

# Victims' devastation that their cases will not proceed to trial.

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Drogheda Independent

25/04/2023

Alleged sexual assault victims of former Drogheda surgeon Michael Shine have spoken of their devastation that their cases will not proceed to trial. They are calling it a 'serious miscarriage of justice' and are being advised to consider High Court proceedings.

In June 2022, the Director of Public Prosecution (DPP) informed 25 adult survivors of alleged childhood sexual abuse by the convicted former surgeon, of their decision not to proceed to trial. A number of them applied for an Independent Review, which has now concluded that this decision not to prosecute still stands.

Alleged victims being supported by the local Dignity 4 Patients group are said to be 'absolutely devastated'. The decision was taken even though the DPP believed there was enough evidence to support prosecutions. However, the DPP did not proceed, a decision taken in the wake of a 2021 Court of Appeal ruling blocking a further trial of Shine (90) on charges of indecently assaulting another group of complainants. That ruling cited a range of factors, including Shine's age, health and an administrative error by the Office of the DPP.

Now the Drogheda Independent has learned that following a review of their cases, during which DPP Catherine Pierson sought a second opinion from a senior counsel independent of her office, the decision still stands. Adrienne Reilly, CEO of Dignity4Patients, an advocacy group supporting adult survivors of sexual abuse, said complainants had been left "absolutely devastated" after being informed of the news in recent days.

One complainant questioned why Shine's age and claims of ill-health should preclude him from facing justice. "Even Nazis got prosecuted even though they all said they had cognitive disability," he said. Another said the decision not to prosecute would stop other victims of abuse from coming forward.

Kevin Winters of KWW Law, a solicitor acting on behalf of some complainants, said they were now considering "alternative legal remedies" including possible High Court civil proceedings "in relation to previous failings" by the DPP.

Shine has been a free man since being released from prison last year after serving three years for the indecent and sexual assault of young boys while working at Our Lady of Lourdes Hospital in Drogheda, Co Louth. It was the second time he had been convicted for such offences, which dated from the 1960s to the 1990s.

Following his latest release, the Medical Missionaries of Mary, which ran the hospital at the time, confidentially settled more than 100 lawsuits it faced over Shine's actions. It was the second time a multi-million euro settlement was reached with a group of survivors.

While the recently delivered prosecution review decision relates to 11 cases, it is understood it will affect many more people, including 19 men who have recently come forward. Ms Reilly questioned the handling of the review. She said complainants had received "generic" letters using the same language, even though each person had asked specific questions about their own case.

One complainant said: "To say I am disappointed is an understatement. I was expecting a complete independent review of the whole investigation of my case. Not a generic letter and my information reviewed by a senior counsel nominated by the DPP."

Another called for a commission of investigation. "I need a voice. I need recognition. This happened to me. I want the State to recognise that."

A letter issued to one complainant this month by a prosecutor in the Office of the DPP, confirming the outcome of the review, said the DPP personally took the initial decision not to prosecute. The letter, seen by the Drogheda Independent, said the DPP was of the view there was enough evidence to support a prosecution and that she remained of that view.

However, it said the DPP also had to take other factors into account. "In this case, the director concluded, based on medical evidence available, that there was a significant incapacity relating to the suspect, such that it would not be in accordance with our guidelines to prosecute this case," the letter said.

It said that another crucial consideration was whether there was any reasonable prospect of a trial being allowed to proceed. The DPP did not believe that prospect existed, having been advised by a senior counsel that a trial would be prohibited if Shine took judicial review proceedings. The letter pointed out that Shine's circumstances were examined by the Court of Appeal in 2021.

It said the court considered that because of cumulative factors, including delay, age and the physical and mental health of the suspect, a trial should be prohibited. The appeal court also said there had been an "oversight" by the Office of the DPP which meant that although a direction was made to charge Shine with the offences in 2017, his solicitors were not informed until two years later.

Had this been done earlier, Shine would have had the choice to consent or not to those charges being dealt with at another trial he was already facing. The letter acknowledged that there was an error. But it said the question of the letter which was not sent was not a factor in its decision not to prosecute.

"However, all of the other factors referred to by the Court of Appeal continue to be relevant and therefore the decision of the Court of Appeal had to be taken into account in the assessment of whether there is a reasonable prospect of a conviction in your case," it said.

Adrienne Reilly of Dignity4Patients called it 'disturbing news'. "19 new alleged victims have come forward since the Court of Appeal judgement. People who have never spoken to any one before," she told the Drogheda Independent. "It is hugely traumatic to disclose alleged sexual abuse for the first time but to then find out now there is a possibility that the perpetrator won't face prosecution compounds this trauma".

Adrienne states that it is not entirely clear what avenues of redress victims have. "What justice can they get if Criminal Justice options are being closed down? Should these victims now rightly be given a Commission of Investigation (Public Inquiry)?"

**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.**