WHAT WENT WRONG AT THE ABBEY?

After a five-year, €1m saga, here are 18 things we now know – or shouldn't forget – about the theatre's governance controversy

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About five years since the controversy first arose at the Abbey Theatre, there appears to be a resolution of sorts. Whether there will be accountability for a litany of governance failures, foot-dragging and bungling is another thing.

A fortnight ago, about a year after it was first expected, the Abbey published 12 findings and six recommendations of a long-delayed report by Crowe Ireland into its governance. It outlines a stream of unusual practices, "unclear" governance, a "significant failure" in record keeping and poor handling of two issues related to the national theatre's former codirectors.

The findings throw some light on events in 2019-21, the handling of which involved significant payments to those former codirectors, Neil Murray and Graham McLaren, plus related legal and other costs that far outstripped those initial payments.

Though the full report may never see the light of day, we now know significantly more about what happened. At times it can sound as if the Keystone Kops must have been in charge. It was certainly no way to run a national theatre. Here are 18 things we've learned or should not forget.

1 What started this in the first place. Crowe sought to "identify potential gaps in internal controls (HR, legal, financial), governance, and stakeholder management" related to the way the Abbey handled events during and shortly after Murray and McLaren's tenure, which ran from 2016 to 2021. Those problematic events were the changeover to new directors in 2021, and the management, drawn out over two-plus years, of three complaints by former employees, made in March 2019, about separate incidents involving McLaren.

2 The payments. Handling of these two issues led to redundancy payments totalling €63,333 to each former codirector plus €110,000 to McLaren for his "distress and suffering" during the protracted investigation of complaints against him. (These figures were confirmed in July 2024 by McLaren and Murray, "to address mistaken impressions" and reiterate that they repeatedly raised concerns about "spiralling legal costs" and "breaches of internal controls" by the Abbey board.) These payments totalled €236,666; management of it meant it cost the State-funded theatre a multiple of that.

3 What it ultimately cost. By June 2021, when the payments started coming to light, the saga had cost nearly €700,000, a figure confirmed only years later by a Mazars scoping report commissioned in autumn 2021 by the Abbey's main funder, the Arts Council, after months of trying to get information from the Abbey. By November 2023, a source very familiar with the matter estimated it had cost the Abbey well over €1 million, taking into account investigation costs, legal fees and consultants' fees.

The Crowe findings don't mention the cost. The day those findings were published, the Abbey's current directors, Mark O'Brien and Caitríona McLaughlin, were unclear about, and would not put a figure on, that cost, pointing out that it was spent over several years (mostly before their term) and that the Abbey publishes annual accounts. The overall costs of the saga do not appear to have been totted up, or are not being shared.

4 Let's not forget, their hand was forced. The Arts Council chased the Abbey for years to find out what happened, and ultimately has had to drag it out of them. We've reported on the 2021 trail of emails between the Arts Council's chair at the time, Kevin Rafter, and the Abbey's, Frances Ruane, seeking information in the initial aftermath. Meeting intransigence, the council had to commission Mazars to get confirmation from the Abbey in 2022 of the €693,000 costs by then. Ultimately, forcing the Abbey to commission the governance report, by withholding a big tranche of its funding, was the only way it managed to get any clarity – now, well into 2024 – about what happened.

5 Why did the governance report take so long? Commissioned by the Abbey as a condition of its €8 million annual Arts Council funding, the investigation began in December 2022, involving a trawl of hundreds of documents going back years, interviews (and possibly reinterviews) with former and current board members and the executive, and, likely, legal involvement. The review was believed to have been completed in December 2023 but was delivered to the council only on July 15th, 2024, two weeks before the ends of Ruane's time as chair.

6 Was there stalling? Many outsiders assumed the Abbey was sitting on its completed governance report, pushing the can down the road for months. O'Brien is adamant that "there were reasons why the report took as long as it did". Both current directors say the outgoing chair did not delay the report. "There was no stalling," acccording to O'Brien. "It wasn't held." The timing, just before the chair departed, was "completely coincidental". McLaughlin insisted that "anyone on the board will tell you the chair was pushing for the publication of the findings from the beginning". Might some find this ironic, or somewhat jaw-dropping, given that the chair was in place through the entire period when these issues were botched? Could the Abbey have been more forthcoming years earlier with the Arts Council, obviating the need for Crowe?

7 What did Crowe find? The report paints a picture of haphazard, chaotic handling of the two issues. There was an "unclear governance framework" that urgently needs to be resolved and "significant failure" in record-keeping by two committees dealing with the complaints. The Abbey didn't adhere to its own constitution in reappointing a board member who was involved in the committee for more than a year while no longer a board member. A former senior executive still handled insurance after departing, too. It also reported on the chair's involvement in investigations, lack of clarity and responsibility, and flawed advice or handling of liability insurance, tax and redundancy, including possibly flawed advice on the tax treatment of termination payments in 2021.

8 What Crowe found out about the botched investigations. The investigations of complaints sound shambolic. Originally scheduled to take eight weeks, the process took more than two years. On the plus side, Crowe said that the investigation method accorded with fair procedures and employment law, that it was prudent to get legal advice and that the board didn't contribute to the delays. That the investigation was unable to conclude or make findings "does

Crowe Ireland's report outlines a stream of unusual practices at the national theatre

not amount to noncompliance with employment law or good governance".

On the other hand, one committee dealing with complaints had no terms of reference, no written records and no effective way to keep board members informed; the minutes of a second investigating committee were held by a board member who had left, with no records retained by the theatre. The board didn't tell the company secretary (responsible for governance) about the existence of the first committee. Timelines were not reviewed, and there was no revised plan when the timing went belly-up. No evidence supports "the allegation that the Abbey Theatre instigated the complaints", Crowe said, which is an intriguing detail.

9 How on earth did the codirectors qualify for redundancy? One might wonder why outgoing employees qualified for redundancy payments after their fixed-term contracts ran fully. This reads like a giant bungle. Crowe says the Byrne Wallace legal firm advised the Abbey that there was legally no "redundancy" but then "the board ultimately decided that it would in fact pay redundancy costs". Crowe says it's disputed who in the theatre received that advice and whether it went to the board. The board didn't get advice from its own lawyers on this but relied on "additional legal advice" without getting it in writing. Unsurprisingly, Crowe says all this is not good governance.

10 Surely the Abbey's employer liability insurance came into play with these costs? Unbelievably, it doesn't seem to have been sufficient or perhaps didn't exist. One of Crowe's recommendations is to have such cover in place, which implies there was none. The findings talk about "no single individual" appearing to be responsible for dealing with employment practices liability insurance, with "considerable confusion" about what cover was in place ("unusual"). Crowe found it "remiss of the board" not to explore this, which might have covered some or all costs of the investigation and legal advice (which makes up the bulk of the cost of the whole episode). Bizarrely, a former senior executive was still dealing with the insurance broker nine months after leaving the job.

11 The former chair and board sound overinvolved. One finding is that "involvement of the chair" in both investigation committees "left the board with no independent final arbiter". The board seems not to have kept adequate records of discussions and decisions, on foot of confidentiality and security concerns. And the board "felt it necessary on occasions to become more involved in management issues than it would otherwise have wished". Crowe observes that there "should be no circumstances in which a subset of the board" conducts board business outside normal structures.

12 Former directors pointed to the bungling for years. The long-running bungling and cracked governance sound so extreme that accusations weren't dealt with efficiently or fairly, to the point that the accused eventually took legal action against the Abbey. McLaren's correspondence, seen previously by The Irish Times, details "extraordinary delays"; after taking the Abbey on legally, he received the €110,000 settlement and an unreserved written apology that expressed "deep regret" for his "distress and suffering". He and Murray made a protected disclosure to Minister for Culture Catherine Martin in June 2022. (The department rejected their calls for an investigation.) And we understand a whistleblower – another former Abbey employee, during the period of the payments – made a second complaint, to the Protected Disclosures Commissioner, about governance and financial failures at the national theatre, and critical of the Abbey chair and the Minister.

The evening the Abbey published the report, Murray and McLaren posted on social media that it was their first sight of it; in January 2023 Crowe asked them to take part in the review, assuring them they'd see "a draft of the report before its finalisation", to ensure it was factually accurate. The pair say they gave interviews and documents to Crowe over six months on that basis but "Crowe did not honour their commitment to show us material, pertaining to us, before the report's completion and delivery to the Abbey". Based on seeing only the findings, it was "reassuring" that the report addressed several serious governance failings they had been highlighting since summer 2020. (Crowe has told The Irish Times that it is bound by client confidentiality and does not wish to comment on its Abbey work.)

13 Remember the complainants. In the midst of reports and legal fees, the three complainants appear to have been forgotten. They too became embroiled in a series of investigations, over two-plus years, that ultimately went nowhere. They withdrew from the process in frustration and weariness, feeling bruised by the entire experience and wishing to move on with their lives and careers. One is powering forward in theatre, but at least one of the others is understood to have left the sector. The findings do not mention them; it is understood no one spoke to the complainants for the Crowe report. It certainly seems as if they too were not fairly treated by the Abbey's investigation, nor had proper resolution.

14 Where did the (likely) €1 million-plus come from to pay for all this? The national theatre is funded primarily by the State, via the Arts Council. (Its €8 million grant makes the Abbey by far the council's largest funding recipient.) Extra income includes box office and sponsorship revenue.

Part of the council's Mazars review was to consider whether public funds were used for their intended purpose, but it couldn't definitively state where the money for the HR investigations and termination payments came from, as Abbey accounts don't specifically allocate expenditure against income sources.

In their interview, O'Brien was adamant that the costs "didn't impact" on their core activity, as it "wasn't the same budget". McLaughlin acknowledged that "there's no doubt this was an expensive process", but "we are sitting now with a very strong governance policy, a very strong set of procedures, a very strong relationship with the Arts Council. It does leave the Abbey in a really strong position today."

Saying it wasn't paid from the Abbey's public funding sounds like splitting hairs. To the outsider, if your ancillary income is spent on an almighty mess, it's not available for building sets or paying actors.

15 Fair dues to Caitríona McLaughlin and Mark O'Brien. The artistic and executive directors of the Abbey have been in the jobs since mid-2021, and none of this was of their making. The mess has been hanging over their heads for more than three years of their five-year terms. When the board published findings, the directors stepped forward to talk, for which they deserve credit, even if they couldn't discuss anything predating their tenure.

16 What's with the dark theatre? There has been speculation that a two-month-plus gap between in-house productions at the Abbey this summer was down to financial pressures. McLaughlin is adamant that this isn't so and that "critical building maintenance needed to happen", adding that many considerations affect programming. Many will still find it hard to accept this at face value, and are mystified that the Abbey was dark during the summer season. But McLaughlin is right in saying that "the national theatre, like the rest of the theatre industry, is underfunded. We're on the same funding since 2008, which is €2 million less than 2007". The Abbey needs more money and multiannual funding to enable it to plan ahead, she says.

17 Nothing more to see here? It's history; albeit recent history. The board also published a raft of actions taken or in train, including changes to board records, governance structures and culture, employer liability insurance, and its relationship with the Arts Council. The council has welcomed the report and confirmed that all funding conditions related to this were satisfied, with agreed monitoring and implementation of the actions. The current directors confirmed that the council has released the funds it held back since 2022 pending receipt of the report. There's a new chair, a largely new senior executive team and many new staff. All are likely relieved this period is over. The theatre sector is probably fed up hearing about this mess and wants to move on; there's frustration the largest recipient of funding has been embroiled in this.

This isn't the first controversy to dog the Abbey. It is still our national theatre, and it's critical the national theatre does excellent work and attracts the best creators; most people want the best from the Abbey and for the Abbey. It's looking to the future: a new five-year strategy, decisions about a much-needed new building. O'Brien says this is "a pivot point" with "an acceptance of the past, of gaps in governance, to correct course and make changes, as the board said. It's been challenging, but it's also an acceptance of, 'Now we can move.'"

So is that it? Really?

18 Where's the mea culpa? The report excoriated the Abbey's past governance and procedures, and laid bare what should be mortifying lapses in the handling of two unrelated situations, at great cost to the publicly funded theatre. The board's statement was careful, bland legalese. It welcomed, published and accepted the Crowe report, setting out the actions it has taken to improve governance and procedures. Is "accepting" its version of the Abbey coming out with its hands up? There was no apology. Hard to see accountability there, either, or repercussions.