in respect of the second named coach. The nature of the complaint and when the alleged incident took place is the subject of ongoing Garda inquiries.
- 8.2 For this reason, it has been decided by the Inquiry not to report on any evidence in order to avoid possible prejudice in relation to any future criminal proceedings.

## 9. Honorary Life Membership of Coach

- 9.1 In this context, it should be noted that the first named coach was granted an Honorary Life Membership in 1989 on the nomination of the Connaught Branch, despite opposition from some members of the Leinster Branch. Moreover, he continued to be a Life Member of the IASA, even after being complained about to the Leinster Branch, and reported to the Gardai. The Inquiry was not furnished with any file by the IASA office relating to the nomination, citation or detailed history of the nominee's career although such a

file is required by Appendix 3 to the Constitution. It was confirmed by the IASA that no such file exists.

9.2 The reasons for opposition by members of the Leinster Branch, who provided the Inquiry with a copy of the coach's curriculum, was that the coach claimed responsibility for bringing forward national champions when, in the opinion of those members of the Leinster Branch, other coaches were in fact responsible. The Leinster Branch did not make any suggestion nor was there any suspicion of sexual impropriety on the part of that coach.

9.3 On 15 November 1995, the Branch sought legal advice in relation to the removal of the first named coach as Honorary Life Member of the IASA. The matter was under discussion until April 1996. It was pursued by the Branch in accordance with legal advice obtained and in consultation with the IASA. The IASA resolved to suspend life membership of the coach in September 1997.

#### 10. A New Constitution

10.1 The club was totally reconstituted in 1993 following two meetings attended by parents of younger club members.

10.2 A new comprehensive constitution was adopted by a general meeting of the club held on 14 May 1993.

10.3 The constitution provides that the administration and management of the club is the responsibility of the committee. The head coach is *ex officio* a member of the committee and is accountable to the committee. With this exception, professional swimming teachers or coaches employed by the club cannot hold office or be a committee member.

10.4 Coaching and teaching staff are to be on contract.

10.5 Club discipline is dealt with comprehensively as follows:

“14.1 The Committee of The Club may impose penalties by way of admonishment, loss of privileges, fine, suspension, expulsion or any lesser penalties as they may after due consideration think fit upon any member:-

- (a) for an infringement of any of the laws, bye-laws, rules or regulations of the IASA, or any branch thereof;
- (b) for an infringement of any of the rules of The Club;
- (c) for any unfair practices in The Sport;

- (d) for conduct likely to bring The Sport or The Club into disrepute or which may be prejudicial to the interests of The Club.

14.2 A member whom it is intended to discipline shall have the full complaint or case against him or her made known to such member and shall be entitled to address personally or through an adult representative The Committee before the committee imposes any disciplinary measures arising out of the alleged complaint or otherwise.

14.3 Any person aggrieved by a decision of The Committee under Clause 14.2 above shall within 28 days of the date of that decision have the right to appeal against the same to an arbitrator appointed for that purpose by The President for the time being of The IASA. The decision of such an Arbitrator shall be final and binding on The Club and on the person so appealing."

10.6 The club has adopted the IASA Official's Code of Ethics and has published Sports Centre Regulations which relate to all swimmers and bathers.

## CHAPTER 6

### THE NAMED SCHOOL

1. The Employment of the Second Named Coach
  - 1.1 The Inquiry was required to investigate the manner in which any complaints in relation to the second named coach were handled by the school over the period from 1975 onwards.
  - 1.2 The school had been involved in swimming at club level since 1927. In the early 1970s an indoor pool was built and the second named coach was employed by the school as pool manager to manage the pool and to provide the necessary teaching and coaching for the students of the school. Swimmers were attracted from outside the school.
  - 1.3 The original terms of employment of November 1970 were amplified and updated by letter dated 11 March 1977. This provided that the coach was to participate in coaching and teaching pupils of the school; to manage and maintain the pool and to be responsible for making sure that there was a suitable lifeguard on duty. In relation to financial transactions, the letter provided that the terms of letting and arrangements for handling the pool's financial transactions were to be agreed with the bursar.
  - 1.4 The terms of employment were further updated on 1 April 1986 "in order to avoid future misunderstandings". The normal hours of attendance by the coach, as pool manager, were outlined. These were:
    - (a) 6.00 a.m. to 7.30 a.m. for early morning squad training which could only take place under the supervision of the pool manager;
    - (b) 3.00 p.m. to 5.45 p.m. where the pool manager had to be present unless he was away with the team;
    - (c) 6.00 p.m. to 10.00 p.m. during which hours the pool was let to agreed outside groups. In that event, the pool manager had to be either in the pool area or on call on the premises when the pool was in use by outsiders.
  - 1.5 The terms further provided that pool rules were to be adhered to at all times and appropriate lifeguards, as per the rules, had to be on duty and clearly identifiable. No matter how experienced the swimmers were, there had always to be a lifeguard on duty except when swimming classes were being taken by members of the teaching staff.

1.5.1 It is not clear from the contract whether a lifeguard had to be on duty when the coach, as pool manager, was coaching early morning sessions. The evidence, as given by swimmers and by former officers of the club was that there was no lifeguard on duty and that the coach occasionally left swimmers on their own at early morning sessions when he went for breakfast, or otherwise.

1.6 The coach, as pool manager, was required according to the letter of 11 March 1977 to maximise the income of the pool, within prudent lines.

## 2. Complaints

2.1 In August 1993, the Headmaster of the school was contacted by a parent who advised him that she had heard that the coach was being investigated in respect of allegations of sexual abuse.

2.2 The Headmaster made a number of inquiries and on 7 September 1993 was interviewed by the Gardai. Following that interview he contacted a former pupil of the school who had left in 1983. She indicated that the second named coach had had sexual intercourse with her and had assaulted her.

2.3 This allegation was the subject of a statement by the former pupil of the school which was made to the Central Criminal Court in January 1998. The swimmer gave evidence to the Inquiry and provided a statement that had been made to the Gardai regarding incidents of abuse between September 1978 and June 1979 when she was about twelve years of age and had commenced secondary school.

2.4 This witness alleged that in 1980/81, when she was fifteen years of age she told a teacher she trusted about the abuse. Although the teacher told her that he would inform the Board of Governors, she did not think that he had done so but understood that he was to inform another teacher. The named school has no record of that complaint, nor has the Headmaster at that time.

2.5 The witness said that no one said anything to her after that. There was no comment. She felt she had made a big mistake in "opening her mouth" while the coach was getting away with it. So she didn't say any more. She says she had made it very clear that the coach had sexually assaulted her. She said nothing to her parents as she thought she would be blamed for the incidents and would get into trouble. The reason they were not told was because she did not want to be blamed and did not want to upset them.

2.6 In response the school say that the Gardai took statements from teachers who had taught at the time, including the former Headmaster of the school, who stated they had not been informed by either the witness or by any teacher of

the allegations made. Moreover, the Chairman of the Board of Governors at the time confirmed that the Board was not informed of any such allegations. It was not possible to trace the teacher to whom the witness said she had spoken.

- 2.7 The Inquiry finds that in or about 1980/81 the swimmer did confide in a teacher she trusted in the school. The Inquiry also finds that the Headmaster and the Board of Governors were not told.

3. Suspension

- 3.1 On 10 September 1993, the school suspended the coach. The Headmaster says that this was done against the advice of the Gardai. The Gardai say that their function is to investigate and not to advise and that it was unlikely that they would have advised in the manner suggested.
- 3.2 The decision to suspend the coach was ratified by a special meeting of the general committee of the school on 20 October 1993, when the committee resolved to dismiss the coach.
- 3.3 On 12 November 1993, the coach resigned from the school. The Headmaster acknowledged his letter of resignation and enclosed gratuity amounting to two months salary for November and December in recognition of his years of service to the school and to Irish swimming.
- 3.4 On 29 November 1993, the President of the swimming club was advised by the Headmaster that the coach was not to coach at the pool for any party.
- 3.5 The coach resigned as head coach of the swimming pool on 8 December 1993 and was appointed Development Director of the club. The Headmaster was notified and assured that this would not involve any coaching or administration of the pool.
- 3.6 On 21 April 1994, the Headmaster wrote to the President of the club expressing his concern that the agreement that the coach would not coach in or at the pool was being breached. He stated that he had heard that the coach was involved in coaching during the Easter holidays and that he substituted for another coach on an occasion prior to this. He asked the President to confirm that the coach was specifically excluded from coaching at any time and to any group.
- 3.7 The President of the club replied on 25 April 1994 and stated that the coach had not coached at any time at the pool. The President also stated that over the Easter period the club had rented the pool to the Leinster Branch of the IASA for a club coaches course. He said he understood that the Leinster Branch

asked the coach to assess a number of coaches partaking of the course, in a question and answer session, not at the poolside.

- 3.8 The President further pointed out that the coach had only been at the pool as a parent, when a member of his family had been swimming, or to meet a member of the committee on specific business or to liaise with the coaches in the development of the club. In evidence the President said such an arrangement had been agreed with the school. He confirmed that at no time was he coaching at the pool.

4. Submissions of the School

- 4.1 The Headmaster submitted to the Inquiry that it was untrue that no steps were taken by the school in relation to the complaints made against the coach.
- 4.2 The Headmaster believes that the allegations that no steps were taken by the school in relation to these complaints of sexual abuse, result from a fundamental misapprehension and confusion as to the relationship between the school and the swimming club. He says that they were two separate entities. The school was not represented on the committee of the club and was not involved in its administration or operation.
- 4.3 The Inquiry finds that once a complaint was made to the school in August 1993 that the school acted promptly and decisively. Moreover, the school continued to show its concern at the coach's apparent occasional attendance at the pool and, particularly, at the coaches training session over Easter 1994 in the school pool.
- 4.4 The Inquiry finds that the President of the club was aware that the suspension related to complaints about the coach's behaviour in the pool/changing area.
- 4.5 The school had no further responsibility in reporting the matter to individual members of the Committee of the club, the parents or the Leinster Branch of the IASA, having made the President of the club so aware and having continued to express concern about the second named coach's presence at the pool.

## CHAPTER 7

### THE SECOND NAMED COACH

#### 1. Second Swimming Club

- 1.1 The Swimming Club with which the second swimming coach was associated for twenty four years was originally founded as a school's swimming club. When the school moved to new premises in the early 1970s the second coach was engaged by the school to manage the pool and to teach and coach students of the school subject to the terms of letters of 1970, 1977 and 1986 (see previous Chapter 1.3 to 1.5).
- 1.2 The second coach founded the swimming club in 1971, and later club membership was extended to non-students of the school. From 1976 to 1991 the club produced more Irish senior and junior champions, broke more Irish records and won more team titles than any club before.
- 1.3 Prior to 1978, there would appear to have been no committee or at least no known committee members are recorded in the records of the club. According to the 1992-94 President, in a letter written to the Gardai on 24 August 1994, prior to 1992, the office of President of the club was largely that of a figurehead. Meetings were not regular and committee record keeping was limited to meetings when held. The club had and still have no files prior to 1987. There were incomplete files from 1987 to 1989. From 1989 to 1992 the club has complete files with minutes of such meetings as were held.
- 1.4 The coach was one time National Coach and was appointed Olympic Coach for the 1980 and 1992 Olympics (see Chapter 2, 1.9).

#### 2. Evidence of Swimmers

- 2.1 A witness, who was a boarder at the named school gave evidence that in late 1977 or early 1978 when she was 12 she commenced training with the second named coach. She was measured by him on her arms, legs and chest. He felt her breasts. She presumed it was normal for him to feel around the breast area.
- 2.2 He asked her to come to his office in the evening. She left prep and went to his office where he was alone. He explained that she would swim better if relaxed. He hypnotised her and asked her to concentrate on her breathing. She remembers nothing more.
- 2.3 He arranged that she come to his office on other evenings, once with a friend whom he hypnotised, and other times alone.

- 2.4 When she was hypnotised he asked to imagine a body touching her. He touched her explaining that it was to heighten her experience. He had intercourse with her. This pattern continued. The door would always be locked.
- 2.5 The second named coach also had intercourse with her in his car at the back of the club sports house and, on other occasions in an adjoining park and in his house on a weekend or half day.
- 2.6 The abuse ended in June 1979. She was then 13.
- 2.7 A second witness gave evidence that in 1992 when she was 13 the second named coach encouraged her to undergo relaxation treatment. She was called to the coach's office and was hypnotised twice or three times a week over a period of weeks.
- 2.8 The witness stated that the coach showed her how to use tampons.
- 2.9 She says that he told her that he was very manipulative and asked her for oral sex.
- 2.10 When she began going out with a boy friend, she says that the coach stopped touching her inappropriately.
- 2.11 She did not complain. She did not tell her mother until May 1996 when she was 17 years of age.
- 2.12 A third witness spoke of what she regarded as a few small incidents in 1992 shortly after she joined the club at 16 years of age. The coach requested each of the female swimmers to come into a small store room to be measured. She went in in view of the other swimmers. The coach put his hand on her chest. She hit him. He fell. Everyone in the pool laughed. When she recounted why she had hit him she was told by some of the swimmers not to say anything, that it was probably a mistake and that she should not get the coach into trouble.
- 2.13 The same witness gave evidence of the coach requesting her and two younger swimmers to take down the top of their swim suits to do a fat calibre test. One of the younger girls aged 13 started to do so. The witness said "no" and the younger girl did not continue. The other swimmers laughed saying that it was only a joke. Afterwards, the witness said, testing took place in the coach's office.
- 2.14 The third of the incidents related to the coach walking through the shower area and to the girls' changing room. The witness stated that the coach would

come through the shower area and then knock on the dressing room door asking to come in. The younger girls would look at her to respond. She remembers him coming many times into the changing area. Going through the male changing area should have been more convenient.

- 2.15 The witness said that the coach did not want her in the club. The coach requested witness's younger sister to see him in his office. She accompanied her sister. This annoyed the coach who told her that witness was wasting her and everyone else's time in swimming as she was not good enough. She was sick of the problems in swimming in 1993/94. She knew many of the girls who had complained. She left the club.

3. Complaints regarding the Second Named Coach

- 3.1 There is no record on IASA files made available to the Inquiry of a complaint in relation to the second named coach other than a complaint that he was absent from the Irish Team at the Moscow Olympics in 1980 when he stood in for a broadcaster.
- 3.2 According to the evidence of the then Secretary of the club the earliest complaint regarding the second named coach was made to the Secretary of the club in 1981. A swimmer complained to her that the coach had been in the girls' dressing room while she and other swimmers were showering. The swimmer was very distressed. The Secretary, in evidence to the Inquiry, said that she spoke to the President of the club, whom she understood approached the coach and afterwards told her that it was a misunderstanding and wouldn't happen again. The President, in his evidence, denies having been told. This swimmer did not give evidence and, accordingly, it is not possible to come to a firm conclusion other than that the Secretary of the club at the time was aware of a complaint.
- 3.3 A special meeting of the club was held on 17 September 1987 where the parents of various swimmers raised a number of complaints regarding lack of pool supervision, lack of performance of coaches, conditions of the pool and stolen property being sold.
- 3.4 In their evidence to the Inquiry several swimmers spoke of the coach regularly absenting himself from the pool during early morning swimming for 15 to 20 minutes notwithstanding his terms of employment by the school dated 1 April 1986 (see Chapter 6 1.4 to 1.6 above).
- 3.5 The President of the club during the period 1979 to 1981 stated that he occasionally had breakfast at the school with the coach at this time.

- 3.6 A further complaint against the second coach was made orally on 10 November 1992 and in writing on 11 November 1992. A young female swimmer then aged 17 who had joined the club on 26 October 1992 complained that, on arriving late for training on 3 November 1992, she was asked to press her arm against the bench while the coach placed his hand on her "pectoral muscles". Her evidence to the Inquiry was that he then took her by the hand into a room off the pool, closed the door, cupped her breasts and said he wanted to measure her. The coach also made a statement dated 3 November 1992. In that statement the coach stated that he had a casual approach to physical contact; was good at assessing muscle tone and condition from previous training experience and that all coaches use massage. He admitted that it was a mistake to isolate her and do it in the "board room". He referred to the swimmer as a well developed girl, that it was difficult to locate the base of her pectoral muscle and that he used the inside of her tight swim suit to locate same. He had spoken to her for almost 30 minutes. The coach believed that the swimmer's objection arose because of a silly comment he made to her on 9 November.
- 3.7 The swimmer's parents complained to the coach and to the Secretary of the club, and made a request for a meeting with the Committee. This resulted in a meeting with the coach on 16 November and a formal meeting on 17 November 1992 with the parents and their daughter which is well documented.
- 3.8 The Committee accepted the coach's version that the incident resulted from a misunderstanding. The President of the Committee wrote to the parents and the swimmer on 18 November 1992 and, in similar terms to the coach on 19 November 1992
- 3.9 The letter to the parents and the swimmer stated that the Committee believed that the parents had behaved correctly and impeccably in their handling of the matter and that the Committee wished to thank their daughter for telling them directly of her version of the alleged incident.

The President asked the swimmer to make a further written statement which would strengthen their hand to justify any action they had taken and which might prevent any further alleged incident occurring.

- 3.10 A similar letter was written by the committee the following day to the coach, stating as follows:

"The committee believes that you have behaved correctly in your handling to date of the matter and particularly wishes to thank you for telling us directly your version of the alleged incident.

The quality of your coaching and the training programme supervised by you ... must go hand in hand with increased prudence and caution when dealing with swimmers who are very often at fragile stages of their personal development. This ... committee in no way wishes to place you in any form of straight jacket or to modify that natural exuberance of swimming and coaching leadership which communicates so well to our young swimmers ... but we do urge great caution that you do not place yourself or allow yourself to be placed in any situation which might be misinterpreted or misconstrued by others”.

- 3.11 In both letters the President of the committee stated that it was his intention to review with the committee all the procedures, both formal and informal, which formed part of the work of the club and its training programme. Following receipt of the letter to the complainants, the swimmer's mother thanked the committee for their hard work and complimented their promptness and seriousness in dealing with the complaint.
- 3.12 In his evidence to the Inquiry the President stated that he believed and still believes that the complaint lacked substance.
- 3.13 The Inquiry finds that the complaint was taken seriously and formally by the club and was indeed fully documented. The President of the committee stated that the coaches were instructed that measurement of female swimmers, from November 1992 onwards, was to be done by females and, that, on away trips, the practice of having a female chaperone would be obligatory. A change in the structure of the dressing rooms was agreed with the school to avoid common male and female shower areas. However, this was not minuted or written up at the time. The club file has detailed and well thought out written procedures relating to team managers which are dated February 1996.
- 3.14 The then President, in his evidence to the Inquiry stated that a swimmers' code of conduct was circulated to members and subsequently incorporated into the Constitution.
- 3.15 The two page code relates to the conduct of swimmers at away events and does not appear to relate to the conduct of coaches and/or officials. The code provides that swimmers with complaints should consult the team manager and, if still dissatisfied have the right to discuss the matter with the club committee on their return. The code states that any form of sexual activity is not allowed and is considered inappropriate during a competition or training camp and is therefore forbidden while swimmers are under the care of the team manager. The January 1994 version of the Constitution and Rules does not refer to such code but do refer to the position of Development Director. The minutes of the AGM on 30 January 1994, one year later, stated that the President informed the

meeting that the committee intended looking at the Constitution and rules with a view to updating them so as to cater for the future. There is no reference to a code of conduct in the 1994 Presidents Report. The February 1996 Constitution does refer, at 3.5 and 3.6 to the IASA Code of Conduct of Officials and to the Club Code of Ethics which appears to be the swimmer's code of conduct.

4. Suspension and Resignation of Coach in 1993

- 4.1 On 10 September 1993 the Headmaster of the named school suspended the coach by letter stating;

"I have been made aware of certain complaints about your behaviour in the pool/changing room area in the past. Investigations are in progress. If these investigations prove to be of a serious nature, there could be serious consequences for the school.

Pending the outcome of these investigations, it is my duty to tell you that you are suspended from work on full pay until further notice. You are not to enter the school premises as coach, lifeguard or parent until further notice from me.

Deliver the keys to bursar at 1 p.m. today.

The Board of Governors and the school's solicitors have been fully briefed and have advised me to act in this manner."

- 4.2.1 According to the documents provided the President of the club, having telephoned the Headmaster that morning (the day after the suspension), wrote to the Headmaster on 11 September 1993 stating that the coach had shown him the written statement of the school relating to complaints being investigated by the school into the coach's behaviour in the pool area. The President's letter says that he had seen the statement of 10 September 1993 made to the coach, which "effectively suspended him from his pool duties and refused him permission to be on school property because of complaints being investigated by the school into his behaviour in the pool area".

- 4.2.2 The letter continued:

"I am instructed by the committee of our club to advise you that the club regards the action of the school as interference of contract between ourselves and (the coach); ... that should (the coach) be reinstated or not by the school after any charges against him are shown to be baseless and his national reputation or stature within the IASA or personal standing

within the club be in any way damaged so that he is no longer employable by the club in his present capacity, the swimming club will seek appropriate financial recompense from (the school)''.

- 4.2.3 A copy of the letter of suspension was not on the original club file but was made available by the President to the present club who included it in their submission to the Inquiry.
- 4.2.4 The Honorary Secretary, the Honorary Assistant Secretary and Honorary Treasurer of the Committee in their evidence each said they did not see the written statement. This accords with the evidence of the President. They deny that they were told of the reasons for the coach's suspension, until after he had left the club.
- 4.3 The President of the club wrote to the Garda Commissioner on 17 September 1993, adverting to the quality and calibre of persons who served on past committees of the club, and who would never have allowed misconduct to occur. The President stated that there was only one incident in the previous 22 years of coaching which to the committee's knowledge might have been construed as sexual misconduct. The letter then referred to criminal proceedings, both in relation to the first named coach and to the 1991-1993 President of the Leinster Branch, and stated:
- ''While I can accept the sheer coincidence of two sets of unrelated criminal proceedings referring to high ranking officials in the IASA in the space of one year, it would stretch my credulity and that of the public at large were a third incident to arise in this our centenary year.''
- 4.4 The letter to the Gardai was acknowledged on 21 September 1993 without comment.
- 4.5 The letter from the President to the Gardai dated 17 September 1993 was not on the club file but was supplied to the club by the then President after the sentencing of the second named coach and before the commencement of the Inquiry.
- 4.6 The swimming club held a meeting at a nearby hotel on 1 October 1993 at which all committee members other than the Honorary Treasurer and the second named coach were present. The President of the club read a prepared statement. He stated he had been apprised of the coach's suspension in a meeting with the Headmaster on Friday 10 September 1993; that complaints were being investigated and the Headmaster did not inform the coach of the nature of the investigations. The President further stated that, on Saturday 11 September the Headmaster would not confirm details of the suspension or what

type of investigation was in hand or who was conducting it. On behalf of the Committee the President stated that neither they nor the coach had been contacted by any party conducting an Inquiry and that it was the Committee's opinion that the events surrounding the matter had been orchestrated.

- 4.7 According to the minutes of a meeting of members of the club supplied to the Inquiry dated 4 October 1993 but held on 14 October 1993 the President stated that the coach would not be allowed onto school grounds but that the situation "at present" would continue with the sessions being written up and sent into the pool by the coach. A parent asked if the coach would resign in the interests of the club. The coach was prevented from replying by the President (as chair) who stated to the meeting (according to the minutes) that there had been no official or unofficial contact with the school regarding the coach's suspension.

- 4.8.1 The Honorary Secretary read a prepared statement. In that statement the Secretary said that all Committee members should have the same knowledge and trust to work together and that the Committee was not being totally honest with its club parents and members. As the elected Secretary to the Committee she felt that she could not continue to sit on a committee that she totally disagreed with. The statement referred to the fact that she could not morally agree with the decision the Committee were taking, considering the seriousness of the situation and the information they had. Her statement continued:

"I feel we should take our lead from (the school). (The coach), an employee of the school for many years, has been forbidden to enter school grounds. I would expect that the school would not have taken this very strong action against him without good reason."

She handed in her resignation. There is no written acknowledgement of the Secretary's resignation.

- 4.8.2 In her evidence to the Inquiry the Secretary said that she had no alternative but to resign to show her concern.
- 4.9.1 The President of the club made a written statement, through his solicitor, to the Inquiry that the school refused to identify the allegations against the second coach. Furthermore, he says that the club had no knowledge of identifiable misconduct or wrongdoing and, accordingly, the club was not entitled to take any steps against him.
- 4.9.2 The President denied that at any material time was he aware of the nature of the allegations.

- 4.9.3 The President says that the letter of 10 September 1993 suspending the coach from the school did not itemise any specific complaints nor the nature of same. Its absence from the file was because he was never given a copy of the letter by the coach. In his evidence to the Inquiry the President said that he believed, at that time, that the reason for the suspension was financial or personal.

He says that he had endeavoured through extensive inquiries to find out from the school and the Gardai the specific complaints, but was not informed.

- 4.9.4 The President of the club took immediate legal advice.

- 4.10 On 15 October 1993, the coach sought reinstatement by the school. On 9 November, the coach resigned as National Coach and declined a nomination to the Leinster Branch Committee. On 12 November 1993, the coach resigned from the school.

- 4.11 At the end of that month on 29 November 1993, the Headmaster wrote to the club President asking that the coach not be allowed on the school premises, and stating that the Board of Governors had instructed him that the coach was not to coach at this pool for any party. Thus the coach was not to coach under anyone else's employment at the pool.

- 4.12 The President of the club in his statement says that he was not aware of his continued involvement in coaching and did not make arrangements for his involvement in training of swimmers at the club or elsewhere.

- 4.13 On 2 December 1993 the coach resigned as coach of the Club effective from the end of December.

- 4.14 On 3 December 1993 the coach was appointed Development Director of the Club effective from the end December, a post which was to be held on a one year renewable contract. The objectives of the post, as stated in a letter to the coach from the President, dated 3 December 1993, were to be as follows: "To secure full utilisation of pool hours ... to obtain sponsors for the club; to direct and monitor the training programme for the swimmers in co-operation with the various coaches; and to develop an alternative pool site".

- 4.15 The President stated that the position would not involve any financial or day to day administration of the club or coaching at the pool. The same day the President wrote to the Headmaster stating that the Committee would appoint another coach, and also informing the Headmaster that the second named coach was appointed as Development Director of the club, a developmental position which would not involve any coaching or administration at the pool. The

President stated that the coach would have no cause to be at the pool at any time other than as a parent of a club swimmer or as a parent of a school pupil.

- 4.16 A meeting of senior swimmers of the club and their parents was held on 7 December 1993, at which it was decided to accept an offer from the school to take over the management and running of the pool from 5.30 p.m. to 9 a.m. weekdays, and part of Saturdays and Sundays as from January 1994.
- 4.17 The President had indicated in his letter to the Headmaster of 3 December 1993 that this matter would go to the membership. It was announced at the meeting of 7 December that the coach had tendered his resignation as head coach and had been appointed as Development Director. There is no minute of the matter being put to the members vote. The minutes of the AGM of 30 January 1994 simply state "all the contracts were agreed". The Constitution of November 1993, (paragraph 9.20) provided that the President and the Treasurer of the club would have power to sign contracts on behalf of the club subject to ratification at the next general meeting.
- 4.18 On 21 April 1994 the Headmaster wrote to the President of the club expressing concern that the agreement (that the coach should not coach in or be at the pool) was being breached. The Headmaster stated that he understood that the coach had been involved in coaching during the Easter holidays, and that he had substituted for another coach on an occasion prior to this and since their formal agreement. He recorded his disapproval and asked for confirmation that the coach be specifically excluded from coaching at any time and for any group. The President in his evidence to the Inquiry believed that this was a false allegation made against the club to the Gardai and to the school designed out of malevolence to create friction.
- 4.19 The President of the club replied on 25 April and stated that the coach had not coached at any time at the pool. Specifically the President said he had not substituted for a coach on any occasion. During the Easter holiday of 1994, he said that the committee had organised an Easter Camp in which the coach had no hand, act or part. Over the Easter period, the club had also rented the pool to the Leinster Branch of the IASA for a club coaches course. The President stated that the coach was at the pool to attend a question and answer session for coaches at the request of the Leinster Branch.
- 4.20 The President stated that he understood that the Leinster Branch had asked the coach to assess a number of other coaches who were partaking of the course in a question and answer session, but this did not take place at the poolside. The President also pointed out that the coach had only been at the pool as a parent, when a member of his family had been swimming, or to meet a member of the committee on specific business, or to liaise with the coaches on the

development of the club. In his statement to the Inquiry the President denies that the coach was involved in coaching after 10 September 1993 or that he was paid for coaching.

- 4.20.1 The evidence from the swimmers was that the coach did direct the coaching although not in person and was occasionally at the pool as a parent of a member of the club.
- 4.21 According to the minutes on 7 July 1994 the coach met with the President and an ordinary member of the Committee to deal with the termination of his contract on the instructions of the committee. Three months notice was given. Neither the Honorary Secretary nor the Honorary Treasurer were requested by the President to be at that meeting. The Honorary Secretary and the Honorary Treasurer say that they did not know details of the termination of the coach's contract. The President says that the Honorary Secretary was given a copy of the minutes of the meeting.
- 4.22 On 10 July 1995, a book of evidence was served on the coach, alleging various counts of unlawful carnal knowledge, indecent assault and sexual assault which had taken place between 1976 and 1992.
- 4.23 On 7 July 1994 the coach's position as Development Director was terminated and the President in his report for 1994 stated that the position as Development Director had not worked out "for administrative and financial reasons". The President also said that the club and the coach had parted company on amicable terms in July 1994, and that since then the Secretary and the Treasurer of the club had effectively run the pool.
- 4.24 The AGM of the club at which this report was presented was held on Tuesday, 31 January and continued on Tuesday, 7 February 1995. At that AGM it was agreed that a new clause 3.6 be inserted to the constitution, providing as follows: "(a) that no driver shall offer a swimmer a lift if alcohol has been consumed by them; and (b) if there is an allegation of a sexual nature brought against an official of the club that they shall be suspended subject to an investigation being held."
- 4.25 These amendments were voted on and agreed provided the club took legal advice on the wording. The President of the club said that (b) was not accepted as it was inappropriate for the club's Constitution.
- 4.26 Members of the club alleged at that Annual General Meeting of the club in January and February 1995 that the Honorary Treasurer and the Honorary Secretary were aware of the reasons for the coach's suspension from the

school. Both gave evidence to the Inquiry and each denied that they were so aware.

- 4.27 The portion of a diary of events kept by the President was furnished by the President to the club, at its request in February 1998.
- 4.28 There is an entry in that diary of a telephone call in response to an inquiry by the President to the Headmaster of the school at 1600 hours on 15 September 1993, with the comment: "Yes, Garda Inv."
- 4.29 The President denies any allegations that documents had been removed from any file of the club for any improper motive or, in particular to frustrate investigation or examination of any matter. In particular he says that the diary was kept on legal advice so that there could be a record of events.
- 4.30 The Inquiry concludes, from the contents of the President's letter to the Headmaster on 11 September 1993, and the diary entry of 15 September 1993, that the President was aware that that the suspension of the coach related to complaints about the coach's behaviour in the pool/changing area and that the Gardai were investigating.
- 4.31 The Inquiry accepts that the school made no complaint to the club regarding the coach's behaviour.

## 5. New Committee

- 5.1 On 20 July 1995 the Honorary Secretary as the new President of the club issued a statement, which read as follows:

"On Monday 10 July I understand (the coach) was arrested and charged with alleged sexual offences ... to my knowledge there has only been one incident which has been reported to the committee in 1992 ... other than that one complaint I personally am unaware of any other complaint either during my seven years on the committee or beforehand.

When (the coach) was suspended from (the school) the club was given to understand by the school that the reason related to something which happened within the school and had nothing to do with the swimming club. At no time have the club been told differently. As the club operates on school property and they did not allow (the coach) to coach at the pool but as he was permitted on the bank and on school premises we, the club, employed him as Development Director. At all times we acted with legal advice. Had we dismissed him then without any cause

we could have been involved in legal action which the club could not afford.

If any member of the club or of this committee knows of any incident and has not reported it to the committee, they have failed in their duty to the club, their position as a member of the committee and more importantly to all the swimmers in the club."

- 5.2 The Inquiry accepts the previous Honorary Secretary's evidence that she did not know that the complaint related to the coach's behaviour at the pool/changing area.

6. Reaction of the Leinster Branch

- 6.1 On 16 September 1993, the Branch Secretary was notified, by the Assistant Coach of the first swimming club, of the suspension of the second named coach by the named school and was asked to notify the necessary people on the Branch. The Branch Secretary immediately consulted the Treasurer of the club who had discussion with the officers of the club which employed the second named coach. The Secretary of the Leinster Branch found it difficult to establish what was going on and what was the nature of the complaints.
- 6.2 The Branch Secretary, together with the Assistant Coach, visited the Gardai and was advised that the second named coach was under investigation but they stated that the Gardai did not want them to do anything. Inquiries from the Gardai confirm this but say that the Gardai did not restrict the Branch or the club's right to take action.
- 6.3 The Branch Solicitor contacted the Gardai and the Solicitor advised the Branch to seek assurances that the second named coach was no longer active, pending the outcome of the inquiries.
- 6.4 There was a very strong sense of disbelief in swimming circles as the rumours spread. The extent of disbelief is evident from letters sent to the Branch Secretary by various clubs in the first week of October and from the minutes of the club itself.
- 6.5 A letter, received from a parent of the club in which the second named coach worked, was considered at a special meeting of the Branch Officers on 15 March 1996 in an attempt to decide to seek the identity of the complainants and arrange a meeting of the Complaints Committee. These complaints related to the extent of knowledge and the response by the Secretary and the Treasurer of the club in response to the suspension by the school of that coach and his continued employment by the club. These complaints were made

to the Branch and discussed at a Branch Executive meeting on 15 April 1996. By letter of 21 April 1996, the complainants were invited to lodge a formal complaint with copies to the IASA and the Honorary Secretary of the club. The Leinster Branch submit that no formal written complaint was received from the complainants. The matter was again raised at the AGM in November 1996 and again at a special executive meeting of the Leinster Branch on 18 February 1997 to consider the matter at length.

7. Complaint to the IASA

- 7.1 A formal complaint was received by the IASA on 14 May 1996. This was made by a member of the swimming club, on behalf of other members who were concerned with the continued support shown by the 1993/94 officers of the club to the second named coach. The complaint was that the reasons for the second named coach's suspension from the school had been known to three named club officials from the outset. In particular, it was suggested that the officials of the club were made aware of a complaint made in November 1992 by a swimmer in relation to inappropriate conduct by the second named coach; the complaint also alleged that no step was taken in 1993 to suspend the coach from the club.
- 7.2 The IASA were advised that the matter should be dealt with by the Leinster Branch. However, in view of the fact that an informal approach had been taken up to this point, the Secretary of the IASA urged the complainant to make a formal complaint to the Leinster Branch, to inform the Health Board and to contact the Gardai. Difficulties arose when the officials of the club asked the IASA for copies of all correspondence with the complainant and threatened to take matters further if such documents were not made available. This request appears to have been prompted by a decision of the IASA Executive not to avail of one of the club officer's services as team manager to the Irish team until these allegations had been dealt with.
- 7.3 On 23 May 1996, a complaint was received by the pool administrator from the school, to the effect that there had been a male present in the ladies/girls changing rooms, and warning that any further breach would result in withdrawal of the "licence agreement" between the club and the school. The pool administrator replied that the officers of the club wished to deal with the problem and would be contacting the school directly.
- 7.4 A reply was received by the school from the Honorary Secretary to the effect that the committee were currently investigating how such an incident could occur and how they could eliminate the possibility of similar incidents in the future. No one was identified and, accordingly, no disciplinary action was taken.

8. A New Constitution

- 8.1 In February 1996, a comprehensive Constitution had been drafted embodying motions passed at the previous AGM. The Constitution outlined the powers and duties of the officers, including that of head coach. However, there is no specific mention of complaints or complaints procedures in this new club Constitution.
- 8.2 It is clear that considerable effort and thought went into the drafting of the Constitution, the drafting of the duties of team managers and of the committee, but did not extend to developing any complaints procedure.

9. IASA request to Branch to Investigate Club.

- 9.1 The 1997 Committee were asked by members of the club about the handling by the 1993 Committee of the matter with the school. In particular, the Committee was asked whether the members of the club had been given distorted information regarding the coach, and they were asked why the then Committee had continued to employ him and indeed promote him to the position of Development Director, and in so doing continued to put children at future risk.
- 9.2 On 13 October 1997, the IASA asked the Leinster Branch to investigate the conduct of the officers of the club in relation to the handling of complaints about the second named coach. The Branch sought clarification from the IASA who sought and received legal advice.
- 9.3 The Executive of the Branch met on 5 November 1997 and the then Honorary Treasurer and the Honorary Secretary of the club were asked to stand aside.
- 9.4 The Secretary to the Committee replied on 13 November 1997 to say that no members of the current Committee were in office in 1993 and that the statement of 1 October 1993 issued by the then Committee answered that question. The present Committee had no proof that distorted information was given to the club by any former Committee member, nor that any children were put at risk in any way as a result of the action of any previous Committee.
- 9.5 Both were re-elected to the Branch Executive at the Branch A.G.M. on 22nd November 1997. The inquiry into their roles requested by the IASA was not proceeded with.
- 9.6 Both officers gave evidence in person to the Inquiry. Each denied knowing of the reasons for the coach's suspension. The Inquiry finds that there was no

evidence that either knew of the reason for the coach's suspension nor had received complaints in relation to the coach's behaviour.

10. Prosecution

10.1 On 27 February 1997, the High Court had refused to restrain the Director of Public Prosecutions from proceeding with the charges against the second named coach. The earlier charges were alleged to have been committed between the years 1976 and 1984, while the remainder of the charges related to offences alleged to have been committed between 1991 and 1992. Thus, with regard to the delay between the first alleged offence and the date on which the coach was charged, there was a period of more than 19 years, which the Courts regarded as a significant period of time. However, the Court accepted the uncontroverted evidence of a Psychologist explaining the delay, and took into account also the relationship between the coach and the complainants. All of the complainants were, at the time of the alleged offences, girls of tender years, whereas the coach was an adult of about thirty years of age. The Court was satisfied on the evidence that the relationship between the coach and the complainants was not merely one between adult and children. It was a great deal more than that, by virtue of the position held by the coach, his status as a swimming coach of some note, and the position of the complainants at that time.

10.2 Further, the Court was satisfied that the charges were sufficiently specific so that the coach was in no way prejudiced by them. Indeed, rather than alleging an offence at a date unknown in a particular calendar year, each year was broken down into four quarters and each allegation was made in respect of a particular quarter. Accordingly the Judge could find no basis upon which to prohibit proceeding with the prosecution.

10.3 The matter went to trial on 28 November 1997; the coach pleaded guilty, and on 30 January 1998, the Circuit Criminal Court ordered that he be imprisoned for a period of twelve years.

11. Reaction of the Club

11.1 On 3 February 1998, the then Secretary of the club wrote to the Minister of Tourism, Sport and Recreation expressing the Committee's shock, horror and disgust at the revelations relating to the coach. The Minister was notified that the club was arranging to have counselling made available to current and former swimmers of the club.

11.2 The Secretary also notified the Minister of the existence of the Code of Ethics enshrined in their Constitution and the appointment of a Children's Liaison

Officer in 1997. The Committee stated that it welcomed an open, independent, non-Garda Inquiry, into the whole area of abuse in Irish amateur swimming. Further the Committee offered to give any information or assistance required.

- 11.3 A statement was read to the parents of all swimmers at a meeting on 5 February 1998 and a press release was issued the following day. In the statement and press release, the Committee expressed a sadness and concern at the difficulty they faced in delivering complete and unambiguous information within the constraints existing. They stated their primary concern to be the well-being of swimmers and their parents.
- 11.4 A special general meeting was held on 12 March 1998, at which the Committee referred again to the horrific revelations revealed on the sentencing of the second named coach. The Committee stated that they had spent in excess of 400 hours trawling through all of the club records for the past eight years. They also said that they had intended to present the facts as they found them in the file, but that they had been notified that legal proceedings were threatened against the club, and that motions discussed and voted upon could therefore be invalidated. The statement referred to the nature and legal complexity of the matter, and this appears to have been the reason why the special general meeting was then deemed closed.
- 11.5 The present Committee have given all assistance which was required by the Inquiry.

## 12. Submissions of the Club

- 12.1 The second named club made a comprehensive submissions to the Inquiry on March 1998. In relation to matters prior to 1985, the club stated that it had no records available. From 1985 to 1995, the club stated that it had no arrangements for either the prevention or detection of abuse, nor for securing compliance with any disciplinary arrangements.
- 12.2 While the IASA Code of Ethics and the government guidelines, including the appointment of a Children's Liaison Officer, were all put in place after 1995, no procedures for securing compliance with these arrangements were yet in place. In relation to responsibility for dealing with complaints and allegations of sexual abuse, the club stated that it was unknown who was responsible for this before 1985; from 1985 to 1995 they assumed that the Committee were so responsible. After 1995 the Committee and the Children's Liaison Officer together would be responsible.

- 12.3 A complaint of child sexual abuse did arise between 1975 and 1985, and the Committee had become aware of this in 1998. Four complaints had arisen between 1990 and 1995 which the Committee became aware of in 1997/98.
- 12.4 In relation to the arrangements which the IASA, the Leinster Branch and the club have now in place for the protection of children in swimming, the club still believes under the various headings that these procedures and arrangements are inadequate.
13. Allegations by Parents of Swimmers Affected
- 13.1 Several parents, including former officers of the club, gave evidence to the Inquiry over two days, and expressed general dissatisfaction with the handling by the club of the matters in relation to the second named coach. Some were parents of girls who had been abused; some were actively involved in the committees and felt that they had been deceived by the coach and said that they were ignored, bullied and intimidated when they raised questions concerning the committee's handling of the matter. They were saddened because former female swimmers and their families had told them that they were victims of abuse. While the swimmers had left the club, the coach had remained.
- 13.2 The parents were incensed by the support apparently given by the Committee to the coach which they claimed put their children in a situation of risk, because the Committee had permitted the coach to be on the poolside and to meet the swimmers at venues arranged by the Committee. The same group of parents sought, and were refused, information regarding the conduct of the coach while in the employment of the school.
- 13.3 This diverse, articulate and concerned group of parents showed a very justifiable anger. They were angry, they said, because the Committee, at the time that abuse was occurring, showed an excessive concern for the reputation of the club, an excessive trust in an over-dominant coach and a lack of concern for the well-being of the children in the care of that coach. They believed that had the Committee been more concerned about the well-being and safety of the children, the coach would not have been able to abuse his dominant position and the devastating consequences might not have occurred.

## CHAPTER 8

### WHY DID VICTIMS NOT COMPLAIN?

#### 1. Absence of Complaints

- 1.1 It is very significant that, of the many swimmers who were victimised by the first and second named coach, so few complained formally or informally to the clubs, the Leinster Branch or to the IASA.
- 1.2 The term complaint can, of course, be taken in a narrow sense to mean what the IASA Constitution says it to mean, that is, a formal expression in writing of dissatisfaction with an action of any person in connection with the sport within 14 days after the incident which gave rise to it subject to the Branch Executive extending the time where good cause is shown for the delay. No complaint was made in relation to either coach within the period. However, complaints were dealt with by the Branch and the IASA outside this period.
- 1.3 Witnesses have testified to the Inquiry that they told a teacher, officers of clubs, executive members of the Leinster Branch and of the IASA and, indeed, one named coach in respect of the alleged abuse by the other named coach. In a broad sense this telling equates to notice of improper behaviour. It is clearly a complaint, an expression of dissatisfaction
- 1.4 There is a position of trust implicit in the relationship between young swimmers and their club and the swimming organisation generally. From a consideration of the pattern of transfers and defections of young swimmers in the context of rumours in 1991-92 there were indications, that there was something wrong which needed investigation. There is an obligation on every authority, voluntary or professional who direct young people towards exceptional performance to secure their health, safety and welfare.
- 1.5 Victims were concerned not only that some complaints seemed not to be acted upon and that others complaints may have been ignored, but also that complaints were not encouraged.
- 1.6 Most felt that mandatory reporting in some form could have avoided subsequent incidences of abuse.

#### 2. Complaints Contrasted

- 2.1 The Terms of Reference refer to complaints made to clubs, to the Leinster Branch, to the IASA and to the school and these have been dealt with under those headings.

- 2.2 If one compares the first complaint against the first named coach, which was made many years after the abuse took place, with the third complaint against the second named coach, which was promptly reported to the club within days, one can understand the difficulty that there exists, in general, for an abused child to complain, even where he or she has grown into adulthood. The less serious the complaint the easier it is for the victim to react and to complain. The more serious and persistent the abuse, the more it compromises the victim and effectively blocks any complaint being made or delays its articulation.
- 2.3 It is ironic that the more serious of the two complaints led to no further action by the Leinster Branch because, according to the officers, the matter was then in the hands of the Gardai while, on the other hand, in the case of the complaint to the club, the Committee gave an assurance that procedures would be examined to ensure that no misunderstanding would arise in the future.
- 2.4 Swimmers who alleged that they had been abused stated in their evidence to the Inquiry that they believed themselves to have been the only victims. This was another inhibiting factor in reporting or complaining.
- 2.5 Once the Garda investigation commenced, many other swimmers came forward and made statements to the Gardai alleging that they had been abused by the first and second named coach respectively.
- 2.6 The Inquiry adopted a policy with regard to witnesses that it would not require them to deal with the details of sexual abuse that they had alleged against each of the two coaches. Garda files were made available only where witnesses gave written authorisation for the Inquiry to have access to the statements. Otherwise, the Inquiry did not have access, nor were given, any statements made to the Gardai.
- 2.7 In relation to this report, the Inquiry also assured victims that it would not disclose any evidence that could identify them. Moreover, the Inquiry was mindful of the order of January 30 1998 imposed by the Circuit Criminal Court in relation to the second coach, not to disclose the names either of the victims or of their club or of the named school.

### 3. Why complaints were not made

- 3.1 Without identifying any of the witnesses it is useful to consider the manner in which the coaches ensured that no complaints would be made and, where there was a likelihood of a complaint being made, would seek to diffuse it by turning it back on the complainant or maintaining that there was a misunderstanding.

- 3.2 Each coach had total control of the swimmers. That control extended to both attendance and training schedules.
- 3.3 Swimmers did not know of any procedure by which they could complain.
- 3.4 Swimmers did not know the members or functions of the club committees at the time.
- 3.5 Swimmers were alone with the coach for many of the training sessions without any other adult being present.
- 3.6 Swimmers received inducement from the coaches which extended from special attention to presents of swimming gear, inclusion on away trips and membership of the elite squads.
- 3.7 One or other of the coaches, at different times, employed relaxation therapy, hypnosis, fat testing and body measuring and massage, allegedly to improve the swimmers performance.
- 4. Delayed Complaint in Criminal Prosecution
  - 4.1 Witnesses in their evidence to the Inquiry complained of the legal process whereby the prosecution of the first named coach was prohibited by the court largely because of the delay in making the complaint.
  - 4.2 The Law Reform Commission Report and the Department of Education and Science discussion document comprehensively deal with both civil and criminal law and the law of evidence but do not, of course, address the issue of non-complaint at the time of the abuse and the consequential delay in initiating investigation and prosecution after a complaint has, eventually, been made (see Chapter 9 below).
  - 4.3 Indeed, this Inquiry has examined, not alone the failure to complain, but also the factors which impeded victims from complaining until they were adults.
  - 4.4 This aspect of the problem of child sex abuse arose in the recent criminal cases where, as in the present cases, no complaints were made until many years after the incidents took place.
  - 4.5 This issue was addressed by Kelly J in *D O'R v Director of Public Prosecutions* (1997) 2 IR 273. In that case the court noted the delay between the first alleged offence and the charging of the applicant.

- 4.6 The date upon which the applicant was charged was a period of more than nineteen years from the date of the first offence and over ten years from the date of the first offence and over ten years from the date of the last offence.
- 4.7 While these were significant periods of time the court held that the delay had been explained by reference to the uncontroverted evidence of a psychologist.
- 4.8 The relationship between the victim and the applicant was an important consideration in respect of which the Court stated.

“I must also bear in mind the relationship between the applicant and the complainants. All of the complainants were, at the time of the alleged offences, girls of tender years whereas the applicant was an adult of about 30 years of age. I am satisfied on the evidence that the relationship between the applicant and the complainants was not merely one of adult and children. It was a great deal more than that by virtue of the position held by the applicant, his status as a swimming coach of some note and the position of the complainants at that time.”

- 4.9 The applicant had averted to two aspects of particular prejudice, the difficulty in establishing an alibi and the lack of any documentary material available to him in recalling his whereabouts. The court did not attach much weight to this assertion:

“If there was a single complainant making an allegation of unlawful activity on a particular date or dates, there might well be some merit in this contention as demonstrating actual prejudice. But given the spread of allegations both by reference to the number of persons and the dates involved, I do not think that the applicant has made out a case of particular prejudice.” (at 289)

- 4.10 Accordingly, the court dismissed the application and refused to prohibit the Director of Public Prosecutions from continuing with the case and the applicant pleaded guilty and was duly sentenced.
- 4.11 Article 38.1 of the Constitution provides that no person shall be tried on any criminal charge save in due course of law. This is an echo of the phrase “due process of law” in the fifth amendment of the U.S. Constitution. Moreover the State, pursuant to Article 40.3.1, guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate the personal rights of the citizen.
- 4.12 The true legal and constitutional position is that a person charged with a criminal offence is entitled, as part of his right to be tried in due course of law,

to a trial with reasonable expedition. See Finlay C. J. in *State (O'Connell) v Fawsitt* (1985) IR 362 at 378.

- 4.13 The right to reasonable expedition must be assessed in each case in the light of the particular circumstances of that case. The right to a speedy trial under the United States of America Constitution was analysed in *Barker v Wingo* (1972) 407 U.S. 514 as being length of delay, reason for the delay, the defendant's assertion of his right and the prejudice to the defendant by the delay. This was accepted by Finlay C. J. as an accurate if extremely brief identification of the constitutional rights protected by Article 38.1 in *DPP v Byrne* (1994) 2 IR 236 at 245.
- 4.14 The Supreme Court recognised that delays in cases relating to allegations of sexual abuse of children and young people fall into a special category. In *Hogan v President of the Circuit Court and the Director of Public Prosecutions*, (1994) 2 IR 513 at 521, in relation to delay in a fraud case, the Chief Justice stated, by way of example, that cases consisting of charges by young children in regard to assaults on them at an early age which are not brought to the attention of the authorities by such children until very many years after they have occurred, involve wholly different considerations from those applicable to a fraud case.
- 4.15 The Chief Justice, in *G v DPP and District Judge Kirby*, (1994) 1 IR 374 stated "The Court asked to prohibit the trial of a person on such offences, even after a very long time, might well be satisfied and justified in reaching a conclusion that the extent to which the applicant had contributed to the delay in the revealing of the offences and their subsequent reporting to the prosecution authorities meant that as a matter of justice he should not be entitled to the order".
- 4.16 The Supreme Court in *B v DPP* (1997) unreported Judgement of Denham J. It was accepted that the circumstances in each case, the issues and the constitutional interests of the parties, to determine the matter. There is no definite time limit nor an exhaustive or exclusive list of factors.
- 4.17 It was accepted in that case that it is necessary to balance the applicant's right to reasonable expedition in the prosecution of the offences with the community's right to have criminal offences prosecuted.
- 4.18 The test is whether there is a real risk that an applicant by reason of the delay would not obtain a fair trial, that the trial would be unfair as a consequence of the delay. The test must be applied in light of the circumstances of the case and the law.

- 4.19 Where dominion was exercised in family relations by an accused over the complainants this dominion places this, and similar cases, in a special category as by the said control the accused's actions prevented the complainants taking steps so that the prosecution could proceed within a more usual time frame. (Denham J. in *B v DPP* at page 13 of the Unreported Judgement.)
- 4.20 In that case Denham J. rejected the English position as enunciated by Judge J. in *L.P.B. (1990/91)* 91 Cr. App. R. that it would be difficult to envisage any circumstances in which it would be right for the Court to conclude, in advance of hearing the complainant's evidence of trial, that a trial based on a delayed - even a very long delayed - complaint by an alleged victim of sexual abuse within the home would amount to an abuse of the Court's process. A different analysis must be taken in this jurisdiction otherwise the statement by Judge J. would be inconsistent with an accused's constitutional right.
- 4.21 It is clear that the delay between the alleged assault or abuse and the complaint to the statutory authorities is still critical in this jurisdiction. Accordingly, remedial measures must be addressed in order to encourage complaints being made as early as possible.

## 5. Delayed Complaint in Civil Claims

- 5.1 It is clear from the above that in criminal cases there is no Statute of Limitations though in practice the Court will take delays into account. The purpose of the Statute of Limitations is to set limits on the time within which legal actions can be brought against defendants in civil cases.
- 5.2 A three year period is provided for in relation to "an action claiming damages for negligence, nuisance or breach of duty (whether the duty exists by virtue of a contract or of a provision made by or under a statute, or independently of any contract or any such provision) where the damages claimed by the plaintiff for the negligence, nuisance or breach of duty consist of, or include damages, in respect of personal injuries to any person."
- 5.3 In order to sustain any action there must be a duty of care situation between the plaintiff and the defendant; there must be a breach of the obligation and damages must result directly.
- 5.4 In relation to claims for personal injuries the Courts have remarked, in the context of the relatively short period of three years within which a plaintiff must bring an action that "claims of this nature can easily be simulated or exaggerated ... (it is) reasonable that a defendant should have a relatively early opportunity of investigating such a claim, so as to protect himself from an

unjust or unwarranted claim" (Cahill v Sutton (1980) IR269 at 274 per Finlay P).

- 5.5 Section 48 of the Statute of Limitations, however, provides for an exception to the three year rule where persons are under a disability including that of infancy and unsound mind.
- 5.6 A curious anomaly in the 1957 Act is that a cause of action could be extinguished before the plaintiff knew that such a cause of action arose as in the case of latent personal physical or psychological injuries.
- 5.7 The Statute of Limitations (Amendment) Act, 1991 cured this anomaly by amending the limitation period by providing that a time did not run until the injured person had *knowledge* of the fundamental facts pertaining to the cause of action (Section 2). Accordingly, since 1991, knowledge of the fundamental facts is an essential ingredient. The Statute will run from the time the plaintiff knew those facts.
- 5.8 It has been a universal feature in this Inquiry that, while they knew of the abuse, the victims were unable at the time to complain of the fact of the abuse even to their family or close friends. In most cases they did not have a language with which to describe the incidents of abuse let alone to complain to officials of them. In a sense they did not have *communicable knowledge* even where they obtained their majority. In a word, they were incapable of acting on that degree of knowledge.
- 5.9 Nugent: The Statute of Limitations in Sexual Abuse Cases, Bar Review, March 1998 recommends, *inter alia*, that the categories of persons who are deemed to be "under a disability" should be extended to include victims of sexual abuse, who, because of the abuse have found it impossible to communicate or to seek legal advice. A victim of incest for example is often psychologically incapable of recognising that a cause of action exists until long after the abuse has ceased.
- 5.10 In such circumstances the Supreme Court of Canada held that the limitation period does not begin to run until the victim is reasonably capable of discovering the wrongful nature of the perpetrator's acts and her injuries. This is so, whether the victim always knew about the assaults but did not know the physical and psychological problems caused by them, or whether she had no recollection of the abuse until she commenced the action because of the trauma associated with it. Moreover, a presumption arises that an incest victim does not discover the nexus between her injuries and the abuse until she commences therapy. (See M (K) v (H) 96 DLR 4th 28; Women's Legal Education and Action Fund, Intervener (29 October 1992)).

5.11 In that case the appellant then aged 35 had been a victim of paternal incest from the age of 8 to 17 when she left home. She had tried to tell her mother obliquely about the incest when she was 11. She told a school counsellor when she was 16 but later recanted in her father's presence. She knew incest was wrong but was unable to realise that her father was responsible. She did not know that her psychological problems were caused by his actions until she began therapy when she was 28.

5.12 The victim then sued her father for damages for assault and battery and breach of fiduciary duty. The jury assessed general and punitive damages but the trial judge dismissed the action as statute barred. The Supreme Court allowed her appeal and upheld the award of damages.

5.13 The presumption that the victim is incapable of discovering the connection between her injuries and the abuse until she commences therapy is a radical one.

“... I am satisfied that the weight of scientific evidence establishes that in most cases the victim of incest only comes to an awareness of the connection between fault and damage when she realises who is responsible for her childhood abuse. Presumptively, that awareness will materialise when she receives some form of therapeutic assistance ... This presumption will, of course, be displaced when the evidence establishes that the victim discovered the harm and its likely cause at some other time”. (Per La Forest J at 306)

5.14 Moreover, the appellant sued for damages for breach of the parent's fiduciary duty to her. The relationship of parent to child is fiduciary in nature. Incest is a breach of the parent's fiduciary duty to protect the child's well being and health. The Limitations Act does not apply to equitable actions, such as an action for compensation for breach of fiduciary duty

## 6. Encouraging Complaints

6.1 Complaints arise from awareness. The first requisite is, accordingly, an awareness by the victim of what is improper behaviour. Many of the witnesses did not know, at the young age where abuse had commenced, what was and what was not normal. The level of public awareness at the time of earlier abuse was low.

6.2 Swimmers were encouraged and conditioned to follow the coaches directions without question rather than question or complain.

6.3 The complaints procedure did not encourage complaints being made.

6.4 There is a need to plan, organise and control complaints:

- Prevention requires planning and monitoring.
- Detection requires a system which encourages complaints and appeals.
- Awareness and understanding requires a process of vigilance and review.
- Training which ensures that swimmers and committee members are involved in the process, requires resources.

6.5 The increased resources, of themselves, do not solve the problem but provide the means to do so.

6.6 It is essential that complaints be made and preferably that they be made as soon as practically possible. This serves the interest of justice and the interest of fellow swimmers from exposure to risk.

## CHAPTER 9

### GENERAL GUIDELINES FOR PREVENTION AND DETECTION OF CHILD ABUSE

#### 1. Specific Guidelines

- 1.1 In this chapter it is proposed to examine the different procedures and codes of ethics which have been adopted by Government and various bodies including the English Amateur Swimming Association to protect against child sexual abuse.
- 1.2 What is significant is that guidelines emerged only a decade ago; that these tended to be specific to Health and Education and that they were a response to abuses which were well-publicised in the media. The procedures suggested by the Irish Council for Civil Liberties are earlier. Those recommended by the Irish Society for the Prevention of Cruelty to Children are more general and comprehensive.
- 1.3 What is also significant in each of the guidelines examined is the stated need for resources to implement the recommended procedures.
- 1.4 The Department of Health published child abuse guidelines for health authorities in 1987. The Department of Education published guidelines for schools in 1991. Neither guidelines depend on a complaint being made. In England, the ASA published guidelines in 1995 in response to the conviction of a former national coach.
- 1.5 The measures taken by the IASA since 1995 to prevent and detect child sexual abuse will be examined in chapter 10.
- 1.6 Guidelines need to apply generally and require resources to be effective.

#### 2. Department of Health and Children

- 2.1 In July 1987 the Department of Health published "Child Abuse Guidelines", dealing with the identification, investigation and management of child abuse. While the procedures to be followed in dealing with child sexual abuse do not differ from the general guidelines on abuse against children, the identification and validation of sexual abuse is regarded as fundamentally different. The guidelines on sexual abuse state that such abuse, like other forms of abuse, has always existed in society. However, its prevalence is much greater than previously assumed. The number of cases being identified, even ten years ago when the guidelines were published, was increasing. This trend was seen as

likely to continue, and indeed has continued, as professional staff have become better able to recognise sexual abuse and as the general public become more willing to report cases and seek help.

- 2.2 The 1987 guidelines stress that any complaint of sexual abuse made by a child must be taken seriously. The complaint must be followed up by the initiation of the necessary investigation and validation process. Professional staff should take particular care to ensure that the initial verbal complaint by the child to them is preserved in writing.
- 2.3 The guidelines recommend that any person who knows or suspects that a child is being harmed, or is at risk of harm, has a duty to convey their concern to the local Health Board. Allegations made by close relatives, friends or neighbours or by a child or parents referring themselves for help, should be regarded as serious and investigated urgently. All reports of child abuse (including anonymous calls) should be investigated. The guidelines also recommend that where a General Practitioner suspects that the child may be the subject of abuse, either physical, emotional or sexual, he or she should seek an explanation from the parents or guardians of that child.
- 2.4 The guidelines specify action to be taken by the Director of Community Care, who has overall responsibility for the monitoring and co-ordination of cases of child abuse occurring in their area. The emphasis of the guidelines is on the identification, investigation and management of child abuse referred to the health authorities. Moreover, the reference to parents and carers (that is persons who, while not parents, have actual responsibility for a child) would seem to point to family rather than institutional abuse.
- 2.5 This is reflected in the paragraphs dealing with the legal position where the guidelines state: "The child at risk is usually the symptom of a family with problems, requiring help and guidance rather than the invocation of the criminal law."
- 2.6 Notwithstanding the guidelines are clear that where an offence is suspected the Gardai should be informed.

### 3. Department of Education and Science

- 3.1 The Department of Education "Procedures for Dealing with Allegations or Suspicions of Child Abuse" (November 1991) outlines the information required by the Director of Community Care, the handling of disclosures from children, and issues of confidentiality and law. The procedures are intended for the use of the management authorities and principal teachers of national schools. The pamphlet "Child Abuse Checklist" and the booklet "Child Abuse

Guidelines" of the Department of Health are included with the procedures from the Department of Education.

- 3.2 With regard to reporting, where a teacher receives an allegation or has a suspicion that a child is being abused, the procedures indicate that the teacher should in the first instance report the matter to another teacher, normally the principal of the school. If the teachers are then satisfied there are reasonable grounds for the suspicion or allegation, they should advise the Chairperson of the Board of Management of the school. The Chairperson and the teacher should then report the matter to the local Director of Community Care whose responsibility it is to investigate suspected abuse and determine what action to take, including notifying parents and/or Gardai.
- 3.3 If a teacher receives an allegation or has a suspicion that a pupil is being abused by an employee of the school, the teacher should, in the first instance, report the matter to another teacher, normally the principal and to the Chairperson of the Board of Management. The Chairperson should then inform the employee concerned of the suspicion or allegation which has been made. If it appears to the Chairperson that there are reasonable grounds for the suspicion, then the employee should be awarded an opportunity to respond. The Chairperson should then report the matter to the Director of Community Care or the Medical Officer, and include the employee's response if the employee so desires.
- 3.4 The Department of Education and Science procedures state that any communication by a person making such a report is privileged, in that the person, acting *in loco parentis* would be expected to act in the child's best interests. Reports of abuse are not seen as accusations, but are merely seen as the passing on of an initial report from a child.
- 3.5 The procedures point out that it is not essential to caution an individual or to have a witness present as no charge has been brought at the stage when the employee is being informed of the allegation which has been made against them. The Chairperson is merely informing the individual and passing on the report to the relevant authority, who will then investigate and decide whether it should be reported to the Gardai.
- 3.6 The procedures emphasise that where there is indisputable evidence that an individual has abused a child, the matter must be reported directly to the Gardai.
- 3.7 The procedures deal with confidentiality in the following terms:

"There is an absolute need to maintain confidentiality in dealing with any alleged incidents of child abuse. The communication of information

must be confined to those who have an obligation to receive it and third parties should not be privy to allegations unless it is necessary to involve them as matters unfold."

3.8 The second edition of the procedures relate to the post primary Branch of the Department of Education. The procedures for post primary schools are in similar terms, with a substitution for reference to circular M33/91 rather than to rules 121 and 130 of the rules for national schools.

3.9 It is clear from the Department of Health and Children guidelines and the Department of Education and Science procedures that the identification and investigation of child sexual abuse does not depend on the complaint of a victim. Indeed, there is no mention of a formal complaints procedure. Instead, a teacher who suspects that abuse may have occurred is required to act on that suspicion alone. There is no requirement that a teacher wait until a child comes to them with a complaint before acting.

#### 4. Mandatory Reporting: Law Reform Commission

4.1 Many witnesses referred to the need for an obligation to report cases of suspected child abuse. There is no legal, as distinct from a moral obligation to report.

4.2 The Law Reform Commission Report on Child Sexual Abuse (September 1990) recommended that Doctors, Psychiatrists, Psychologists, Health Workers, Social Workers, Probation Officers and Teachers should be placed under a legal obligation to report cases of suspected child sexual abuse.

4.3 It is recommended that the obligation to report should arise where the mandated reporter knows or has good reason to believe that child sexual abuse has occurred. The test of knowledge or belief should be objective rather than subjective, the question being whether the individual ought reasonably to have been aware that sexual abuse had occurred.

4.4 The mandated reporter should be required to make an initial oral report. This should be followed by written back up report identifying the child and the nature and basis of the suspicion.

4.5 Express statutory immunity from civil and criminal proceedings should be given to any person who *bona fide* and with due care reports a suspicion of child sexual abuse to the Director of Community Care and to the Chief Medical Officer of Health within each Health Board. They should be under a general legal duty to hold a case conference in cases of suspected child sexual abuse which have not been rejected as unfounded.

4.6 It should also be open to a mandated reporter to submit his or her report to the Gardai. Where a criminal offence is suspected, the case conference should consider the question of whether criminal proceedings are appropriate. In all cases where an offence is suspected the Gardai should be notified and, where possible, should attend the case conference. The advice or observations given by the case conference relating to prosecution should primarily concern matters relevant to the welfare of the child. Parents should be informed of case conferences and be invited to attend for at least part of the conference and to comment on action proposed.

4.7 The Law Reform Commission recommended that a new offence of "Child Sexual Abuse" or "Sexual Exploitation" should be created to replace the present offence of "Indecent Assault with Consent" where the offence is committed with a child under 15 years of age. However the conduct in question should also be a criminal offence when committed with a boy or girl of 15 or 16 years of age where the perpetrator is a "person in authority". Such a person in the recommendation of the Commission, shall be defined as a parent, step-parent, grandparent, uncle or aunt, any guardian or person in *loco parentis* or any person responsible, even temporarily, for the education, supervision or welfare of a person below the age of 17. Similarly, it should be an offence to have sexual intercourse with a girl between the ages of 15 and 17 when the perpetrator is, at least, five years older than the girl in question.

5. Mandatory Reporting: Department of Health and Children

5.1 In 1996, the Department of Health published a discussion document entitled "Putting Children First: a discussion document on mandatory reporting". The issue of mandatory reporting was also reviewed by the report of the Law Reform Commission (LRC 33-1990) and the Kilkenny Incest Investigation Report (May 1993). Mandatory reporting was defined as the placing of designated professionals under a legal obligation to report known or suspected child abuse to relevant authorities.

5.2 Disadvantages of mandatory reporting highlighted in the reports were as follows:

- (a) It could lead to an over reporting of cases of child abuse;
- (b) It could lead to scarce resources being wasted on investigating cases which were never substantiated;
- (c) It could deter victims from disclosing abuse; and

- (d) It could undermine the therapeutic relationship between professionals and their clients; and it would not guarantee that all abuse would be reported.

5.3 The advantages of mandatory reporting were listed as follows:

- (a) It would be a clear declaration by society that child abuse is a matter for social concern and it would facilitate a broad social response to that;
- (b) It would lead to the discovery by the authorities of some cases of child abuse which would not otherwise have come to their notice;
- (c) It would empower professional who otherwise might be reluctant to report abuse, to do so;
- (d) It would secure consistency in the management of the disclosure of child abuse; and
- (e) It would provide a better basis for research on the incidents and prevalence of child abuse.

5.4 The Department of Health: Putting Children First (1996), summarises the impact of the introduction on mandatory reporting in the USA where it was introduced in the 1960s. While the main positive effect was a huge increase in the number of child abuse cases reported, the greater protection given to the children at risk and in the forcing of professionals to educate themselves about abuse; there were still many criticisms of the explosion in cases which swamped the child protection system. A 1993 Cost Benefit Analysis concluded that the cost of mandatory reporting outweighed the benefits in the USA. A disproportionate share of resources was spent on investigations rather than on services for children and their families.

5.5 The discussion documents and reports concluded that for many professionals working with children, the fundamental issue is the quality of the response to the child's needs after the report of abuse is received, rather than the nature of the obligation to report. If mandatory reporting were to be introduced, it would therefore be essential that the infrastructure and supports were in place to respond quickly to the increases in the reported cases of abuse which would incur. The development of services to protect children from abuse, the improvement of existing arrangements for the notification of child abuse, and the co-ordinating of action and response to such abuse, it was suggested, would better serve the interests of children.

- 5.6 It was noted that reporting of abuse is mandatory in Finland, France, Italy, Norway and Sweden. In Germany, England and the Netherlands there is no mandatory reporting, yet levels of awareness of child abuse were found to be high. In the Netherlands, Belgium and Germany there is a voluntary system of reporting child abuse based on a confidential doctor's bureau.

6. Promotion and Protection of Rights of Children

- 6.1 The Department of Health published a second report "Putting Children First": dealing with the Promotion and Protecting the Rights of Children" in 1997. That report widened the debate to the wider context of the attitude of Irish society to children. Societal attitudes to children were identified as hampering not only the reporting of child abuse but also the development of a co-ordinated and comprehensive response to children.
- 6.2 The Report accepts the commitments contained in the United Nations Convention on the Rights of the Child which the Government has ratified as legally binding in relation to the rights of children.
- 6.3 The key principles of the Convention are that:
- all of the rights enumerated should be ensured for each child without discrimination;
  - the best interests of the child should be the primary consideration in all actions concerning children; and
  - the right of children to express views freely and to have such views given due weight, according to age and maturity, should be assured.
- 6.4 It is, accordingly, important to recognise that the primary consideration in swimming should be the interest of the child. Also important is the right to express views freely. In this regard any indications of abuse or risk made by a child should be taken seriously.
- 6.5 The Department of Health and Children proposed to have designated officers in the Health Boards and Regional and Local Child Protection Committees which would provide multi-disciplinary training in relation to child protection.
- 6.6 The new Social Services Inspectorate was to review child abuse guidelines and a public information campaign was proposed to heighten public awareness of child abuse.

6.7 A further initiative of the Report is that the funding of voluntary agencies dealing with children should be conditional on procedures being put in place to deal with allegations of child abuse.

6.8 It was proposed to evaluate the impact of the above measures on the reporting of child abuse. In relation to the help line for victims of past abuse, the Health Boards have accepted that they have a responsibility to respond to the needs of such victims. It is proposed that a full counselling and therapeutic service to respond to problems such as depression, guilt, addiction, personality disorder and relationship problems should be set up.

6.9 This help line was provided by the Health Boards following the sentencing of the second named coach on 30 January 1998 and the setting up of the Independent Inquiry on 9 February 1998.

#### 7. Procedures Suggested by Irish Council for Civil Liberties

7.1 The report of the child sexual abuse working party of the Irish Council for Civil Liberties, produced in 1988, analysed the problem and the incidents of child sexual abuse in reporting; examined victims and abusers; dealt with education, training and services for sexually abused children, and finally looked at the protection of sexually abused children under the law. Among its conclusions was a recommendation that mandatory reporting should be put in place for named professional groups and service providers. In relation to victims and abusers, it recommended that sexual abusers should be held accountable and be urged to take full responsibilities for their abuse.

7.2 The report recommended that court proceedings should normally be commenced in cases of child sexual abuse, as most chronic abusers have learned to deny or minimise the seriousness of their actions and the harm that they have caused. Sanctions should be used to motivate change and to ensure continued participation in treatment. Further, professionals should be trained to assess abusers, using risk criteria to judge their suitability for community based treatment or for treatment within a custodial setting. The report recommended also that courts should have at their disposal a range of options including provision for abusers to participate fully in community based treatment programmes as a condition of, or as an alternative to, sentencing.

#### 8. I.S.P.C.C. Procedures

8.1 The Irish Society for the Prevention of Cruelty to Children set up its Childline service in 1988. The Chief Executive of the Society stated to the Inquiry that this service is offered on the basis of anonymity; but is often the bridge towards reporting abuse to statutory bodies. Where a caller does not give a name, the

I.S.P.C.C. policy is to listen and to advise the complainant to contact both the Health Board and the Gardai. This is a clear cut and universal policy in all the offices of the I.S.P.C.C. Moreover, in relation to non-familial abuse in a new area, the Chief Executive would have been informed immediately. In any case, all calls and letters to the I.S.P.C.C. are logged. Thus the I.S.P.C.C. would have been aware if calls relating to abuse in swimming had been received during that period.

- 8.2 No calls were received, in either 1991 or 1992, by Childline in relation to children in swimming, which could be identified either in relation to an alleged abuser or in relation to a complainant
- 8.3 The I.S.P.C.C. have published extensive guidelines for the prevention and detection of child sexual abuse. The Society is of the view that it is essential that mandatory reporting be introduced in order to fully protect against child sexual abuse.
- 8.4 In the view of the I.S.P.C.C., there must be a willingness to report; there must be a mechanism for reporting; and those who report must be rewarded and not punished. Whistle blowing should not be punished. At the same time, the I.S.P.C.C. is in favour of a child orientated view, which would concentrate on the effect of the abuse on the child, rather than on the fact of the abuse itself. It would not rationalise the fact of abuse out of existence, but would rather concentrate on the feelings of the child.
- 8.5 The I.S.P.C.C. made a submission to government on 7 March 1995 in relation to an national child abuse prevention strategy which closely followed the Australian national strategy for the prevention of child abuse (See Carmichael: Prevention of Child Abuse in Australia - Journal of Child Centred Practice, Volume 4 No. 1(April 1997)). In its submission: "Preventing Child Abuse: Supporting Healthy Families", the I.S.P.C.C. noted the extent of child abuse in Ireland. They stated that an estimated figure of 12% to 15% of children experienced sexual abuse, and a greater number experienced physical and emotional abuse. However, the I.S.P.C.C. also noted that "at present, the statutory response to child abuse is inadequate".
- 8.6 In order to protect children adequately, the I.S.P.C.C. recommended that a number of legal reforms be implemented without delay. First, they recommended again that the reporting of child abuse be made mandatory. Further, they urged that the recommendations of the Kilkenny Incest Report (1993) and of the Law Reform Commission Report (1990) be enshrined in legislation. The submission also emphasised the role of the Department of Health and the Health Board services in dealing with the prevention and detection of child sexual abuse.

- 8.7 In relation to the prevention of child sexual abuse, the I.S.P.C.C. has also published a leaflet entitled "Kidscape; Keep them Safe". This leaflet contains the Keepsafe Code, which the I.S.P.C.C. recommends as a way of telling children how to deal with unwanted physical attention from adults. This Code incorporates ten steps which children should be taught in order to protect themselves. The steps are numbered as follows:

1- Hugs; 2-Body; 3-No; 4-Run; 5-Yell;  
6-Tell; 7-Secrets; 8-Bribes; 9-Code; 10-DIY.

- 8.8 Children need to know how to be believed. The leaflet states:

'When children are told to go to an adult for help, they need to know they will be believed and supported. Although sometimes an immediate reaction is to say "I told you so", this will not help the child to resolve the problem. It could also prevent the child from seeking help another time. This is especially true in the case of sexual assault, as children very rarely lie about it. If the child is not believed when he or she tells, the abuse may continue for years and result in suffering and guilt for the child.'

- 8.9 The guidelines referred to above issued by governmental and non-governmental agencies, all emphasise the need to take any allegations of child sexual abuse very seriously. The I.S.P.C.C. guidelines urge the child to "tell" about the abuse, and they urge the parent to believe the child and, where necessary, to tell others about the abuse also so that action may be taken.

## 9. Inquiry into Child Abuse in Cleveland

- 9.1 The object of the Report of the Inquiry into child abuse in Cleveland, 1987 (presented to the Secretary of State for Social Services by the Right Honourable Lady Elizabeth Butler-Sloss) was to examine the arrangements for dealing with suspected cases of child abuse in Cleveland since 1 January 1987 and to make recommendations.

- 9.1.1 The Inquiry found that the medical diagnosis assisted a culture and determining role in the management of the child in the family. The Inquiry criticised paediatricians not examining their own actions and for the certainty and over-confidence with which they pursued the detection of sexual abuse in children referred to them. It was apparent that there was a fundamental breakdown in communication within and co-operation between the various disciplines which was impeding the proper approach to the care and protection of children in the area.

- 9.1.2 As the Inquiry progressed it became evident that there were a large number of issues which were not unique. The length of time spent hearing evidence was dictated by the necessity of a thorough investigation into these complex and varied issues, all of which, in the opinion of the Inquiry, warranted consideration and comment in the Report.

#### Relevance/Incidence

- 9.1.3 The data showed an increase in proportion and in number of child sexual abuse arising out of greater awareness of adults regarding sexual abuse in childhood. Evidence given by Wynne and Hobbes to the Cleveland Inquiry found, in relation to all abused children, that the mode of presentation was primarily disclosure by the child (42% in the case of girls and 34% in the case of boys); followed by disclosure by a sibling or friend (14% and 20% respectively). Third party disclosure accounted for 12% and 7% respectively. Physical (17% and 10%) and behavioural symptoms (8% and 7%). The above percentages accounted for almost all of the disclosures in the case of girls and over 75% of the disclosures in the case of boys.
- 9.2.1 The Report identified training as one of the major needs shown by the Cleveland experience. Some professionals were not aware of what training to look for or where to get it: others were not always made aware of the need for it.
- 9.2.2 Recognising that training requirements are different for each profession the report recommended:
- (a) Those responsible for the educational programmes of all disciplines involved in the care of children immediately consider the introduction of some instruction on the subject of child sexual abuse in basic training at student level.
  - (b) There should be general continuing in-service training for practitioners concerned with child care.
  - (c) There is an urgent need to give immediate in-service training to professionals to bring them up to date on child sexual abuse.
  - (d) The investigation and the management of the child and the family where there is a suspicion of sexual abuse needs considerable professional skill. Specialised training for experienced professionals with immediate responsibility for the children and their families is recommended.

- 9.2.3 In addition the Report identified a need for inter-agency training and recognition of the role of other disciplines.
- 9.2.4 Schemes were commendable in themselves but were fragmented and diffuse in outlook and purpose. There was need for co-ordination and validation on a national basis.
- 9.2.5 Cleveland recommended all lawyers engaged in this kind of work, including Judges to have greater awareness of and inform themselves about the nature of child abuse and the management of children subjected to abuse especially sexual abuse.
- 9.2.6 There was also a need to recognise the problem of adults who disclose abuse they suffered as children and the lack of help generally available.
- 9.2.7 There was a perceived need to recognise the problem of the abuser who might wish to admit the abuse but was inhibited from doing so by fear of the consequences.

## 10. Prevalence of Child Abuse in Britain

- 10.1 The United Kingdom Department of Health commissioned a feasibility study for a national survey of the prevalence of child sexual abuse as part of a larger programme of child protection (Ghate and Spencer: *The Prevalence of Child Sexual Abuse in Britain*, HMSO, 1995). The authors concluded that a technically rigorous, large scale national survey of the prevalence of child sexual abuse is certainly feasible, can achieve respectable response rates, and can provide new and valuable data. Such data would, according to the study, enhance understanding of the problem of abuse, and assist with the planning of a range of health, education, and social services. A national survey was proposed which would aim to provide two levels of data: firstly an overall estimate of the proportion of adults in the general population who have experienced various forms of sexual abuse during their childhood, and secondly information pertaining to the broad context within which child sexual abuse takes place.
- 10.1.1 Within this context it is necessary to look at all parties including the perpetrators of abuse. It is necessary to study the cause as well as the symptoms of child sexual abuse. In this regard consideration should be given to perpetrators who have sought or are willing to seek professional help to have this fact taken into consideration in any subsequent prosecution and sentence. At present, there would appear to be no incentive for a perpetrator to report.

11. Prevention of Child Maltreatment

- 11.1 Child abuse reporting laws were reviewed in the USA by Reppucci and Aber in Willis, Holden and Rosenberg: *Prevention of Child Maltreatment: Development and Ecological Perspectives* (John Wiley 1992).
- 11.2 Most of the legislatures in the United States have modified the reporting laws many times. Changes have occurred in each of the seven primary elements of reporting laws:
- (1) definition of reportable conditions;
  - (2) persons mandated to report;
  - (3) degree of certainty required for a report;
  - (4) sanctions imposed for failure to report;
  - (5) immunity for good faith reporters;
  - (6) abrogation of certain communication privileges; and,
  - (7) reporting procedures.
- 11.3 One consideration that underlies the debate has been the extent to which such laws should serve a preventative function. While the reporting laws were designed for the purpose of identification of children in trouble, and, as such, are neither preventative nor investigative tools, many proposed and adopted reforms have sought to increase the preventative function of reporting statutes.
- 11.4 The Department of Health report (*Putting Children First: a discussion document on mandatory reporting*), already referred to, points out that there has been no comprehensive review of the effect of policy in the USA. But it does point to some positive effects such as a huge increase in the number of reported cases of abuse, which has led to increased protection for children. Moreover the policy is considered to have forced relevant health care and social work professionals to educate themselves about abuse and to have given them a basis to report such cases.
- 11.5 A review of evaluation studies of sexual abuse prevention education in the United States was undertaken by Finkelhor and Strapko in Willis, Holden and Rosenberg, *op cit.* 150-167. The most clearly established finding of that evaluation is that children do indeed learn the prevention concepts that the programmes teach. However, it is not known whether the programmes actually

help children to avoid abuse. Establishing this is a complex and difficult research task. However the programmes clearly prompt many victimised children to disclose. Since it is in this area, rather than in the prevention area where the programmes are more clearly successful, it might make sense to rename the programmes "Sexual Abuse Disclosure Facilitation Programmes". Even if the programmes ultimately were to be shown ineffective in preventing much abuse, the disclosures they prompt are a major accomplishment. Such programmes certainly rescue many children, who would not have otherwise been rescued from extremely troublesome and traumatising situations, and they short circuit situations which might otherwise have continued for an extended period of time at a much greater ultimate cost to the child's mental health.

- 11.6 The future directions of child maltreatment are addressed by Kaufman and Zigler in Willis, Holden and Rosenberg (269-288). They conclude:

"In order for the goal of child maltreatment prevention to be achieved, ecologically sensitive, multi-faceted, and continuous intervention programmes must be utilised. Each well intentioned intervention will not be successful, but through well designed evaluations, the effectiveness of future efforts can be increased, and the hiatus that separates the intention and realisation of prevention aims can be diminished."

- 11.7 Doran, (The case for mandatory reporting, Law Society Gazette, January/February 1998) argues that although the official policy appears to be moving from mandatory reporting towards interagency/interprofessional co-operation, such mandatory reporting should not be completely rejected out of hand. Such a policy is only feasible if the law is specific and supported by a properly instituted and properly financed reporting framework. Doran points out that, under Section 3 (b)(i) of the Child Care Act 1991, health boards must have regard for the welfare of the child as their first and paramount consideration.

12. Safety, Health and Welfare at Work Act, 1989

- 12.1 The provisions of the 1989 Act relate to persons at work but also extend to protecting others against risks to health and safety in connection with the actions of persons at work.
- 12.2 These provisions derive from the Common Law duty of employers and reflect the recommendations of the Barrington Report (1983) (Report of the Commission of Inquiry on Safety, Health and Welfare at Work (Pl. 1868)).

- 12.3 The Report expressed a distrust in an excessive reliance on detailed legal regulations and proposed a framework legislation which would be applicable to all places of work. The Report had suggested that there was an obligation to consider the impact on the members of the public as well as on employees.
- 12.4 The Act places an obligation at the level of what is reasonably practicable. This allows an economic balance to be made between the cost of safety precautions and the risk involved in any particular work activity.
- 12.5 While "place of work" is widely defined as any place, land or other location where work is carried on, whether occasionally or otherwise, it is not altogether clear that it applies to places of recreation. Moreover the obligation may be on the owner or occupier of places of recreation rather than the clubs that use those places.
- 12.6 The emphasis is, of course, on the duty of employers to their employees (Section 6) and, by extension, to persons other than their employees (Section 7).
- 12.7 The position of members poses a difficulty in so far as the membership body is itself the employer.
- 12.8 The duty extends to an obligation to provide for the safety and health of the employer himself or herself. Accordingly, the obligation applies to provide for the safety of all partners and members of unincorporated bodies.
- 12.9 Section 7 provides as follows:
- 7(1) It shall be the duty of every employer to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that persons not in his employment who may be affected thereby are not exposed to risks to their safety or health.
  - (2) It shall be the duty of every self employed person to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that he and other persons (not being his employees) who may be affected thereby are not exposed to risks to their safety or health.
  - (3) In such cases as may be prescribed, it shall be the duty of every employer and self employed person, in the prescribed circumstances, and in the prescribed manner to give to persons (not being his employees) who may be affected by the way in which he conducts his undertaking the prescribed information

about such aspects of the way he conducts his undertaking as might affect their safety or health.

- 12.10 It is pointed out that it would be possible for a self employed person to be prosecuted under the Act for failure to put into place precautions in relation to his own safety, regardless of whether those omissions affected any other person. (See Raymond Byrne: *Irish Current Law Statutes Annotated*, 1989 - 1990, (Sweet and Maxwell) 7-23). Accordingly a club could be prosecuted for failure to have arrangements in relation to risks of members safety or health.
- 12.11 Moreover Section 8 provides for general duties of persons concerned with places of work to persons other than their employees but this would appear to apply to employees of another person or self employed persons who are carrying out work.
- 12.12 Every employer is obliged to prepare or cause to be prepared a Safety Statement under the provisions of the 1989 Act which would specify the manner in which the safety, health and welfare of persons employed by an employer shall be secured at work. The Safety Statement is based on an identification of the hazards and an assessment of the risks to safety and health at the place of work to which the Safety Statement relates (Section 12 (1) to (6)).
- 12.13 In relation to a self employed person subsection (7) imposes a duty on such a person to prepare a statement in so far as is practicable in accordance with that section so as to ensure his safety, health and welfare at work and that of other persons at the place of work. This would appear to have application to a club and impose on the members of the club an obligation to prepare a Safety Statement (insofar as is practicable) to ensure the health, safety and welfare of the members.
- 12.14 Regulations of general application were made in 1993 under the Safety, Health and Welfare at Work Act (S.I. No. 144 of 1993). The general duties of the employer are to ensure that, in taking measures necessary for the safety and health protection of employees, these measures take account of changing circumstances and that the risks to the safety and health of employees are periodically evaluated.

The employer must also take into account the most recent evaluation to ensure that any improvement considered necessary in the level of protection afforded to employees in relation to safety and health is introduced and to integrate the measures into all the work activities under the control of the employer at all levels of responsibility in the undertaking.

- 12.15 Moreover it is the duty of every employer to be in possession of an assessment in writing of the risks to safety and health as required by Section 12 (3) of the Act. The employer has also to decide on any protective measures to be taken and, if necessary, the protection equipment to be used.
- 12.16 In relation to information it is the duty of every employer to ensure that there is sufficient information available to employees concerning these risks. There is a requirement to have consultation and participation of employees in any measures proposed to be taken. Moreover it is the duty of the employer to provide training for employees. This training has to be adapted to take into account new or changed risks and shall be provided on recruitment of employees or change of their work.
- 12.17 The legislation does not, however, apply expressly to clubs. Accordingly, it is not surprising that clubs do not have Safety Statements. Moreover, while the IASA itself has a Safety Statement this relates to its employees and not to its members. The IASA complies with Section 158 of the Companies Act 1963 as amended by Section 12 (6) of the Safety, Health and Welfare at Work Act 1989. A safety statement has been prepared and the Director's Report states that the company is committed to the ongoing review of its requirements under the Companies Act.

### 13. Medical Guidelines

- 13.1 The Medical Council have published a guide to Ethical Conduct and Behaviour and to Fitness to Practice (4th Edition 1994). The guide is not a code but merely guidelines to normal ethical behaviour.
- 13.2 Section 69 (2) of the Medical Practitioners Act 1978 provides that it is the function of the Medical Council to give guidance to the medical profession generally on all matters relating to ethical conduct and behaviour.
- 13.3 The guide affirms that confidentiality is a time honoured principle of medical ethics. There are four circumstances where exceptions may be made. These are outlined in paragraph 31 of the guide.
- Where required by a judge in a court of law;
  - Where necessary to protect the interests of the patient;
  - Where necessary to protect the welfare of society;
  - Where necessary to safeguard the welfare of another individual or patient.

13.4 In such cases the significance, rather than the precise details, of the medical findings should be conveyed to any third party with the patient's consent only. (31.03 (iii))

13.5 An employer has not got the right to be informed of the clinical details of illness or injury without the consent of the patient.

14.1 Child Sexual Abuse in Swimming in England

14.2 Just as child sexual abuse has been an issue for the IASA, so too has it been an issue for the English Amateur Swimming Association (ASA).

14.3 On 27 September 1995, Paul Hickson was convicted and sentenced to seventeen years imprisonment (later reduced, on appeal, to fifteen years), at Cardiff Crown Court, on a range of charges from indecent assault to rape. Hickson had been the National Official Swimming Coach at the Commonwealth Games in 1985 and the Olympic Games in 1988.

14.4 Evidence given to the Inquiry by Detective Inspector Brian Jenkins of the South and West Regional Crime Squad in Swansea regarding the investigation and prosecution of Hickson's case showed remarkable similarities to the position, character and dominance of the coaches the subject matter of this Inquiry. There was no evidence that the two named Irish coaches had ever met Hickson, though they may have been present at international championships at the same time.

14.2 Response of the Amateur Swimming Federation

14.2.1 In response to the Crown Court case in September 1995 the Amateur Swimming Federation of Great Britain (comprising the Amateur Swimming Association, the Scottish Amateur Swimming Association and the Welsh Amateur Swimming Association) together with the NSPCC and The Sports Council, published their Child Protection Procedures in Swimming in June 1996.

14.2.2 This document is based upon four guiding principles;

- The child's welfare is paramount;
- All children have the right to protection from abuse;
- All suspicions and allegations of abuse will be taken seriously and responded to swiftly and appropriately;

- Anyone under the age of eighteen years should be considered as a child for the purpose of the document.

14.2.3 The document advised those working within a club to inform the person in charge of the club of any concerns which they may have regarding the welfare of the child.

14.2.4 When working with swimmers away from home (for example on training camps), then the team manager or head coach should be informed of those concerns. The child must always be listened to, not blamed, taken seriously and not frightened. Promises of confidentiality should not be given and a full record should be taken.

14.2.5 Where there are allegations of abuse against members of staff or volunteers, the person in charge should be informed.

#### 14.3 Code of Ethics

14.3.1 Further to the adoption of these procedures, the ASA also amended their Constitution in 1997 by prefacing a Code of Ethics which is now prefaced to the ASA Laws of the Sport (see Appendix 2).

14.3.2 The Code of Ethics is described as having been written with specific reference to teachers and coaches. However it is also stated that most aspects of the Code are applicable to other people involved in the sport and that all officials, whether ASA qualified or not, should be aware that the Code also applies to them.

14.3.3 It is stated that the purpose of the Code of Ethics is to establish and maintain standards for teachers/coaches and to inform and protect members of the public using their services. Ethical standards are described as comprising such values as integrity, responsibility, competence and confidentiality. Individuals who are members of the ASA are deemed to have assented to the Code, and as such are regarded as recognising and adhering to the principles and responsibilities embodied in it.

14.3.4 The Code states that a good teacher/coach will be concerned primarily with the well being, health and future of the individual performer and only secondarily with the optimisation of their performance.

14.3.5 Teachers/coaches are responsible for setting and monitoring the boundaries between a working relationship and friendship with their performers. This is seen as particularly important when the coach and performer are of opposite sex and/or when the performer is a young person. The teacher/coach is told that

they must realise that certain situations or friendly actions could be misinterpreted, not only by the performer, but by outsiders motivated by jealousy, dislike or mistrust, and could lead to allegations of sexual misconduct or impropriety. The relationship between coach and performer must rely heavily on mutual trust and respect. This is stated to mean that the performer should be aware of teachers'/coaches' qualifications and experience and must be given the opportunity to consent to or decline proposals for training and performance.

14.3.6 The Code also contains a section headed Abuse of Privilege. This section reads: "The teacher/coach is privileged, on occasion to have contact with performers and to travel and reside with performers in the course of teaching/coaching and competitive practice. Consequently, a teacher/coach must not attempt to exert undue influence over their performer in order to obtain personal benefit or reward."

14.3.7 Complaints about a violation of the Code by an individual are to be made either to the ASA or to the professional body of coaches. The Chief Executive of the ASA will then refer such complaints to the appropriate District Judicial Tribunal (DJT), unless the complaints are completely without foundation or are outside the jurisdiction of the DJT. The DJT is then to deal with the complaints in accordance with the prevailing laws of the sport as published annually by the ASA.

#### 14.4 Constitutional Change

14.4.1 In 1997, the same year that the Code of Ethics was adopted, a new Law 62 was inserted into the Constitutional Laws of the ASA. Law 62 deals with child protection measures. This law provides that where the Chief Executive has been notified that an individual has been charged with an offence (contained in Schedule 1 to the Children and Young Persons Act, 1933), then the Chief Executive may impose upon that individual an interim suspension from any event or activity promoted or authorised by the ASA or any body indirectly affiliated to the ASA whenever held. The Chief Executive may also take this action on receipt of any evidence which would lead them to reasonably conclude that an individual may have committed an offence.

14.4.2 Law 62.3. sets out the criteria to which the Chief Executive shall give consideration in deciding as to whether or not an interim suspension should be imposed. These criteria include: (a) whether a child or children or young persons are or maybe at risk; (b) whether the allegations are of a serious nature; (c) whether a suspension is necessary or desirable to allow the conduct of any investigation by the ASA or any other authority to proceed unimpeded.

- 14.4.3 Law 62.4 provides further that where an individual has been convicted or has been the subject of a caution in respect of an offence, the Chief Executive has the power to impose similarly either the withdrawal immediately of any ASA qualification, or the suspension of the individual from any event or activity promoted or authorised by the ASA.
- 14.4.4 Law 62.5 provides that it is a condition of membership or affiliation to any district of the ASA that an affiliated club adopts the ASA Child Protection Procedures and that the members of the affiliated club comply with these procedures.
- 14.4.5 There is a right of appeal to the National Judicial Tribunal against the decision of the Chief Executive under Law 62.4. The ASA Judicial Laws provide that there are three levels of Judicial Authority within the ASA; (a) the Referee and the Jury of Appeal; (b) the District Judicial Tribunal (DJT); (c) the National Judicial Tribunal (NJT). These three bodies hear and deal with all the complaints and disputes relating to the application of the judicial and constitutional laws of the ASA. Their procedures are dealt with in detail in paragraphs 101 to 134 of the Judicial Laws.
- 14.4.6 In addition, there is provision for informal dispute resolution where the Chairman and all the parties the subject of an appeal or complaint agree that the matter should be referred to an informal mediator. In that case, the Chairman nominates from the Tribunal panel an individual other than himself to act as informal mediator. The parties are so notified within 14 days of the agreement to mediate and then have 7 days to lodge an objection against the nominated mediator which must give reasons. The Chairman may accept the rejection and appoint another mediator; if the parties and/or the Chairman cannot within 28 days of the agreement agree on a mediator, the appellant or complainant shall have the right to have a hearing before the Tribunal. The mediator has a period of 28 days from the date of appointment to assist on the settlement of differences between the parties. If she/he is unable to assist in settling the differences, then he/she shall report to the Chairman who shall then proceed to a hearing of the complaint of appeal.
- 14.4.7 There are arranged sanctions which may be imposed upon the judicial authorities of the ASA. A person suspended by a Tribunal, whether by a District or by a National Tribunal, or indeed by an ASA Committee or by the Chief Executive, shall not participate in any swimming activity organised by an affiliated club or controlled by ASA Laws. He/she must not act as a representative or a club or other affiliated body, nor is he/she entitled to be a member of any committee/subcommittee or council concerned with the direction or government of swimming. He/she may not act as an official at any competition, exhibition, meeting or any other activities within the sport.

14.4.8 Moreover, the suspension is binding on all clubs and where the period for suspension is for twelve months and longer, the suspension is reported to FINA for recognition world-wide and in the case of foreign nationals, it is reported to their country of origin.

14.4.9 In relation to club discipline, an affiliated club or body may, for a breach of its own rules, suspend a member from activities wholly within its jurisdiction or expel a member, providing that before doing so, it informs the member of the alleged offence and gives him or her a reasonable opportunity for self defence against the charge. If the alleged offence is also a breach of ASA law, the club or body does not deal with it, but instead makes a complaint to the District Judicial Tribunal (DJT).

15. Need for Effective General Guidelines

15.1 The need for adequate guidelines is a common requirement for the implementation of the procedures recommended by each of the guidelines examined.

15.2 The drawing up of procedures to encourage children to tell and of educationalists and health workers to listen requires training. Information on its own is not enough. Skills are also necessary. Most important are the attitudes of adults entrusted with the care of children. Training must encompass the education of knowledge, skills and attitudes relating to child sexual abuse.

15.3 The prevention and detection of complaints requires professional and management resources which may deflect and tie up resources from supervising and listening to children.

15.4 Investigation and prosecution need to be prompt, detailed and thorough. It can never be assumed that a person accused of sexual assault of children will plead guilty when confronted with the Book of Evidence.

15.5 The balancing of a child's right to have an abuser restrained and to have an abuser sanctioned should be carefully balanced with an accused's presumption of innocence and right to fair procedures.

15.6 However, a child's faith in the legal process depends on the child's trust in adults to whom the child complains. The evidence given to this Inquiry corresponds to the findings in similar reports that, in the past trust was undermined by inadequate structures. Adults who had been abused lost faith. Children who are presently being abused will have little incentive to complain.

## CHAPTER 10

### THE RESPONSE OF THE IASA AND THE LEINSTER BRANCH

- 1.0 In the light of the guidelines outlined in the previous chapter and the detailed provisions relating to child protection adopted by the ASA in 1997, it is proposed to examine the measures taken by the IASA and the Leinster Branch since 1995 for the protection and prevention of child sexual abuse and the submission of the Leinster Branch.
1. Officials' Code of Ethics
- 1.1 In response to the allegations concerning the two named coaches, the IASA produced an Officials Code of Ethics in 1995. A second version of this Code was produced in 1997 (see Appendix 3). The Code defines adults as officials who have taken a supervisory, coaching or management responsibility for swimmers. The Code is to provide guidelines for parents and adults. The Code, as revised in 1997, is part of the IASA policy for child protection, to be applied in conjunction with the 1996 Code of Ethics and Good Practice in Children's Sport published by the Government.
- 1.2 The Officials Code of Ethics is required to be signed by each official and returned to their club or association. Officials who are found to be in breach of the Code are required to provide an explanation to the IASA who, where appropriate, impose disciplinary action under Law 10.7. This Law provides that the Council of the IASA may impose penalties by way of disqualification, suspension, fine or any lesser penalty they may think fit upon any member, club, association or body;
- (a) for infringements of any of the laws, bylaws, rules or regulations of the IASA or of a Branch;
  - (b) for unfair practice in sport;
  - (c) for conduct likely to bring the sport into disrepute or which is prejudicial to the interests of the association.
- 1.3 The term "official" is defined more widely in the Code than in Part 6 of the IASA Constitution. However, it is not clear that the term includes officers, executive or committee members of the IASA who accompany swimmers on international meets unless they have a defined supervisory, coaching or management responsibility for swimmers.

- 1.4 Team Managers are not included as officials under Part 6 but would come under the definition of the Officials Code of Ethics. The evidence given by swimmers showed some confusion as to who the team manager was on some of the international meets; those who were assumed to be team managers themselves gave evidence that they had attended as parents of swimmers and not as officials. There needs to be clear directions given to those with supervisory or management responsibility for swimmers. Those with such responsibility should be advised that they are officials for the purposes of the Code.
- 1.5 It would be helpful to include statements such as that in the ASA Code of Ethics under the general headings of "Humanity, Relationships and Commitment", and again under the heading of "Abuse of Privilege" (see Appendix 2). The IASA Code contains no such statement.
- 1.6 It is also desirable that the conditions of employment of coaches include disciplinary measures for the breach of the Code.
- 1.7 Articles 10 to 11 inclusive of the IASA Code refer to a reporting structure for a serious breach of the Code, which may be summarised as swimmer-parent to report to club/Branch/association. Article 12 refers to an obligation to inform the Gardai or the RUC of illegal activities that directly relate to the sport and to notify the Branch and/or the IASA in writing of that fact. The distinction between a serious breach of the Code and illegal activity may be confusing.
- 1.8 These articles refer to any inappropriate behaviour or serious breach of the Code. The Department of Education document stresses that, where a child is being harmed or at risk, there is a duty on a person aware of the situation to convey the information to the local Health Board in accordance with the Department of Health Regulations (1987). The Official's Code does not refer to notification of the local Health Board. However, the Child Protection Complaints law in the 1998 Child Protection Guidelines for parents and officials provides for reporting to the designated Child Protection Officer (see 4.4.1 below).
- 1.9 For the IASA Code to comply with the Department of Education's Code, it would be necessary, in relation to instructions for the reporting of suspected child sexual abuse, to revise articles 10 to 13 inclusive, to insert a reference to the Health Board and to draw a distinction between the reporting of cases of possible child sexual abuse and of other "inappropriate behaviour".
- 1.10 The Department of Education Code further advises that when one is reporting suspected child abuse in good faith, it is not the same as making an accusation of abuse, in other words reporting does not mean accusing. Article 13 states:

Should a member of the IASA make or report, false allegations against a fellow member, then the former shall be held liable under law 10.7 (which allows for the imposition of penalties), sub section (c) which states "for conduct likely to bring the sport into disrepute".

Article 13 of the IASA Code could benefit from re-writing to accommodate this notion that reporting does not mean accusing. As the article presently reads, a person could be deterred from reporting a possible incident of abuse for fear that they could be penalised under the terms of Law 10.7 if the incident was subsequently found to be groundless.

## 2. Members' Code of Conduct

2.1 In 1997/98, the IASA also produced a Members' Code of Conduct for team members or nationals squad members representing Ireland, and this was included in the 1997/98 Club Handbook. This Members' Code of Conduct is stated to be guaranteed by FINA Law GR2. However, both the Director of FINA and the Honorary Secretary of their Medical Committee have stated that they have no Codes of Conduct in relation to the behaviour of coaches and swimmers, as this is a matter for the member countries and their clubs. It is not clear, accordingly, what the relevance of the reference to FINA Law GR2 is in relation to the Code of Conduct for IASA team members.

2.2.1 The Members' Code of Conduct is made up of sixteen articles, most of which relate to self protection measures to be taken by team members and swimmers such as requiring team members to join the team at its point of departure and return to that point with the team. Moreover, team members are told that they are responsible to the appointed team officials until the trip is complete and the team disperse. The provisions of the Code most directly relevant to the terms of this Inquiry are provisions 13, 15 and 16.

2.2.2 Article 13 provides that where a swimmer has a grievance, they should communicate it to the team manager. If they are still dissatisfied, the Article states that they have a right to discuss the matter with the IASA executive.

2.2.3 Article 15 of the Members Code states that any form of sexual activity is considered inappropriate within a training and/or competition experience and is therefore forbidden while the swimmer is under the jurisdiction of the team manager. Finally, the team manager has the authority under article 16 to deal with all disciplinary matters and has a duty to impose penalties, which may include withdrawal from further competition or being sent home.

2.3 Together with the Code of Ethics for officials and the Code of Conduct for team members, the IASA has also set up a Child Protection Committee which

comprises past officials and a clinical psychologist. The document setting up this committee acknowledges in its preamble that in the sport of competitive swimming the majority of swimmers are minors, while all coaches and officials are adults who exercise power over the activities of swimmers. The preamble recognises that there exists a consequent danger that a small number of members may abuse their power. The Policy Statement of the Committee was outlined as being to "strive to protect the well being of swimmers". The role of this Committee was stated as being the establishment of good practice and the protection of individual members of the Association; the Committee was to advise clubs and to monitor the concerns of clubs and individual members and report to the IASA executive.

- 2.4 Four categories of child abuse were identified by the Committee; neglect; physical injury; sexual abuse and emotional abuse.

2.4.1 Neglect

The document of the Child Protection Committee states "in relation to swimming this could be associated with a teacher or coach not ensuring adequate safety measures and hence failing to protect the child from exposure to the danger". The 1998 Child Protection Guidelines describe child neglect as persistent or severe neglect, wilful or unintentional. The Guidelines remark that "child neglect is less obvious in swimming. However club staff should watch for children who are uncollected for long periods after sessions on a regular basis". This seems to suggest that neglect is only that of parents.

In the light of the evidence heard by the Inquiry regarding the activities of the two named coaches, it would seem that the cultivation of an elite squad and more particularly the selection of certain swimmers, particularly female swimmers as favourites had the effect of other swimmers being neglected. Moreover, some of those who were favoured and then abused gave evidence that they were then ignored. It is the view of the Inquiry that equality of care in coaching is paramount to the maintenance of trust by children. Each swimmer has a right to be coached equally.

2.4.2 Physical Injury

This was the second area identified by the Committee, which in relation to swimming, they saw as occurring where "a teacher/coach knowingly sets inappropriate practices which could cause physical injury to a child and these could be considered as physically abusing that child, e.g. weight training for the very young or excessive amounts of training at a very early age".

The 1998 Child Protection Guidelines state that “whilst physical abuse is fairly obvious, there are grey areas in that some training regimes or methods may be considered excessive by some and normal by others.

In light of the evidence heard by the Inquiry, it would seem important in preventing physical injury that coaches be qualified before they embark on weight training for swimmers, particularly before puberty. Moreover swimmers and their parents should give informed consent to such training.

#### 2.4.3 Sexual Abuse

This was the third area identified, as was defined as “the involvement of dependant, developmentally immature children and adolescents in sexual activities that they do not truly comprehend, to which they are unable to give informed consent or that violate the social taboos of family roles. In other words, it is the use of children by adults for sexual gratification.” In relation to swimming, the document states that extreme care should always be taken if the teacher/coach feels it important to utilise manual support or manual communication and that quite innocent actions can be misinterpreted.

2.4.3.1 The evidence heard by the Inquiry and the statements made to the Gardai by swimmers who have given evidence to the Inquiry did not relate to any allegations of abuse involving manual support of swimmers in the pool or on the bank. Moreover, the document would seem to protect the teacher/coach against a misinterpretation of their actions, rather than focus on the needs of the persons at risk of abuse.

2.4.3.2 It is clear that many of the victims who were abused were not necessarily dependant or developmentally immature. Rather, they were manipulated, seduced and abused by the coach. While there were those who did not truly comprehend, there were others who did understand the impropriety of the coach’s actions, but were enmeshed and trapped by the coach

2.4.3.3 None of the witnesses complained about manual support or communication. What they did complain of was fondling and testing and the presence of male coaches in the female dressing area. In order to prevent abuses such as these, it may be necessary to go beyond a proscription of such activities. It is imperative to focus on the general well being and development of the swimmer. If the swimmer is to be regarded as a subject of swimming, rather than as an object for coach, then this proscription would be more meaningful.

#### 2.4.4 Emotional Abuse

This was identified by the Committee as the fourth category of abuse and defined as the severe adverse effect on the behaviour and emotional development of a child by persistent or severe ill-treatment or rejection. It is pointed out that while all abuse involves some emotional ill-treatment, that this category applies where it is the main or so form of abuse. In relation to swimming, this is particularly identified as excess pressure being exerted on a child to perform at a high level. The 1998 Child Protection Guidelines refer to bullying, shouting, humiliation and discrimination.

- 2.5 In the light of the evidence of favouritism, coaches should avoid concentrating on the best swimmers to the detriment of the weaker swimmers. It would seem imperative that coaches be not permitted to train without having another adult on the bank at all times.
- 2.6 In this regard, there is need for Local Authority guidelines which should be co-ordinated and specified in relation to all pools whether or not the pools are being hired by a club or party distinct from the owners of the club. The Northern Ireland experience, according to the evidence of the Chairman of the Child Protection Committee, is that local authority pools are never made available to clubs unless there is a pool supervisor in attendance.
- 2.7 The evidence of swimmers and parents was that some of the swimmers were not able to take the psychological stress involved in competitive swimming and so dropped out. Not alone did there appear not to be any arrangement by which such swimmers could complain, there was no discussion in any of the minutes of meeting relating as to why they had dropped out. The reasons why swimmers drop out of swimming as well as why some swimmers request transfers, need to be monitored both by their clubs and by the IASA itself.

### 3. IASA Recommendations and Resolutions

- 3.1 The IASA Executive had introduced other recommendations in 1996 to protect children against abuse in swimming. In particular, a number of motions were put to the 1996 AGM of the Association.
- 3.2 First, a recommendation was put to maintain records in relation to all officials. The preamble to this recommendation commented that the IASA, Branches and clubs have no record of who works on their behalf, what their role is, what their background is and whether they have had complaints against them in past or in other organisations.

- 3.2.1 It was accordingly recommended that a registration database of all adults, giving their background and past activities in relation to swimming should be considered if the association was to ensure that children would not be working with adults whose suitability had been in doubt in the past. The proposed recommendation commented that the ASA and the Scottish Swimming Association, together with various government bodies, were seriously looking at the area of licensing and/or registration.
- 3.2.2 The registration scheme which was recommended at this time required that all adults, whether working voluntarily or professionally in affiliated clubs, would provide information on their personal details covering their working activities with children for a period not exceeding ten years prior to the date of completion of the registration form.
- 3.3 An additional recommendation was made to set up a Complaints Committee comprising three officers including the Association's Honorary Legal Adviser. It was recommended that Law 33.3 be replaced as follows:
- "Immediately upon receipt of an appeal or complaint the officer of the Association shall consult with the Association's Legal Advisor and, if the complaint is deemed to be of a serious nature, then the Chairman of the club in which the complainant is a member shall be informed and the complainee shall be suspended from duty pending a hearing. If the complaint is of a minor nature, the complainee shall be written to and requested to submit a written response to the complainant within seven days of the receipt of the request."
- 3.4 The Association sought legal advice on these recommendations.
- 3.5 While there was general agreement at the 1996 AGM that something needed to be done, these recommendations were not passed following legal advice.
- 3.6.1 The following year, at the 1997 AGM, three resolutions were passed. First the IASA adopted the "Code of Ethics and Good Practice for Children's Sport in Ireland", although the provision of the Code relating to Children's Liaison Officers was excluded for the time being.
- 3.6.2 Secondly a recommendation was passed requiring all clubs to ensure that all teachers/coaches and volunteers who have supervisory responsibility for children complete a registration form, a sample of which was given. The forms are to be held by the IASA on permanent file and made available to a relevant statutory body or potential swimming related employer at the discretion of the IASA and in accordance with the Data Protection Act. All clubs were further required to update the list of persons they had registered each year.

3.6.3 The third motion was that all clubs were required to have in operation the Child Protection Policies and Procedures of the IASA and the Code of Ethics and Good Practice for Children's Sport in Ireland. Further, the Code of Ethics was to be issued by each club to all current and new club members, and all clubs were required to submit to their Branch a trip report within two weeks of each overnight trip, by way of sample form.

3.6.4 A number of other recommendations were also passed at the 1997 AGM as follows:

1. All clubs were recommended to have, at a minimum, an IASA/ASA Teachers Certificate Holder (or recognised equivalent) in charge of their teaching and/or coaching programme by 31 December 1997.
2. All clubs involved in coaching were recommended to have an IASA/ASA Club Coaches Certificate Holder in charge of their coaching programme.
3. It was also recommended that each province run Child Protection Seminars every two years and that the club send two representatives, one of whom must be a poolside person, preferably the main coach or teacher of the club.

4. Arrangements now in place

- 4.1 The Code of Ethics and Good Practice in Children's Sport, passed into IASA Law in January 1997, now forms the basis for all the child protection measures undertaken by the IASA. At present, the Rules Revision Committee of the IASA is examining whether Laws 33, 34, 35 and 36 need to be updated to take account of this Code, and this Committee is to present a report to a special general meeting to be held in 1998.
- 4.2 Each club is now encouraged to assign two parents as Children's Liaison Officers; such parents not being involved in, nor dependent on, their club's administrative or coaching structures. The Children's Liaison Officers are to fulfil the roles suggested by the Code of Ethics, and are required to attend the IASA Child Protection Seminars run annually in each province.
- 4.3 The proposed Child Protection Complaints Law provides that no club nor Branch is permitted to investigate or hold a hearing to deal with concerns or complaints relating to child protection. Instead, they must follow the procedures as outlined in the Law by first contacting the IASA office to obtain details regarding the Child Protection Officer, who keeps a record of all details of the concern or complaint.

- 4.4 With regard to specific concerns or complaints, the proposed Child Protection Officer is required to inform, by phone and by letter: (a) the Area Social Worker and Senior Social Worker, (b) the Area Police Authority, (c) where the alleged victim is under eighteen years of age, the Health Board Director of Community Care, (d) the parents/guardians of the child and (e) the person named in the complaint, informing them of the nature of the complaint and advising them that they step aside from activities involving children until the matter has been resolved as provided for in the Code of Ethics.
- 4.5 In the case of an unspecific concern or complaint the Child Protection Officer is required to contact the Child Protection Committee and the IASA Honorary Secretary and seek risk assessment advice.
- 4.6 The Inquiry is unsure of the status of the Child Protection Committee. There would seem to be no provision for the appointment of the Committee and how the proposed Child Protection Officer is to be designated.
- 4.7 The Child Complaints Law should refer to, and encourage, the exercise of the right of any member who has concerns regarding child abuse, either past or present, to contact Childline. The guidelines should emphasise that 70% of the IASAs members are under eighteen.
- 4.8 It seems to be unnecessary duplication for the Child Protection Officer to be asked to notify the Area Social Worker and the Senior Social Worker when the Child Protection Officer is also required to notify the Health Board.
- 4.9 It is unclear why there is a separate procedure for specific concerns or complaints, and for unspecific concerns or complaints. It is not clear why the IASA Honorary Secretary has to be informed about non-specific concerns or complaints and not about specific ones.
- 4.10 Fourthly and more importantly, the preliminary provision that no club or Branch is permitted to investigate or hold a hearing to deal with complaints of this nature may, again, render the club impotent in disciplining a teacher or coach against whom a complaint has already been made. As the adoption of the Code of Ethics and the Child Protection Guidelines is mandatory for clubs, committees may interpret the provisions as prohibiting them from initiating any disciplinary measure against the person named in the complaint.
- 4.11 The contractual remedies against a person so named remain independent of the requirement to report and the obligation of the statutory authorities to investigate and prosecute. To this end it seems that it is necessary to go further than the guidelines suggest, by recommending appropriate disciplinary measures in the event of teachers/coaches not complying with the Code of

Ethics. In other words, clubs or Branches should not be prevented from taking disciplinary action against those coaches or officials who have breached the Code of Ethics. The fact that a Garda investigation is under way does not prevent a club or Branch from taking disciplinary action against a coach or official.

5. Adequacy of Arrangements

- 5.1 The IASA Executive has made progress since 1995 in producing a Code of Ethics for Officials and a Code of Conduct for Members. It has also adopted the Code of Ethics and Good Practice.
- 5.2 The IASA has proposed further amendments in line with the reforms of the English Amateur Swimming Association which were not proceeded with for legal reasons in 1996.
- 5.3 The Inquiry notes that, while a considerable number of motions and recommendations were passed at the AGM in January 1997 clubs are, accordingly, required to have the child protection policies and procedures in operation. They have to submit club trip reports to their Branch. A proposal that clubs which do not comply with these procedures be disciplined was, however, withdrawn.
- 5.4 The proposed Child Protection Guidelines for Parents and Officials 1998 provide a useful compendium.
- 5.5 The testimony of witnesses to the Inquiry as to the necessity of these measures is compelling the further amendment of the IASA Constitution and Laws in line with the ASA Code of Ethics and Laws of the Sport.
- 5.6 The Inquiry recommends a process of annual revision in line with best practice.

6. Leinster Branch Submissions

- 6.1 The Leinster Branch also made a detailed submission to the Inquiry. The Branch stated that its response to both cases was timely, considered and measured.
- 6.2 The Branch said that at all times it had been guided by legal advices received and by the advice of the IASA. The Branch submitted it had to have regard to the requirement not to defame, prejudice or intermeddle with Garda investigation.

- 6.3 The Branch also considered, in both cases, the impact on the means of livelihood of each coach.
- 6.4 The Branch submit that in each instance it sought to bring the matters to the attention of the relevant club so that the clubs could take action to protect young swimmers. There is, however, no correspondence nor minutes of meetings in this regard. Moreover, both coaches continued as coaches for some periods after the intervention of the Branch.
- 6.5 In relation to complaints the Leinster Branch submits that it is not in a position to hold either primary or secondary inquiries into allegations, particularly of criminal activity, as the Branch has no facility to suspend parties from membership of the IASA. The power of suspension, it submits, can only apply to suspension from activity and not from membership. Moreover neither coach was a servant or agent of the Branch nor an officer of the Branch.
- 6.6 In relation to complaints about the Branch's inactivity (complaint (b) in the case of the first named coach and complaint (c) in relation to the second named coach) the Branch submit that the very nature of the subject matter of the complaints precluded disclosure to others of the steps that were taken by the Branch.
- 6.7 The Branch, accordingly, concludes that in many respects there were false expectations of what the Branch could or could not do and as to what it should or should not do. The Branch is a voluntary organisation, not a statutory or professional body. Members of the Executive are a fluctuating group of people, not chosen or selected for any particular skill, expertise or ability, but as swimmers, parents and club members.
- 6.8 The Branch submits that it is not a regulator of club activity as there is no hierarchy of authority. Indeed, the language used in the Terms of Reference such as "arrangements for detection and prevention", "procedures including functional responsibilities", "securing compliance", "investigations and sanction" and "adequacy of arrangements" is, it submits, the language of statutory obligations.
- 6.9 The duty and obligations of the Branch is limited to activities organised by the Branch. It is not a regulator of club activity nor, even less, an employer of coaches of clubs. While the Terms of Reference presume a sphere of responsibility, the Branch submits that that should be limited to the activity in which the Branch is involved. The problems that have arisen reflect the limitations of the Branch structure as opposed to short-comings by the Branch. The Branch is not a framework upon which one can build a system of regulation and control.

- 6.10 The Inquiry finds the distinction between the functions of the Branch and the Association somewhat artificial. In its original relationship the Branch was a part of the Association, as a Branch is of a trading organisation. The imposition of two limited liability companies makes each legally independent and responsible for their respective functions. However, the continuing existence of and direction by the "National Association" (see clause 2(b) of the Memorandum of Association of the IASA Leinster Branch Limited) makes the Association and Branch interdependent.

Houses of the Oireachtas

## CHAPTER 11

### SUMMARY OF FINDINGS

#### 1. Organisation of Swimming

- 1.1 The organisation of Irish swimming consists of the Irish Amateur Swimming Association (IASA) and four provincial Branches: Ulster, Leinster, Munster and Connaught together with the Irish Water Polo Association and the Irish Schools Swimming Association. The IASA is a voluntary association of members.

Both the IASA and the Leinster Branch operate as Companies Limited by Guarantee from 1985 and 1991 respectively. However, both companies are expressed to be subject to the Constitution and laws of the unincorporated IASA (see chapter 2, 2.1). Moreover, the Leinster Branch company refers to the unincorporated IASA as the national association.

- 1.2 Despite the best efforts of its paid employees and its voluntary officers the IASA lacks the resources and the professional administrative backing that an amateur organisation necessarily needs. While the IASA has a modest premises and a small staff since 1989, the Leinster Branch operates, as the IASA used to operate, out of its officers' homes. While the absence of complete records before 1989, other than those relating to registration of members, made it impossible to ascertain the nature of complaints made prior to that date, the evidence of officers, which the Inquiry accepts, is that there were no sexual abuse complaints made prior to that date nor were any such allegations made to the Inquiry.
- 1.3 Neither the licensed swimmer members of the IASA numbering about 6,000 nor the general membership numbering about 10,000 elect the officers of the IASA nor of the Branch nor do they have a right as members to notice, attendance or voting at the AGM of the IASA.

Rather, the officers are elected by the Council of the IASA which comprises over fifty members including all Past Presidents, Honorary Life Members and delegates from the affiliated clubs, the Irish Water Polo Association and the Schools Swimming Association.

While the President of the IASA changes each year, in rotation from each Branch, the executive offices of Honorary Secretary and Honorary Treasurer, though subject to re-election each year, tend to be elected on a more permanent basis.

- 1.4 The executive committee of the Leinster Branch is elected by the members of the Leinster Branch. These members consist of the subscribers to the Memorandum; the officers of the company (President, Honorary Secretary and Honorary Treasurer) and delegates from each club.
- 1.5 Almost 70% of the members of the IASA are 18 or under and are not members of club committees. Accordingly they cannot be delegates to the Leinster Branch or of the IASA. However club committees are made up of older swimmers and parents of young swimmers.
- 1.6 By virtue of its Memorandum and Articles of Association the IASA (Leinster Branch) Limited is expressed to be subject to the Laws of that Association as may be enforced from time to time. Accordingly, although the Memorandum provides for the assumption of the unincorporated body, it is clear that the latter remains in existence.
- 1.7 There is no object in the Constitution and Laws of the Association which deals specifically with governance of swimming other than at competitions. There is no reference either to the overall development of swimmers.
- 1.8 The Company does, however, have the following as one of its objects:

“to foster and develop swimming whether in competition or otherwise and to use the same in promoting the development of physical and moral qualities that come from swimming whether in competition or otherwise.”
- 1.9 Jurisdiction over swimmers is claimed by the IASA and, pursuant to Law 27 of the IASA Constitution, by the International Federation (FINA). FINA does not have any provisions relating to the overall development of swimmers nor any provisions relating to issues of child sexual abuse.
- 1.10 There is an overlap between the functions of the IASA and its Leinster Branch. The Branch is primarily a body of affiliated clubs while the Association is the affiliation of members. The Constitution of the latter does not allow for direct representation by members. Its structure is confusing and it is not an easy framework upon which to build a system of regulation and control.
- 1.11 While the objects of the unincorporated Association and its Branch are more restricted to competitive regulation and control, the objects of both companies extend to the development of physical and moral qualities that come from swimming in competition or otherwise.

- 1.12 Procedures for complaints made to the IASA or to the Leinster Branch, though expressed to be about any matter, relate primarily to competition protests and appeals. Complaints are required to be made in a formal way within fourteen days which is subject to extension from the incident which gave rise to the complaint. The procedures were inadequate, not alone to deal with complaints of sexual abuse, but also for any other complaint relating to children's development and well being in swimming. The 1998 Child Protection Complaints law is based on the Department of Education guidelines and proposes revised procedures relating to suspicions or complaints.
- 1.13 Prior to January 1995 there were no written arrangements for the detection or prevention of child abuse issued by the IASA or on its behalf, in any of the Leinster Branch affiliated clubs which responded to the questionnaire sent in by the Inquiry. Most clubs indicated that they had some unwritten arrangements for complaints. Five stated they had none, even after 1995.
- 1.14 There is no documentary evidence of any complaint in respect of child sexual abuse before the 12 December 1992 when complaints were made to the Gardai and to the Leinster Branch. Notwithstanding, there are allegations that complaints of sexual abuse by the first named coach had been made in 1991.
- 1.15 Allegations were made that the formal complaints procedure discouraged complaints being made.
- 1.16 The Leinster Branch did become actively involved in relation to the complaints made directly to it even if, after an initial response, it required further complaints to be dealt with on a formal written basis.
- 1.17 The funding of the IASA and the Leinster Branch is not adequate to provide the necessary professional administrative backing needed. Public funding as a proportion of total income was 77% in 1996 and 85% in 1997. Subscriptions and affiliation fees were 15% and 12% in comparison. Notwithstanding, the IASA requires substantial public funding to continue to develop its structure and to train its officers, officials and members.
- 1.18 It is difficult to ascertain who were appointed as officials on events abroad. The annual report does not give sufficient detail of expenditure. Even after that date, there was no written statement as to what the duties of team managers were.
- 1.19 The Inquiry can come to no firm conclusion regarding the adequacy of supervision in the past at international events but recommends that joint team managers be appointed for all away trips.

- 1.20 The Inquiry, in the absence of records of team managers' reports and of detailed financial records, has no basis to make a finding regarding the expenses on trips. The Inquiry recommends that officials and officers account to the Annual General Meeting in respect of expenses occurred.
2. First Named Coach:
- 2.1 This coach was employed by the management company of the Sports Centre attached to a school, and not by the school. It is difficult to ascertain the nature of his engagement with the Club, which was formed and controlled by him with a nominal committee. In the absence of Club records, no finding can be made on the nature of his engagement by, or on the extent of his remuneration with, the Club.
- 2.2 It was not possible to get comprehensive records prior to 1993 from the Club in which the first named coach worked.
- 2.3. In relation to complaints against that coach there is no documentary evidence available from the Club. Accordingly, it was not possible to verify if there was any written complaint made to the club before the coach left in early 1993. No evidence was given which would suggest any written complaint was made.
- 2.4 From 1973 to 1975, that coach had worked at another club where his contract was terminated because of continued insubordination and lack of accountability to the committee regarding the numbers of swimmers attending. That committee was unaware of any other impropriety.
- 2.5 Members of the committee of the Club prior to 1993 appear to have been appointed rather than elected. They reported to the coach, raised funds and assisted in the organising of galas. They did not manage the club. One member of the 1992 committee did not know he was listed as a committee member.
- 2.6 In late December 1990 or early January 1991 the Honorary Medical Officer of the IASA and of the Leinster Branch was made aware of an allegation of abuse. The officer says that the awareness arose from a doctor/patient relationship and that the complainant did not want the matter to be taken further. The complainant in his evidence denied that he did not want the matter to be reported. The officer believed the relationship to be that of doctor-patient and was, accordingly, confidential. For reasons of doctor/patient confidentiality the matter was not reported by the officer.
- 2.7 It was alleged that a former President of the Leinster Branch (who held office in 1991 and 1992 and who was also an executive committee member of the IASA)

had been informed of the abuse by the complainant in February 1991 and by the assistant coach of the abuse in June 1991 and that he told each of them that he would look after the matter. There is no record of any action arising from this. On 4 November 1992, the former President resigned and was subsequently charged and imprisoned in respect of matters unrelated to those within the terms of reference.

- 2.8 Solicitors on behalf of the former President have written to the Inquiry requesting the Inquiry to note that any finding should explicitly acknowledge that the then President completely and without reservation repudiates any allegation that he sought to or did impede the forwarding of any complaints about the first named coach's behaviour.
- 2.9 In March 1991, the complainant alleges telling the National Development Officer of the IASA about the abuse. The National Development Officer gave evidence that he believed that nothing specific was said at the time and says that he did not know of the abuse until November 1992, when informed by another coach. He himself then informed the Secretary of the IASA.
- 2.10 In June 1991, the complainant alleged that he told another executive committee member of the IASA, who became Secretary in 1992 of the abuse. The committee member in her evidence said that she did not hear of any complaints and said that the IASA never got any written complaints until December 1992. She denied any knowledge in 1991 and denied that the complainant told her. Accordingly, the Inquiry is unable to come to a firm conclusion in this regard.
- 2.11 In November 1991, a parent (in another club) was told by the assistant coach of the club of the first coach of the allegations and was informed that the Gardai and the I.S.P.C.C. were also informed. The I.S.P.C.C. has no record of any such complaint in 1991 or 1992. The first record on the Garda file is dated 15 December 1992.
- 2.12 The President of the IASA in 1992 had been told at the end of 1991 by a senior swimmer of complaints that the first coach was in serious trouble for molesting young children. The senior swimmer requested that the President organise a meeting at which the Gardai would be present. The President took legal advice. No meeting was held.
- 2.13 The Honorary Treasurer of the IASA, in his evidence to the Inquiry said that he was aware of rumours before the Barcelona Olympics in the summer of 1992 that a senior swimmer was going to expose a coach, but was not aware of the identity of the coach or the nature of the allegations and did not receive any complaint or hear of one.

- 2.14 In October 1992 the complainant attended a psychologist in relation to the abuse. The psychologist reported the matter to the Gardai who commenced an investigation.
- 2.15 The Leinster Branch and the IASA both took and followed separate legal advice in December 1992 when the matter was reported to the Gardai.
- 2.16 The coach declined when asked, to cancel a training session organised by the Leinster Branch on 2 January 1993, over two weeks after the complaint was made to the Gardai. The coach left the club some time before he was charged with serious sexual offences on 6 April 1993. The coach applied to the High Court to prohibit the prosecution and, having been refused, appealed to the Supreme Court which allowed the coach to review the prosecution. The review succeeded and proceedings were discontinued in September 1994.
- 2.17 The first named coach took part in club events in the Ulster Branch in April/May 1995 on the invitation of a council member of the IASA who had been President in 1987. The IASA submit that they sought to discourage such participation. The Secretary of the IASA wrote to these clubs requesting details of the first coach's participation.
- 2.18 A motion at the 1996 AGM of the IASA that the coach be removed as an Honorary Life Member of the IASA was withdrawn on legal advice. A motion at the 1997 AGM that the coach be suspended from Honorary Life Membership was carried.
3. Second Named Coach and Named School
- 3.1 The second named coach was employed by the named school in 1970 as Swimming Pool Manager. His duties to manage and supervise the pool were extended by agreement in writing in 1977. He was suspended from employment with the school on 10 September 1993 and resigned from the school on 12 November 1993.
- 3.2 The coach was the founder of the Club in 1971, was head coach to the end of December 1993 and a committee member until July 1994. He was appointed by the Club as Development Director from January 1994 to July 1994. He had been Olympic Coach for the 1980 Moscow and the 1992 Barcelona Olympics.
- 3.3 There is no documentary evidence of any complaint in relation to the second named coach prior to 1992, other than a complaint that he was absent from the Irish Team at the Moscow Olympics in 1980 when he stood in for a broadcaster. The Inquiry accepts the evidence of the officers of the IASA and the Branch that no complaints were made to them.

- 3.4 The evidence in relation to the Club with which the second coach was associated was that the coach was regularly absent for a period from the poolside leaving swimmers on their own at early morning training; that he discouraged parents being at the poolside; that he frequently walked through the shower areas when girls were showering; and that he measured female swimmers.
- 3.5 A swimmer who was a pupil of the named school gave evidence that she made a verbal complaint in 1980/81 to a teacher in the school in relation to a serious sexual assault by the coach through 1978/79. The named school has no written or other record of that complaint nor has the headmaster at that time.
- 3.6 The Inquiry finds that in or about 1980/81 the swimmer did confide in a teacher she trusted in the school. It is unclear what she expected the teacher to do or what the teacher did. It was not possible to take evidence from the teacher, who has since emigrated.
- 3.7 The Inquiry also finds no evidence that the Headmaster and the Board of Governors were told.
- 3.8 On 10 November 1992 a complaint was made by the parents of a swimmer who alleged sexual assault by the second named coach. The committee of the club convened a complaints committee meeting on 16 November 1992. The parents of the swimmer were given assurances that both informal and formal procedures would be reviewed and put in place.
- 3.9 The Inquiry finds that the complaint was taken promptly and formally by the President and the Committee of the club and was fully documented.
- 3.10 However, the significance of the complaint was not related by the Club committee to the suspension of the coach. The review of procedures as indicated in the letter to the complainant's parents and in the letter to the coach led to the coach ceasing to measure female swimmers.
- 3.11 On 10 September 1993 the coach was suspended by the school on full pay until further notice and prohibited from entering the school premises as coach, life guard or parent. This suspension arose because of the awareness of the headmaster of the school of certain complaints about the coach's behaviour in the pool/changing area in the past. A written statement to that effect was made to the coach.
- 3.12 According to the documents provided by the Club, on 11 September 1993, the President of the club wrote to the headmaster stating that the coach had shown him the written statement of the school relating to complaints being

investigated by the school into the coach's behaviour in the pool area. In his evidence to the Inquiry the President said that he believed, at that time, that the reason for the suspension was financial or personal. He said that he was not informed of the specific complaints.

- 3.13 The Honorary Secretary and Honorary Treasurer of the Committee did not see the written statement, and deny that they were told of the reasons for the coach's suspension, until after he had left the Club.
- 3.14 According to the minutes of the club supplied to the Inquiry on 14 October 1993 at a meeting of the Club, the President stated that the coach would not be allowed onto school grounds but that the situation "at present" would continue with the sessions being written up and sent into the pool by the coach. One of the parents who had complained of the sexual assault on 10 November 1992 asked if the coach would resign in the interests of the club. The coach was prevented from replying by the President who stated to the meeting (according to the minutes) that there had been no official or unofficial contact with the school regarding the situation.
- 3.15 The Inquiry finds that, once a complaint was made to the school in August 1993, the school acted promptly and decisively in suspending the coach. Moreover the school continued to show its concern at the coach's apparent occasional attendance at the pool and, particularly, at a coaches' training session over Easter 1994.
- 3.16 A diary of events kept by the President contains an entry of a telephone call at 1600 hours on 15 September 1993, confirming a Garda investigation.
- 3.17 The Inquiry concludes from correspondence that the President of the club was aware on 10 September 1993 that the suspension related to complaints about the coach's behaviour in the pool/changing area and that the Gardai were investigating.
- 3.18 The Inquiry finds that the school had no further responsibility in reporting the matter to individual members of the Committee of the Club, the parents or the Leinster Branch of the IASA, having made the President of the Club so aware and having continued to express concern about the second coach's presence at the pool.
- 3.19 A new Secretary of the Club had been appointed in January 1993. At the meeting of 14 October 1993 the new Secretary resigned. She read a prepared statement in which she stated that she could not morally agree with the decision of the committee not to follow the lead of the school. She handed in her resignation as Secretary of the Club.

- 3.20 According to the files furnished on behalf of the Club and the school, the President of the Club was advised by the Headmaster by letter of 29 November 1993 that the coach was not to coach for any party.
- 3.21 On 2 December 1993, the coach resigned as coach of the club effective from the end of December. He was appointed Development Director of the club effective from January 1994.
- 3.22 The coach attended a coaches training session at the school pool organised by the Leinster Branch, over the Easter holidays in April 1994.
- 3.23 On 21 April 1994 the school objected to the coach being in or at the pool.
- 3.24 The President of the Club replied on 25 April 1994 and stated that the coach had not coached at any time at the pool. The President also stated that, over the Easter period, the Club had rented the pool to the Leinster Branch of the IASA for a club coaches course. He said he understood that the Leinster Branch asked the coach to assess a number of coaches, partaking of the course, in a question and answer session, not at the poolside.
- 3.25 The President further pointed out that the coach had only been at the pool as a parent, when a member of his family had been swimming, or to meet a member of the committee on specific business or to liaise with the coaches in the development of the Club.
- 3.26 However, the evidence from the swimmers was that the coach did direct the coaching and was occasionally at the pool.
- 3.27 Members of the Club alleged at a subsequent Annual General Meeting of the club in January and February 1995 that the Honorary Treasurer and the Honorary Secretary were aware of the reasons for the coach's suspension from the school. Similar allegations were made by some members of the Club who gave evidence to the Inquiry.
- 3.28 The Honorary Secretary and the Honorary Treasurer gave evidence to the Inquiry. Each denied that they were so aware.
- 3.29 According to the minutes furnished by the Club, on 7 July 1994, on the instructions of the committee, the coach met with the President and an ordinary member of the committee and his contract was terminated. Three months salary was paid in lieu of notice. The President gave evidence of legal advice given to the club that such notice was necessary.

- 3.30 Neither the Honorary Secretary nor the Honorary Treasurer were at that meeting and say they were unaware at the time of the termination agreement. The Inquiry accepts that neither the Honorary Secretary nor the Honorary Treasurer knew details of the termination of the coach's contract.
- 3.31 According to the Club file, on 20 July 1995 the new President of the Club who was the previous Honorary Secretary, issued a statement to parents of members of the Club. The President stated that when the coach was suspended, the Club was given to understand by the school, and at no time had been told differently, that the reason related to something which happened within the school and had nothing to do with the swimming Club; and that the coach was permitted at the poolside and on school premises. The President, in his evidence, said that the school, despite the letter of 10 September 1993, had permitted the coach to be at the pool as a parent.
- 3.32 The Inquiry has already found (3.17 above) that the President was aware that the suspension related to complaints about his behaviour at the pool changing area.
- 3.33 The Inquiry accepts the evidence of the Solicitor for the club that he was not given the reasons for the coach's suspension and, in particular, was not given the letter of 29 November 1993 from the school which stated that the coach should not coach at the pool.
- 3.34 The Inquiry accepts that the school made no complaint to the club regarding the coach's behaviour.
- 3.35 In February 1996, a comprehensive Constitution, embodying motions passed at the AGM, was prepared. The Constitution outlined the powers and duties of the officers, including that of Head Coach. The Constitution states that the IASA Code of Ethics and the Club Code of Ethics shall apply to the club. However, there is no specific mention of complaints or complaints procedures in this new club Constitution.
- 3.36 A formal complaint was received by the IASA on 14 May 1996, regarding the continued support shown by the 1993/94 officers of the club to the second named coach.
- 3.37 The IASA advised that the matter should be dealt with in the first instance by the Leinster Branch. The Inquiry finds that within the club the matter engendered recrimination and dissension rather than resolution.
- 3.38 On 23 May 1996, a complaint was received by the pool administrator from the school, to the effect that there had been a male present in the ladies/girls

changing rooms, and warning that any further breach would result in withdrawal of the "licence agreement" between the club and the school. The pool administrator replied that the officers of the club wished to deal with the problem and would be contacting the school directly.

- 3.39 The trial of the second named coach took place on 28 November 1997; the coach pleaded guilty, and on 30 January 1998 the court ordered that he be imprisoned for a period of twelve years.
- 3.40 In relation to matters prior to 1985, the club stated in its submissions to the Inquiry that it had no records available. From 1985 to 1995, the club stated that it had no arrangements for either the prevention or detection of abuse, nor for securing compliance with any disciplinary arrangements.
- 3.41 The club stated that it was unknown who was responsible for complaints and allegations of sexual abuse before 1985; from 1985 to 1995 they assumed that the committee were so responsible. After 1995 the committee and the Children's Liaison Officer together were responsible.
- 3.42 In relation to the arrangements which the IASA, the Leinster Branch and the club have now in place for the protection of children in swimming, the club formerly associated with the second named coach believes that these procedures and arrangements are inadequate. Of the other clubs that responded most believed that the guidelines were adequate but were not being fully implemented by the clubs. In this light, the IASA and the Branch's participation in an enhanced programme of activity on child safety and the holding of child protection seminars is an acknowledgement that training is necessary to promote the safe development of children in swimming.
- 3.43 The responsibility to report the occurrence of an abuse or risk of abuse falls on everyone who has been notified of it. The responsibility to do something about it must be all the greater on those in a position of authority.

#### 4. General Findings

- 4.1 Two of the swimmers who were abused made complaints which are recorded. The first was very serious but, notwithstanding, was complained of sixteen years after the abuse ceased; the second was complained of within days.
- 4.2 Once the first complaints were reported to the Gardai in December 1992 other swimmers were contacted and made statements and awaited the Garda investigation and prosecutions. They say they felt frustrated, confused, angry and hurt at the inaction of the IASA in relation to the first coach. The IASA

submit that they were constrained by legal and Garda advice not to intervene in a matter that was the subject of an ongoing investigation.

- 4.3 In the light of the charges arising from the Garda investigation the complainants were vindicated.
- 4.4 Later, swimmers and their parents expressed being equally frustrated, confused, angry and hurt at the reaction of the club and of officers of both the IASA and the Leinster Branch after the suspension by the school of the second named coach.
- 4.5 The supervision of the two named coaches by their club committees fell short of an adequate standard.
- 4.6 In a sport dominated by standard times, there were inadequate standards for behaviour.
- 4.7 No one seemed to question the merits of imposing objectives which set high standards for children in competition, without having regard to their overall development.
- 4.8 Complaints procedures were focused on swimmers' behaviour and not on coaches' or officials' behaviour.
- 4.9 Swimmers who had been abused were not aware of a complaints procedure. When they did so become aware they found the formality of Rule 33 as a procedure for complaints discouraged complaints being made.
- 4.10 In any event, the complaints procedures were wholly inadequate to deal with complaints of child abuse, and in the case of the second named coach's club, became more formal in that from 1993, it was necessary to make such complaints in writing (not previously required).
- 4.11 There was a failure to communicate to the executive committee by individual officers who had knowledge of allegations.
- 4.12 Those who gave evidence stated that, as children, they were not made aware by their clubs of what was inappropriate behaviour by coaches.
- 4.13 Three of the clubs indicated that there had been allegations and complaints of child sexual abuse and gave details of these in the four detailed questions which followed. In all cases, the allegations and complaints referred to matters before 1992.

- 4.14 While it is outside the Terms of Reference, two allegations were made by swimmers in relation to other coaches. One of these coaches worked in an affiliated club, where instances of very serious abuse were alleged to have occurred over twenty years ago. The matter was not complained of to the Leinster Branch or the IASA. The other occurred in a non-affiliated club, and was more recent. In each case, the children were very young.
- 4.15 An allegation was made by two female swimmers that each of them had been abused by the first named coach before 1975 in clubs in which that coach had previously worked.
- 4.16 A further allegation was made by a swimmer that she was frequently abused over a three year period when she was between 11 and 13 by another person at the pool who suggested that she take a lift from the first named coach who, she alleges, touched her improperly.
5. The Response of the IASA and the Leinster Branch
- 5.1 The IASA had already prepared a Code of Conduct and an Officials' Code of Ethics in 1995 (updated in 1997); and adopted the Government's Code of Ethics and Good Practice for Children's Sport in Ireland. In January 1997 it was resolved by the IASA to implement the Code of Ethics and Good Practice in Children's Sport in Ireland and to have an Officials' Registration Scheme and club trip reports. All 38 main club coaches were issued with a copy of the 1997 motions.
- 5.2 Five child protection seminars have already been run by the IASA and more are planned. Attendance has been less than anticipated. The IASA submits that clubs have now been notified that attendance is obligatory.
- 5.3 However, only three clubs have appointed Children's Liaison Officers.
- 5.4 A comprehensive programme of action was presented by the IASA to a Dáil Committee on 12 March 1998 in order to improve child protection within the IASA. The particular strength of the programme lies in the monitoring of the implementation of the Code of Ethics and dealing with breaches and sanctions to ensure non-reoccurrence so as to ensure compliance with the Codes.
- 5.5 The IASA recognises that there are difficulties in implementing the actions which are proposed. The actions need the consent of the members, officials and coaches. They also need resources to be implemented. Training and monitoring compliance are time consuming and require commitment both by those who organise and those who attend.

6. Future Directions

- 6.1 Notwithstanding all the structures and procedures that are now being put in place, it is clear from the evidence from those who were abused that, given the degree of trust and dependence which was established between the coach and the swimmer, abuse could still have occurred. Some of the more serious incidents of abuse took place on trips abroad, in the coaches' cars or in the coaches' homes and not at the swimming pool
- 6.2 The evidence has shown that those who were abused usually did not, and psychologically may not have been able to, complain. The reasons they gave were that they felt they were being disloyal; they were embarrassed; they feared ridicule or, most tragically, they believed it was a normal part of their training. Frequently they were too young to have any reference point with which to compare the coach's behaviour.
- 6.3 The level of awareness and of understanding of child sexual abuse up to the 1990s was low even among health care workers and teachers. The proposal by the Law Reform Committee in September 1990 that certain professional persons be obliged to report was to apply only where that person knew or had good reason to believe that sexual abuse had occurred.
- 6.4 While it in no way excuses the exploitation by the perpetrators of the abuse, the culture of the time and the lack of supervision, regulation and policy by the sport allowed the named coaches to use their positions of trust to abuse children in their care and to bring their sport into disrepute.
- 6.5 The Common Law imposes a duty of care on occupiers of premises to maintain safe premises, safe equipment and system of work and safe fellow workers. However, there is no clear statutory obligation requiring clubs or the Association or Branch to do so.
- 6.6 The Safety, Health and Welfare at Work Act, 1989, can be interpreted as applying to clubs as a place of work, though clubs are not expressly included in the provisions and accordingly did not have safety statements.
- 6.7 There is no requirement in the Act that arrangements or provisions for health and safety of persons should extend to risk of their being sexually abused by other members and/or by employees of the club.
- 6.8 The prohibition of the then proceedings against the first named coach had a devastating effect on the alleged victims, who expressed grave disappointment in both the Garda investigation and the legal system.

## CHAPTER 12

### RECOMMENDATIONS

#### 1. Point of Departure

- 1.1 A number of specific recommendations emerge from the findings of the Inquiry. Some have been suggested by witnesses who, in view of the events which have occurred, have given much thought to measures which would help to prevent abuse taking place in the future and to detect it when it does occur. Of these, those provided by the Child Protection Committee and by the Director of Swimming of the IASA have already been adopted or are in the course of being adopted by the IASA. Many useful suggestions have been made in the questionnaires returned to the Inquiry from clubs.
- 1.2 The most fundamental recommendation relates to the objective of organised swimming. It is desirable that the overall development, safety, health and welfare of children should be a stated objective in every club constitution. It is recommended that the IASA should be the governing body to monitor the achievement of that objective.
- 1.3 All clubs should be governed by the IASA to ensure that this objective is attained in all organised swimming coaching or events involving children.
- 1.4 The Inquiry recommends that the Safety, Health and Welfare at Work Act, 1989, be amended by the express inclusion in the definition of "place of work" in Section 2 (e) the premises of a sports club. The Inquiry also recommends that subsection (7) of Section 12, in relation to the obligation to prepare a safety statement, should be amended to include the Committee of a sports club and to provide particularly for the safety, health and welfare of children where the place of work involves children. The subsection should read accordingly:

“(7) It shall be the duty of a self employed person and of a Committee of a sports club to prepare a safety statement, in so far as is practicable in accordance with this section, so as to ensure his, her or its safety, health and welfare at work, that of the members of the club where appropriate and that of other persons at the place of work.”

In relation to a place of work which involves children the safety statement should specify the manner in which the safety, health and welfare of children should be secured. Given that the Legislation refers to persons at work it may not be possible to extend the protection to the public.

- 1.5 The Inquiry further recommends that the Minister for Enterprise, Trade and Employment make an order, under subsection 3 of section 7, that every employer, self employed person and committee of a sports club provide a copy of the safety statement to all members including members who are children.
- 1.6 The Safety, Health and Welfare at Work Regulations, 1993, should be extended to sports clubs. The club committee will accordingly be responsible for ensuring that there is sufficient information available to members concerning risks including risks of sexual abuse. Participation in proposed measures and the provision of training would be mandatory.

The requirement to take account of changing circumstances and to periodically review and evaluate risks to safety and health should form part of the annual report of each club committee to its members. The annual report should be sent to the IASA.

- 1.7 In relation to Section 158 of the Companies Act it is recommended that the Director's report evaluate the extent to which the policy set out in its safety statement was fulfilled during the period of time covered by the said report as required by Section 12 (6) of the Safety, Health and Welfare at Work Act, 1989.
- 1.8 Victims should be afforded counselling and therapy and should be encouraged to avail of these services. The victim of abuse only comes to an awareness of the connection between fault and damage when he/she realises who is responsible for his/her childhood abuse. That awareness may only come from therapy.
- 1.9 Part of the healing process may also come from an awareness that due legal process is sustainable against the perpetrators of the abuse. Action needs to be prompt both in terms of criminal prosecution and civil remedies.

## 2. Swimming Organisation

- 2.1 The organisation of Irish swimming at Association and Leinster Branch level requires a comprehensive review of its objectives, constitution and governance.
- 2.2 While the original Association was an unincorporated body until 1985, and is now a corporate body, there is no reason why it should not remain as a corporate body. However, the relationship between the unincorporated body, the Company and the Branches needs to be clarified.

- 2.3 The Association (whether as an incorporated or unincorporated body) should be the governing body for the sport of swimming.
- 2.4 Its objectives need to relate to the overall development and welfare of young people through swimming and should not be restricted to competitions.
- 2.5 Its executive officers or directors should be current members elected by all members.
- 2.6 The President of the Association should be elected each year by the Council or Board of Directors.
- 2.7 Its other officers should be appointed by its directors from current members.
- 2.8 Consideration should be given to the appointment of a full-time Chief Executive by the Council or Board of Directors, and accountable to them who themselves are directly responsible to the members. The Chief Executive should have powers similar to the Chief Executive of the English Amateur Swimming Association.
- 2.9 Consideration should also be given to the appointment of a Company Secretary/Registrar/Controller accountable also to the Council or Board of Directors to maintain the records of the Association.
- 2.10 A Child Protection Officer as proposed by the IASA should be appointed as a matter of urgency.
- 2.11 There is merit in a Branch structure, but the Branch should not operate independently from the Association. It should operate as a true Branch rather than as a separate organisation, as at present.
- 2.12 All swimming clubs or clubs which offer swimming facilities or coaching for children should be affiliated to the Association. Clubs should be governed directly by the Association, if necessary through a Branch structure, but the Association should set standards for affiliation which relate to the Association's overall objectives.
- 2.13 The Association should assist clubs in having comprehensive constitutions and active committees.
- 2.14 The relationship between the Association and the clubs with local authorities, schools and management companies of sport complexes should be defined in terms of function and responsibility.

- 2.15 Past Presidents and Honorary Life Members should have a consultative and not an executive role. Consideration should be given that the latter be elected by all members.
- 2.16 Honorary offices should be limited to competition and not to administration.
- 2.17 A professional coach should not be a member of the committee of a club nor a delegate to the Branch or to the Association.
- 2.18 The Association should review its Child Protection Guidelines for modification and ratification at the Annual General Meeting each year.
- 2.19 As a condition of affiliation, the Association needs to ensure that the affiliated clubs have clear and simple complaints procedures and a confidential complaints book maintained by each club secretary in which members complaints are recorded whether first made orally or in writing.
- 2.20 The functional responsibility for ensuring compliance with procedures, including complaints procedures and procedures relating to away trips, should rest with the Secretary/Registrar/Controller of the Association.
- 2.21 Officers and officials of the IASA and the Branch should account to the Annual General Meeting for all expenses incurred on team travel and support costs for international meets.
- 2.22 The Association should monitor transfers and non renewals of members under the age of 18 and report on movements to the Annual General Meeting. The Association should require clubs to give written explanations of any unusual movements of members.
- 2.23 Even though the amount of public funding in a predominantly children's sport will necessarily be the greater part, the funding of the Association should primarily be the responsibility of the members.
- 2.24 Given the extent of the re-organisation and training necessary it is recommended that increased public funding be allocated to the Association through the Sports Council.
- 2.25 Children's swimming at club level which depends predominantly on the voluntary effort of parents and swimmers, including master swimmers, should continue to be encouraged.

3. The Affiliated Clubs

- 3.1 All Clubs which offer swimming facilities to children should be affiliated to and governed by the Association and subject to standards set by the Association.
- 3.2 The committees should appoint the coach and manage the club.
- 3.3 Committee members should be elected from among paid up members of the club and serve for not more than two years so as to encourage others to participate in the management of their club. The role of officers and other committee workers should be clearly defined in the constitution of the club.
- 3.4 Clubs should have clear and simple complaints procedures. The recommendations of the Association should be followed, as a condition of affiliation. When a complaint has been made in relation to an allegation of child sexual abuse by a committee member or official, the committee member or official should stand down while the complaint is being examined.
- 3.5 Where a complaint of sexual abuse is made the committee, in the first instance should deal with the complaint in an expeditious manner. If there is, in the opinion of the committee, no grounds for the complaint, they should so inform the complainant. If the committee finds that there are grounds for the complaint they should inform the IASA Child Protection Officer and the Health Board and/or the Gardai.
- 3.6 If the complainant is not satisfied with the decision of the committee an independent arbitrator whose decision should be final should be appointed by agreement of the complainant and the committee and, in default of agreement, by the President of the Association.
- 3.7 Club Committees should have continuous records of minutes, contracts of employment and correspondence so that incoming committees have access to full files. Club Committees should be encouraged to computerise such information and to pass on original computer disks to the incoming committee.
- 3.8 Consideration should be given enfranchising young swimmers or, at least, having female and male club captains elected by swimmers to represent them at committee level. Consideration should also be given to the appointment of club captains for intermediate and junior squads.
- 3.9 All members of committees should be active in promoting child safety and should follow best practices and procedures as laid down by the Code of Ethics and Practice in June 1996 and adopted by the IASA in January 1997. The Code

of Ethics and Child Protection Guidelines has already been adopted by the Association and should be made mandatory for all affiliated clubs

- 3.10 Practices and procedures relating to child safety should be reviewed annually.
- 3.11 As recommended by Part 8 of the Code of Ethics and Good Practice (1996) each club committee should appoint one or more Children's Liaison Officer. Training should be provided for them by the IASA Child Protection Officer. They should report to the general meeting of members of the club and to the IASA Child Protection Officer. Their addresses and telephone numbers should be made available to children.
- 3.12 Committees should ensure proper supervision and control of children in club premises and they should appoint team managers for events outside the club premises.
- 3.13 The need for clear procedures for away trips, both national and international, organised by the Association has already been accepted. The same procedures and rules should also be adhered to by trips organised by each club, as part of the affiliation requirement. There should be detailed disclosure to members of expenditure on away trips.
- 3.14 Team managers should have overall responsibility for the swimmers' well-being and behaviour when away. The coach when away should report to the team managers.
- 3.15 There should be a female and male team manager appointed where there are female and male swimmers on the trip.
- 3.16 Subject to that minimum, there should be adequate female and male team managers for female and male swimmers.
- 3.17 Team managers should submit a joint report to the club within seven days of the end of the trip. Team managers should be appointed as officials of the club for the duration of the trip.
- 3.18 The Safety, Health and Welfare at Work Act, 1989, requires every place of work to have a safety statement. Each club committee should draw up a safety statement to ensure that there are arrangements in place in relation to the general risk of danger to health safety and welfare of members, particularly young members, as well as employees of the club. The Honorary Club Secretary should ensure compliance.

- 3.19 The process of drafting a safety statement requires an identification of risks of dangers and the possibility of those dangers occurring. It requires consideration to be given to measures to avoid such dangers and consideration of the persons responsible.
- 3.20 The Club Committees should ensure that advice and assistance is available for girls who are experiencing difficulties at menstruation
- 3.21 There should be at least one person present at the poolside or overlooking the pool in addition to the coach at all times. The coach should remain on the pool bank from warm up to the end of the session when the last swimmer has left the bank.
- 3.22 The time tables and the safety rules of each swimming pool should be displayed and should be complied with. Club Committees should indicate clearly when children should be collected and what arrangements should be made when a coach is unavailable. Swimmers and coaches should be disciplined for breach of the rules.
- 3.23 Coaches should be appointed after interview by the committee of the club, who should, in the case of the club coach, ensure that she or he meets the qualification requirements of the Association and, in all cases, that full written references are provided and verified with the referees. A gender balance should be encouraged. Coaches should be asked to sign written contracts (see 4.6 below).
- 3.24 The coach should report to the committee periodically regarding the development and well being of young swimmers and not just their competitive performance.
- 3.25 Transfers, resignations and absences of young swimmers should be noted by the committee, and, in any unusual case, fully investigated and reported to the Association.
- 3.26 Where complaints of child sexual abuse are made to any committee member that member should inform the officers of the club who should ask the coach to stand down (see 4.10 and 4.11 below) and should report the complaint to the IASA Child Protection Officer and to the Health Board and/or Gardai.
- 3.27 Club Committees should ask persons in respect of whom complaints of sexual abuse have been made to step down pending examination of the complaint. Where a Garda investigation is initiated the person being investigated should be suspended (see 4.10 and 4.11 below). The affiliated clubs should consider and decide whether, in the interest of children, the coach should be dismissed.

4. Coaches

- 4.1 Coaches, including assistant and temporary coaches are engaged by the committee of the club and are subject to the appropriate employment legislation. Coaches should not be committee members of their club nor be delegates to the Branch or to the IASA. In order to be appointed as sole or head coach, a coach must meet the requirements of the Association and provide full references from past positions.
- 4.2 The coach should report to the committee and, on away trips, to the team managers jointly.
- 4.3 All coaches should be members of the Irish Swimming Teachers and Coaches Association or equivalent organisation.
- 4.4 That Association, in turn, should ensure that it has an adequate registration system, a full training programme and disciplinary powers over its members and, in this regard, provide a fair and comprehensive complaints procedure.
- 4.5 In relation to the national coach, the Association should ensure that she or he is qualified appropriately. The Association should as a matter of course require and verify with referees, all references in relation to previous posts held by the coach.
- 4.6 Coaches, in all cases, should have written contracts which clearly outline their duties, functions and responsibilities. Grievance and disciplinary procedures should be included in the contract. In the case of the latter, this is already a statutory requirement of the Terms of Employment (Information) Act, 1994. There should be specific provisions for disciplinary measures, including dismissal, for breach of provisions of the safety statement (see 3.18 - 3.19 above) and for non compliance with the IASA Official's Code of Ethics (see Appendix 3).
- 4.7 Coaches should be aware of the potential risk with regard to relationships in general with the swimmers and, specifically, with regard to particular friendships and inequality of treatment of swimmers under their care.
- 4.8 The coach must be concerned primarily with the well being, health and future development of the individual swimmer and only secondarily with the optimisation of performance.
- 4.9 All coaches, officers and officials of clubs should attend child protection seminars as soon as practicable after their appointment. Coaches should not coach, etc. alone and there must always be another person on the poolside

- 4.10 When a complaint has been made to a club or school in relation to child sexual abuse by a coach, the coach should stand down while the complaint is being examined.
- 4.11 The above mentioned provision should be included on the contract of the coach and in the constitution of the club. It should apply whether or not there is a Garda investigation. In this way it normalises a procedure and avoids the association of standing down only with outside investigation.
- 4.12 Coaches should be professionally qualified before undertaking hypnosis, therapy or weight training with swimmers. Measurement, where deemed necessary, should be undertaken by coaches of the same sex as the swimmer.
- 4.13 Guidelines for selection of coaches should be extended to adult swimming teachers and helpers who have an involvement with children.

## 5. School

- 5.1 Where a school is the primary employer of a coach it should require and verify all references with referees and interview prospective coaches.
- 5.2 Where the coach is also employed by an independent club operating out of school premises or premises attached to a school, the school should ensure that the club committee assumes responsibility for the safety and welfare of children in the club.
- 5.3 Where the school has notice of a complaint relating to child sexual abuse by the coach, it should notify the club with full details of the complaint. Where the club has received such a complaint it should, in turn, likewise notify the school.

## 6. Complaints

- 6.1 The Association, Branch and affiliated clubs should follow guidelines and procedures for reporting suspected or revealed abuse. Children, parents, teachers, coaches, officers and officials should be reminded that reporting suspected child abuse or an allegation of abuse is not the same as making an accusation. Reporting is not accusing.
- 6.2 Where there are grounds for an allegation or complaint of child sexual abuse, the procedures indicated at 3.5 above should be followed.
- 6.3 Where the examination of a complaint by the Health Board or by the Gardai raises a possibility that other children are being harmed or are at risk, then the

committee of the club should be informed by the Health Board or the Gardai of the allegation so that suspension of the person named can be considered.

- 6.4 The Secretary of the committee should record carefully in writing all concerns and allegations made and maintain the confidentiality of those records.
- 6.5 A guarantee should not be given to a person providing information that the matter will be kept absolutely confidential when there may be an obligation to report it to statutory authorities.
- 6.6 The person against whom an allegation of abuse has been made should be informed that such an allegation is not an accusation and that procedures are being undertaken in accordance with appropriate guidelines.
- 6.7 Any complaint of whatever kind made to the Branch or to the Association in relation to child abuse, particularly sexual abuse, should be taken seriously and acted on as matter of urgency. It should not be dealt with on the basis of the complaints procedure at present in the Constitution and Laws of the IASA.
- 6.8 A complainant should be assured that the reporting of such a complaint is privileged and, accordingly, will not be defamatory unless it is made with malice. Consideration should be given to the provision of statutory immunity to protect persons who, in good faith, complain of possible sexual abuse of children.
- 6.9 Other than to establish whether there are grounds for a complaint in relation to child abuse it is not appropriate for individuals, club committees or the Association to carry out internal investigations. It is necessary to suspend judgement and to report as at 3.5 above.
- 6.10 The Association should ensure that clubs have a series of simple posters so that children of all ages know what constitutes unacceptable behaviour. They must also know how to complain. The I.S.P.C.C. poster: Touch, Body, Know; Yell, Tell, Go! should reinforce the information given to new club members.
- 6.11 Rumours which do not constitute a complaint should not be ignored. They will not remain as rumours if the procedures are followed. Rumours which come to the attention of clubs, Branch or the Association should be dealt with by the committees to ascertain whether they are rumours, complaints or allegations and be dealt with appropriately.
- 6.12 Besides complaints or rumours, committees need be aware of the indicators of abuse so that they can recognise a potential risk or detect abuse when it has

occurred. Committees should also be aware that any one sign in itself may not be sufficient.

- 6.13 Reports to the Health Boards and the Garda authorities are essential in relation to criminal investigation. The reports should be as specific as possible in terms of dates and in terms of the nature of the abuse.
- 6.14 Members of committees and all coaches should attend child protection seminars as soon as possible after appointment.
- 6.15 Each club should appoint a Children's Liaison Officer as recommended in Chapter 8 of the Code, to promote an awareness of the Code of Ethics, to influence policy and practice, and most importantly, to facilitate communication with the children. The IASA proposal to make the appointment of a Children's Liaison Officer mandatory in each affiliated club is to be welcomed.
- 6.16 Club Committees should be aware of the separation of civil disciplinary procedures from criminal investigations. Behaviour may result in appropriate disciplinary action in cases where there is no criminal allegation or investigation.
- 6.17 The Department of Education guidelines urge teachers to tell the authorities if they even suspect abuse has occurred. The reports referred to above which recommend that the reporting of child sexual abuse be made mandatory also focus on the importance of reporting child sexual abuse. Clearly in order to prevent and detect child sexual abuse, it is vital that the abuse be reported and that the reports be believed.
- 6.18 Mandatory reporting, as part of a properly instituted, administered and financed framework of child care legislation should be considered as part of an overall government child care strategy.
- 6.19 Recent cases highlighted the difficulties of complaining in the case of abuse which had occurred many years before a complaint was made. The Inquiry recommends that counselling and/or a help line be maintained by the Health Boards for adults who have been abused within swimming.
- 6.20 The Inquiry recommends that more funding be given to the establishment, development and verification of child sex abuse education and training. Such programmes must be broadened and continued. Prevention efforts need to be focused on parents, adults, and potential abusers as well as on children. Once a society begins to understand some of the routes of molesting behaviour it can identify the sources of sexual abuse.

7. Children and Parents

- 7.1 Children and their parents need to be made aware that while swimming is a most natural and healthy sport it has inherent risks. Children should be reminded on entry to the club of the application of the Stay Safe Programme, of the existence of rules and regulations to prevent problems and of a complaints procedure. The risk involved in swimming should be incorporated in the school Stay Safe Programme.
- 7.2 Children and their parents should be reminded of standards and appropriate behaviour both in the pool, at the poolside, in the dressing rooms and at events organised outside the club premises. Standards of behaviour should be as important as standards of swimming. "Personal bests" should extend to personal conduct.
- 7.3 Parents have the primary responsibility for the health, safety and welfare of their children. They should not leave their children in the club after their sessions are over.
- 7.4 Children should be introduced to the Children's Liaison Officer and functions of the Officer should be explained.
- 7.5 Safety should be re-inforced by reference to I.S.P.C.C. posters. They should understand, in an age appropriate way, not to keep inappropriate secrets and to yell and tell.
- 7.6 Children and their parents should be reminded that they have a responsibility to protect others from the risk of abuse. If children have been abused or if they know or suspect that others have been abused they should be encouraged to tell.
- 7.7 The Childline telephone number, 1800 666 666, should be prominently displayed near appropriate telephones with the Children's Liaison Officer's number.
- 7.8 Children and their parents should be encouraged to participate in training to criticise in a constructive manner and to complain in an appropriate way.

8. Conclusions

- 8.1 Swimming is a healthy and natural sport. It teaches safety. It instils confidence. It enables participants to set achievable goals for themselves.
- 8.2 Above all, it is an enjoyable sport.

- 8.3 Where the sport becomes unhealthy and unnatural it is unsafe; it undermines confidence and trust.
- 8.4 Where the goals become those of others it undermines autonomy and self-development.
- 8.5 Where the joy of the swimmer is replaced by the gratification of an adult it ceases to be a sport.
- 8.6 Ensuring the safety of children in any sport must be the highest priority of any governing body.
- 8.7 Over the past five years, the sport of swimming has moved from a position of complacency in the face of rumours, and of denial of complaints, to an understanding of the extent of the problem of child sexual abuse and the implementation of strategies to deal with the problems.
- 8.8 Child abuse in all its forms, is a problem in society. Sport is not immune. As can be seen from the literature, it is only in recent years that strategies have been implemented.
- 8.9 Amateur swimming, in common with other amateur sport, relies on the dedicated effort of hundreds of volunteers and the increasing professionalism of teachers and coaches.
- 8.10 The main resource is, of course, the swimmers themselves who need to be encouraged and reassured.
- 8.11 Guidelines have already been put in place but need to be revised in the light of those of other comparable organisations, and reviewed on an annual basis.
- 8.12 Guidelines need to be implemented by means of a structure for inspection and review of club constitutions and procedures and a structure for complaints procedure.
- 8.13 Structures require financial resources which are, at present, inadequate.
- 8.14 Structures do not determine behaviour. Structures can only provide support for acceptable standards and can help achieve objectives. The overall tone of the evidence given to the Inquiry was one of an organisation in disharmony where the energies of well meaning volunteers were diverted, and continue to some extent to be diverted, towards recrimination and away from the goals of enthusiastic and promising young swimmers.

## Independent Inquiry

MATTERS RELATING TO  
CHILD SEXUAL ABUSE IN SWIMMING

## CONFIDENTIAL QUESTIONNAIRE

In relation to the above mentioned Inquiry please indicate, from your own knowledge and recollection, in relation to the following questions, the most appropriate response in respect of your Club.

1. What arrangements did your Club have for the prevention of child sexual abuse of members of your Club:

	<i>WRITTEN</i>	<i>UNWRITTEN</i>	<i>NONE</i>
1975 - 1985			
1985 - 1990			
1990 - 1995			
Post 1995			

If written, please furnish a copy of written procedures or indicate where they may be obtained. In relation to unwritten procedures please outline what these were.

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2. What arrangements did your Club have for the detection of child sexual abuse of members of your Club:

	<i>WRITTEN</i>	<i>UNWRITTEN</i>	<i>NONE</i>
1975 - 1985			
1985 - 1990			
1990 - 1995			
Post 1995			

If written, please furnish a copy of written procedures or indicate where they may be obtained. In relation to unwritten procedures please outline what these were.

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3. What procedures did your Club have in place for securing compliance with these arrangements?

	WRITTEN	UNWRITTEN	NONE
1975 - 1985			
1985 - 1990			
1990 - 1995			
Post 1995			

If written, please furnish a copy of written procedures or indicate where they may be obtained. In relation to unwritten procedures please outline what these were.

4. Indicate which officer of the Club was responsible for compliance with procedures for complaints and for allegations of sexual abuse in children.

	COMPLAINTS IN GENERAL	ALLEGATIONS OF SEXUAL ABUSE
1975 - 1985		
1985 - 1990		
1990 - 1995		
Post 1995		

5. When was your Club founded? \_\_\_\_\_

What was the date of its written Constitution or Rules? \_\_\_\_\_

Please indicate the number of amendments made to your Club's Constitutions, Rules Procedures since 1975 indicating, where possible, the nature and date of each amendment.

Number of amendments:

NATURE OF AMENDMENTS	DATE

Please furnish copies or indicate where they can be obtained: \_\_\_\_\_

\_\_\_\_\_

6. To whom did the coaches in your Club report in the past and to whom do they now report?

	<i>PAST</i>	<i>PRESENT</i>
(a) President/Chairman		
(b) Honorary Secretary		
(c) Committee		
(d) Other (please state)		

7. What are the arrangements your Club had for complaints in general?

	<i>WRITTEN</i>	<i>UNWRITTEN</i>	<i>NONE</i>
1975 - 1985			
1985 - 1990			
1990 - 1995			
Post 1995			

If written, please furnish a copy of written procedures or indicate where they may be obtained. In relation to unwritten procedures please outline what these were. Indicate any particular arrangements for complaints by children.

8. Have there been any allegations or complaints in relation to child sexual abuses in your Club?

Yes

☐

No

☐

If yes, please answer questions 9, 10, 11 and 12. If no, please answer question 13.

9. Indicate the approximate number of allegations and complaints of sexual abuse of children by coaches of which you are aware and when you became aware of same.

	<i>ALLEGATIONS OF CHILD SEXUAL ABUSE</i>		<i>COMPLAINTS OF CHILD SEXUAL ABUSE</i>	
	Number	When aware	Number	When aware
1975 - 1985				
1985 - 1990				
1990 - 1995				
Post 1995				

10. Where was it alleged or complained that such abuse took place?

	ALLEGATIONS	COMPLAINTS
(a) at your Club premises		
(b) Abroad		
(c) Elsewhere (state where)		

11. When, how and by whom were those allegations and complaints handled by your Club.

WHEN		
HOW		
BY WHOM		

12. In the event of complaints and/or allegations of sexual abuse of children having been made to your Club, how long afterwards was the matter reported to or advice sought from the following:

	DAYS	WEEKS	MONTHS
(a) the Committee of the Club			
(b) the Leinster Branch			
(c) the IASA			
(d) the Health Board			
(e) a solicitor			
(f) a medical doctor			
(g) a nurse			
(h) a psychologist			
(i) a social worker			
(j) other (please specify)			

13. Are you aware of any Guidelines on Child Abuse?

Yes

☐

No

☐

14. If you are aware can you indicate the name of the Guideline and say when your Club became aware of them?

NAME

DATE

15. Have any allegations and/or complaints of sexual abuse of children other than by coaches been made to your Club since 1975?

	ALLEGATIONS	COMPLAINTS
Yes	<input type="text"/>	<input type="text"/>
No	<input type="text"/>	<input type="text"/>

16. From your own experience, please comment briefly on the adequacy of arrangements which the IASA, the Leinster Branch and the Clubs have in place for the protection of children in swimming:

- to detect child sexual abuse;
- to prevent child sexual abuse;
- to deal with persons against whom a complaint is made;
- to sanction persons against whom a complaint is established.

17. It would be helpful if you could briefly comment on the adequacy of arrangements, as you see them, which are now in place for the protection of children in sport in general.

**Please return the questionnaire, in the stamped addressed envelope enclosed, marked *Private and Confidential* to:**

Roderick Murphy, S.C.,  
Independent Inquiry,  
The Law Library,  
Distillery Building,  
145-151 Church Street,  
Dublin 7.

## Appendix 2

### ENGLISH AMATEUR SWIMMING ASSOCIATION: CODE OF ETHICS

This Code of Ethics was written with specific reference to Teachers and Coaches. However, most aspects of this Code are also applicable to other people involved in the sport. Therefore all Officials, whether ASA qualified or not, should be aware that this Code also applies to them.

The ASA (Amateur Swimming Association) and the ISTC (Institute of Swimming Teachers and Coaches) acknowledges that a large part of this Code of Ethics has been derived from the code produced by the Industry Lead Body for Sport and Recreation. The Code published below will remain operational unless and until notice of any changes and amendments is given by the ASA.

#### Teaching/Coaching and Instructing

Even though the NVQ standards focus on and describe work functions, they are based on a number of accepted assumptions and values which underpin good practice in teaching/coaching and instructing. The British Institute of Sports Coaches has articulated these into a Code of Ethics much of which has been incorporated into the following Code of Ethics for Swimming Teachers/Coaches. Throughout the following Code the expression "Teacher/Coach" whether used in the singular or the plural shall include all teachers/coaches, assistants and other helpers whose activities are connected with the disciplines regulated by the Amateur Swimming Association (the ASA) and all members of the Institute of Swimming Teachers and Coaches (ISTC). Where the context of the Code admits the expressions Teacher/Coach and Sports Coach this may also include Officials.

The purpose of the Code of Ethics (referred to throughout the remainder of the document as the Code) is to establish and maintain standards for Teachers/Coaches and to inform and protect members of the public using their services. Ethical standards comprise such values as integrity, responsibility, competence and confidentiality. Individuals who are members of the ASA/ISTC are deemed to have assented to the Code and as such recognise and adhere to the principles and responsibilities embodied in it.

The Code creates a framework within which Teachers/Coaches, when engaged in sports coaching - in the fullest sense of the expression - should always work. The Code has been written as a series of guidelines rather than a set of instructions. However, violations of the Code may result in complaints being made to a District Judicial Tribunal ("DJT") and, in which case, the relevant Tribunal, in determining whether a conduct complained of has brought the sport into disrepute or amounts to a violation of ASA Laws, will consider the Code's provisions when assessing the guilt

of individuals against whom complaints have been made and/or the appropriate sanctions to apply.

### The Code

#### Issues of Responsibility

Teaching/Coaching is a deliberately undertaken responsibility, and sports teachers/coaches are responsible for the observation of the principles embodied in the Code of Ethics.

#### Humanity

Teachers/Coaches must respect the rights, dignity and worth of every human being and their ultimate right to self-determination. Specifically, teachers/coaches must treat everyone equally within the context of their activity, regardless of sex, ethnic origin, religion or political persuasion.

#### Relationships

The good teacher/coach will be concerned primarily with the well being, health and future of the individual performer and only secondarily with the optimisation of performance.

A key element in a teacher/coach relationship is the development of independence.

Performers must be encouraged to accept responsibility for their own behaviour and performance in training, in competition, and in their social life. Teachers/Coaches are responsible for setting and monitoring the boundaries between a working relationship and friendship with their performers. This is particularly important when the coach and performer are of opposite sex and/or when the performer is a young person. The teacher/coach must realise that certain situations or friendly actions could be misinterpreted, not only by the performer, but by outsiders motivated by jealousy, dislike or mistrust, and could lead to allegations of sexual misconduct or impropriety.

The relationship between coach and performer relies heavily on mutual trust and respect.

In detail this means that the performer should be aware of the teacher/coaches' qualifications and experience and must be given the opportunity to consent to or decline proposals for training and performance.

### Commitment

Teachers/Coaches should clarify in advance with performers and/or employer the number of sessions, fees (if any) and method of payment. They should also explore with performers and/or employers the expectation of the outcome of teaching/coaching.

Teachers/Coaches have a responsibility to declare to their performers and/or employer any other current teaching/coaching commitments. Teachers/Coaches should also find out if any prospective client is currently receiving guidance from another teacher/coach. If so, that teacher/coach should be contacted to discuss the situation.

Teachers/Coaches who become aware of a conflict between their obligation to their performers and their obligation to their Governing Body or other organisation employing them must make explicit the nature of conflict, and the loyalties and responsibilities involved, to all parties concerned.

### Co-operation

Teachers/Coaches should communicate and co-operate with other sports and allied professions in the best interest of their performers. An example of such contact would be the seeking of educational and career advice/counselling for young performers whose training impinges upon the performance of their studies.

Teachers/Coaches must communicate and co-operate with medical and ancillary practitioners in the diagnosis, treatment and management of their performers' medical and psychological problems.

### Advertising

Advertising by sports teachers/coaches in respect of qualifications and/or services shall be accurate and professionally restrained.

Teacher/Coaches shall not display any affiliation with an organisation in a manner that falsely implies sponsorship or accreditation by that organisation.

### Integrity

Teachers/Coaches should refrain from public criticism of fellow Teachers/Coaches. Differences of opinion should be dealt with on a personal basis and more-serious disputes should be referred to the Governing Body (ASA) or to the ISTC.

Teachers/Coaches must not encourage performers to violate the rules of their sport and should actively seek to discourage such action. Furthermore, teachers/coaches should encourage performers to obey the spirit of such rules.

Teachers/Coaches must not compromise their performers by advocating measures which could be deemed to constitute seeking to gain an unfair advantage. Above all, teachers/coaches must never advocate the use of proscribed drugs or other banned performance enhancing substances.

Teachers/Coaches must treat opponents and officials with due respect, both in victory and defeat and should encourage their performer to act in a similar manner.

Teachers/Coaches must accept responsibility for the conduct of their performers insofar as they will undertake to discourage inappropriate behaviour.

#### Confidentiality

Teachers/Coaches inevitably gather a great deal of personal information about performers in the course of a working relationship. Teacher/Coach and performers must reach agreement as to what is regarded as confidential information, i.e., not divulged to a third party without the express approval of the performer.

Confidentiality does not preclude the disclosure of information, to persons who can be judged to have a "right to know", relating to performers when relevant to the following:

- evaluation of the performer within the sport for competitive selection purposes and recommendations concerning performers for professional purposes;
- pursuit of disciplinary action involving performers within the sport;
- pursuit of disciplinary action by the ASA and/or ISTC involving fellow coaches in alleged breaches of this Code of Ethics and Conduct.

#### Abuse of Privilege

The Teacher/Coach is privileged, on occasion to have contact with performers and to travel and reside with performers in the course of teaching/coaching and competitive practice. Consequently, a Teacher/Coach must not attempt to exert undue influence over the performance in order to obtain personal benefit or reward.

### Personal Standards

The Teacher/Coach must consistently display high personal standards and project a favourable image of their sport and of Teaching/Coaching - to performers, other teachers/coaches, officials, spectators, the media and the general public.

Personal appearance is a matter of individual taste but the sports teacher/coach has an obligation to project an image of health, cleanliness and functional efficiency.

*The Teacher/Coach should never smoke when Teaching/Coaching.*

Teachers/Coaches should not drink alcohol so soon before Teaching/Coaching that their judgement may be impaired and the smell will still be on their breath when working with performers.

### Safety

Teachers/Coaches have a responsibility to ensure the safety of the performers with whom they work as far as possible within the limits of their control.

All reasonable steps should be taken to establish a safe working environment.

The work done and the manner in which it is done should be in keeping with regular and approved practice within that sport.

The activity being undertaken should be suitable for the age, experience and ability of the performers.

Performers should have been systematically prepared for the activity being undertaken and made aware of their personal responsibilities in terms of safety.

### Issues of Competence

Teachers/Coaches shall confine themselves to practice in those fields of sport in which they have been trained/educated, and which are recognised by the ASA and ISTC as being valid. Valid areas of expertise are those directly concerned with sports coaching. Training includes the accumulation of knowledge and skills through both formal Teacher/Coach education courses and by experience at a level of competence acceptable for independent teaching/coaching practice.

Teachers/Coaches must be able to recognise and accept when to refer performers to other agencies. It is the responsibility of the Teacher/Coach, as far as possible, to verify the competence and integrity of the person to whom they refer a performer.

Teachers/Coaches should regularly seek ways of increasing their professional development and self awareness.

Teachers/Coaches should welcome evaluation of their work by colleagues and be able to account to performers, employers, Governing Bodies and colleagues for their actions.

Teachers/Coaches have a responsibility to themselves and their performers to maintain their own effectiveness, resilience and abilities, and to know when their personal resources are so depleted as to make it necessary for them to seek help and/or withdraw from teaching/coaching whether temporarily or permanently.

#### Violations of this Code

Where complaints amounting to, or where they may amount to, violations of this Code are made about an individual to either the ASA or the ISTC, unless the complaints are completely without foundation or they are outside the jurisdiction of the District Judicial Tribunal (DJT) the Chief Executive of the ASA or the Secretary of the ISTC will refer such complaints to the appropriate DJT.

The DJT will deal with the complaints in accordance with the prevailing "Laws of the Sport" as published annually by the ASA and in interpreting the Laws will take into account the letter and the spirit of this Code.

In the event of a complaint being upheld by the DJT it may consider provisions of the Code in deciding degrees of culpability and appropriate sanctions.

## Appendix 3

### IRISH AMATEUR SWIMMING ASSOCIATION

#### OFFICIALS CODE OF ETHICS

(Published in IASA Club Handbook 1997/98, August 1997)

For the purposes of clarification the term "official" will be used in this document, to mean all adults with either supervisory, coaching or management responsibility for swimmers. The purpose in this document is to provide guidelines for the behaviour of adults who are responsible either in a club or representative team capacity.

This Code is part of the IASA's policy on Child Protection. It is to be taken in conjunction with the Government's "Code of Ethics and Good Practice in children's sport" which is part of the IASA Law. Adherence to these guidelines is intended to protect officials, coaches and swimmers.

Officials must submit signed copies of this Code to their club or association.

1. You are given a position of trust by parents and swimmers and are expected to show the highest standards of behaviour whilst in the company of your charges.
2. Where the Team is composed of both genders, there should be a male and a female official.
3. You should never be alone in a room or similar, with a swimmer. Where unavoidable, leave the door open.
4. Besides necessary manipulation of limbs in teaching stroke or gym technique, physical contact is not appropriate.
5. Physical contact for testing or para-medical purposes must only be done in public and should be appropriate in nature. Any doubts of a medical nature should be passed on to a suitably qualified medical person.
6. Meet performance can lead to emotional behaviour, such behaviour is only acceptable in public during the Meet and care should be taken to minimise contact.
7. Whilst swimmers are present, consumption of alcohol should be avoided. Where the event is a social one with swimmers present, consumption should be moderate.

8. As persons responsible for the well being of young people, it is inappropriate to smoke in their presence or behave in any fashion inconsistent with your position of responsibility.
9. Physical relationships with underage swimmers are illegal whilst such relations with over age swimmers are inappropriate when the swimmer is in your charge.
10. If a swimmer encounters inappropriate behaviour, they should, immediately, inform their parent(s). Parents should exercise caution and discretion by first, discussing the matter with the "official" involved. If they are dissatisfied with the response and/or consider the matter to be of a serious nature then they should follow the guidelines in the following paragraphs.
11. Should you witness or receive information that leads you to believe that a serious breach of this Code has occurred, you are required to bring the matter to the attention of the relevant management body (be it Club, Branch or Association). No further action is to be taken on your part and no information is to be provided to others, save as provided in paragraph 12.
12. If you have evidence of an illegal activity that directly relates to the Sport, you are obliged to inform the Gardai or RUC and you should notify the Branch and/or IASA, in writing, of that fact. You are not to discuss the matter with persons not directly involved, except with the express permission of the investigating authorities. Every assistance should be given to the Gardai, RUC or appropriate Committee of the IASA in the investigation of the matter and any steps being taken by them in relation to the matter.
13. Should a member of the IASA make or repeat, false allegations against a fellow member, then the former shall be held liable under Law 10.7 (which allows for the imposition of penalties), sub section (c) which states "for conduct likely to bring the sport into disrepute ..."

All clubs affiliated to the IASA are required to furnish all of their members and officials with copies of this document. Clubs and/or Officials found to be in breach of this Code will be required to provide an explanation to the IASA who, where appropriate will impose disciplinary action under Law 10.7.

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