

DPP will not prosecute 25 further Michael Shine cases

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For over 35 years, Noel carried a secret.

As a young teenager, his father brought him to Our Lady of Lourdes Hospital in Drogheda with a knee injury.

There, Noel, who asked RTÉ Investigates to use a pseudonym to protect his identity, met his treating doctor, the former consultant surgeon Michael Shine.

"He was revered," Noel told RTÉ. "I was told it was great that Shine was seeing me – the top star of the Lourdes hospital."

Noel is now one of more than 200 men who allege that, as young boys, their trust was breached in the most egregious of ways when they were abused by the then-medic.

Afraid and vulnerable for decades, Noel, like many others, stayed silent.

"I didn't want to report it because my father was the one who brought me to the hospital that day for the appointment with Shine. I felt I couldn't do anything, and I just put it to the back of my mind, but I never ever forgot about it."

The situation stayed like that for over three decades until the late 2010s when, following the death of both his parents, Noel found the courage to come forward and report his alleged abuse to An Garda Síochána.

Earlier this year, Michael Shine was released from prison, having served three years for the indecent and sexual assault of young boys while working at Our Lady of Lourdes Hospital. It was the second time the now 89-year-old had been convicted for such offences, which stretched from the 1970s to the 1990s.

Noel's hope was that his statement to the gardaí would result in Mr Shine facing further charges. In fact, his was among 25 additional cases expected to come before the courts this year. But, now, those hopes seem to have been dashed.

RTÉ Investigates has learned that the Director for Public Prosecutions (DPP) has decided not to proceed with the 25 new cases. Indeed, Mr Shine may not face any further prosecutions.

The news came like a bolt out of the blue to the men involved. During phone calls from An Garda Síochána in June, each were told that the former medic would not be prosecuted in relation to any of their cases on the basis that there was no reasonable prospect of a conviction.

John, who also asked RTÉ Investigates to use a pseudonym, was another of those who received the unexpected call.

Initially, he said that he was told he had a strong case, which was likely to go to court in the new year. But now he has been left questioning if there was a point in reporting his alleged abuse at all.

"I was shocked. I felt let down and angry that the DPP was just letting him off. It was as if they were taking his side of things – that what I had gone through had never happened and they were absolving him of sexually abusing me when I was a child."

Documentation seen by RTÉ Investigates suggest the DPP's decision was based on a ruling made by the Court of Appeal last year. That ruling came on foot of a successful appeal by Mr Shine regarding a separate case for the sexual abuse of 10 other patients, which was due to go to trial in 2021.

Delivering her judgment, Ms Justice Kennedy concluded that, based on a number of factors, including Mr Shine's age, his poor mental and physical health, and the historic nature of the allegations, it would be unjust to put him on trial.

The issue of Michael Shine's age is a particular bone of contention among those who allege he abused them.

"We were very young when he committed his crimes," Noel said. "We were only young children aged 9 or 10. He didn't care about our age then, so why should he get the benefit of people caring about his age now, even though he is in his 80s?"

The Court of Appeal judgment, which was seen by RTÉ Investigates, reveals another reason as to why the judge upheld Mr Shine's successful appeal: an administrative error by the Office of the Director of Public Prosecutions.

Michael Shine's legal team argued that the DPP delayed for two years in informing him of new cases pending against him. The DPP had intended to send a letter to Mr Shine's solicitor, but it was never sent.

As a result of the judgment, at least 35 cases have already collapsed, and it looks unlikely any further cases reported to An Garda Síochána will progress.

In a statement to RTÉ Investigates, the DPP said it does not comment on individual cases.

The development means that many survivors are left with no sense of justice, having already waited decades to have their day in court, according to Professor Phil Scraton, a human rights expert known for his research on the Hillsborough disaster.

"It is a dreadful indictment of the system that it takes so long for the processes of justice to even be engaged, let alone develop," Prof Scraton told RTÉ Investigates.

"What we end up with is a situation where people die before justice is delivered."

Feeling abandoned by the criminal system, many of those who say they were abused by Mr Shine have also pursued civil cases. In 2012, after over 110 cases were taken against the former medic and his employers at Our Lady of Lourdes Hospital, the Medical Missionaries of Mary agreed a deal with survivors in the region of €8 million.

Some 109 further cases have also been at the centre of new settlement talks for considerable time. Late last year, it was widely reported that a deal had been reached only to falter at the 11th hour, when the religious order told the High Court the matter was not settled. Court exchanges claimed the issue centred on a dispute over who would pay legal costs of more than €1 million incurred by the HSE when it was a defendant in the cases.

Noel was among the survivors who thought a settlement had been done.

"We were given a figure, I was asked to sign an agreement and to send in my bank details, that it would be paid into my bank within weeks."

But, since then, Noel has had no further update.

Last week, RTÉ Investigates wrote to the State Claims Agency, the Medical Missionaries of Mary and their insurers, Allianz Ireland, with a series of questions about the delay in resolving the case for the abuse survivors.

In a statement, the State Claims Agency, which acts on behalf of the HSE, said the matter of costs was recently the subject of a successful mediation and their recovery was not and is not an impediment to the settlement of the claims by the Congregation or Allianz.

The solicitor representing Allianz Ireland and the Medical Missionaries of Mary told RTÉ Investigates that, as the congregation is being sued in civil actions in the High Court and that litigation is ongoing, he was unable to reply to our queries.

Separately in the last few days, RTÉ Investigates learned that most of the 109 cases are now close to settlement.

On Thursday, Allianz Ireland issued a statement confirming it had concluded settlement negotiations with solicitors representing a large group of individuals who took legal actions relating to Michael Shine.

As a result, these settlement claims are expected to be fully concluded within the next two weeks.

Michael Shine retired on a full pension in 1995, having worked in Drogheda for 30 years.

In 2009, a retired judge was appointed by the then-government to head a review into the allegations against Mr Shine, but it never saw the light of day. And, despite various legal challenges, survivors have never been given access to the finished report.

In fact, a full inquiry investigating the now hundreds of allegations has never been commissioned by the Government.

It's a failure of which Prof Scraton is highly critical. When harms are committed against innocent citizens, the responsibility to investigate must, he said, fall on the State.

"The State has to be held accountable – justice delayed is justice denied."

The Department of Health told RTÉ Investigates that the judge indicated at the time of the report that its release should not be contemplated until all outstanding proceedings, criminal and civil, are resolved, in case doing so would prejudice these.

It added that the Department recently sought updated legal advice and can confirm this remains the position.

That sense of justice denied is a sentiment understood no better by anyone than those still trying to come to terms with the abuse they say they suffered as young children.

"All I wanted was for somebody to hear my story," John said, "so that people would believe that this happened to me."

"Nobody believes young children and it leaves an awful effect on you."

If you have been affected by any of the issues raised in this article, you can contact Dignity4Patients, whose helpline is open Monday to Thursday 10am to 4pm.