



ACTIVITY REPORT December 2014

The Truth Justice and Healing Council is coordinating the Catholic Church's response to the Royal Commission into Institutional Responses to Child Sexual Abuse

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Introduction

The Truth Justice and Healing Council is coordinating the Catholic Church's response to the Royal Commission into Institutional Responses to Child Sexual Abuse with a commitment to justice and compassion for survivors.

Since its establishment by the leadership of the Catholic Church in Australia in January 2013, the Council has worked hard to deliver on its key roles of:

- representing the Catholic Church before the Royal Commission
- putting in place a reform agenda for the Catholic Church to ensure, as far as possible, the abuse of the past never happens again and survivors of abuse within the Church are treated fairly and with compassion, and
- being the public voice of the Church in the community discourse about child sexual abuse.

Purpose of this report

This report describes the activities of the Council over the past two years to December 2014 as it has driven the Church's reform agenda and led the Church in its response to the Royal Commission.

It records our engagement with the Royal Commission, our development of the Church's position in the public policy debate, our work with survivors and their representatives and our role as the public voice of the Church.

The report also records some of the key concerns and issues the Council has become increasingly aware of as it has gone about the business of connecting with the thousands of people who have been involved with and affected by the child sexual abuse crisis within the Church.

Using the information and understandings gathered over the past two years and reflected in this report, the Council will continue to develop the Church's reform agenda.

Our commitment

In October 2012 the leaders of the Catholic Church in Australia jointly endorsed a commitment statement published initially as part of the Truth Justice and Healing Council's second submission to the Royal Commission.

The commitment statement represents the first time, anywhere in the world, Catholic leaders nationally have come together as one to publicly recognise the tragedy and criminality of child sexual abuse in the Church.

The statement reflects the acceptance that the Church leadership as a whole must take responsibility for the past abuse and that the Church's culture played a part in the tragic historical response to the abuse of young people.

The statement has appeared as the foreword in all of the submissions the Council has made to the Royal Commission on behalf of the Church.

It has also been publicised widely and distributed to all parishes and religious congregations around Australia.

Commitment Statement

The leaders of the Catholic Church in Australia recognise and acknowledge the devastating harm caused to people by the crime of child sexual abuse. We take this opportunity to state:

1. Sexual abuse of a child by a priest or religious is a crime under Australian law and under canon law.
2. Sexual abuse of a child by any Church personnel, whenever it occurred, was then and is now indefensible.
3. That such abuse has occurred at all, and the extent to which it has occurred, are facts of which the whole Church in Australia is deeply ashamed.
4. The Church fully and unreservedly acknowledges the devastating, deep and ongoing impact of sexual abuse on the lives of the victims and their families.
5. The Church acknowledges that many victims were not believed when they should have been.
6. The Church is also ashamed to acknowledge that, in some cases, those in positions of authority concealed or covered up what they knew of the facts, moved perpetrators to another place, thereby enabling them to offend again, or failed to report matters to the police when they should have. That behaviour too is indefensible.
7. Too often in the past it is clear some Church leaders gave too high a priority to protecting the reputation of the Church, its priests, religious and other personnel, over the protection of children and their families, and over compassion and concern for those who suffered at the hands of Church personnel. That too was and is inexcusable.
8. In such ways, Church leaders betrayed the trust of their own people and the expectations of the wider community.
9. For all these things the Church is deeply sorry. It apologises to all those who have been harmed and betrayed. It humbly asks for forgiveness.

The leaders of the Catholic Church in Australia commit ourselves to endeavour to repair the wrongs of the past, to listen to and hear victims, to put their needs first, and to do everything we can to ensure a safer future for children.

Message from the Chair



The Hon Neville Owen
Chair

The Royal Commission into Institutional Responses to Child Sex Abuse is a watershed moment in the history of the Catholic Church and more generally for the protection of children in Australia.

Its outcomes and the way the Church engages with it and with survivors of child sexual abuse will determine the Church's relationship with Australian society for many years to come.

A failure to get this right will seriously undermine the Church's commitment to provide justice for victims and survivors.

It will also challenge the capacity of the Church to speak with conviction on the pressing moral issues confronting our society and to promulgate the Gospel values that are at the heart of its mission.

We must all learn about the deep, devastating and timeless impact of the sexual abuse of children by priests, religious and other church personnel on children and their families.

The Church leadership must openly and without reservation accept the failings of the past, engage in the just and compassionate treatment of survivors and chart a course for a future built on the protection of children.

These are not just words but are at the heart of the Church's commitment to repair the wrongs of the past, to listen to and hear survivors, to put their needs first and to do everything we can to ensure a safer future for children.

The Catholic laity demands it and the broader community needs to be convinced that there is a genuine resolve on all of these issues.

It is this understanding that provides the Council with the guidance and the insight we need to proffer advice to Church leaders on a reform agenda capable of delivering truth, justice and healing. All of our efforts are directed to that end.

Francis Sullivan
CEO

Francis Sullivan is the Chief Executive Officer of the Truth Justice and Healing Council.

He is committed to equity and justice and has been highly successful in bringing a social conscience to the political debate on health and aged care issues.

He has been the head of the Australian Medical Association, Catholic Health Australia and worked as a senior government advisor.

He has a Masters in theology from Loyola University in Chicago, a bachelors degree in politics from Curtin University in Western Australia and an honorary Doctorate from the Australian Catholic University for his work in public health advocacy.



Background to the establishment of the Council

In February 2013 the Australian Catholic Bishops Conference (ACBC) and Catholic Religious Australia (CRA) jointly established the Truth Justice and Healing Council to lead and coordinate the Church's response to and appearances at hearings of the Royal Commission into Institutional Responses to Child Sexual Abuse.

The Council is made up of 12 people with expertise across specialised fields of child sexual abuse, trauma, mental illness, suicide, psycho-sexual disorders, education, public administration, law and governance.

The majority of Council members are lay, two of its members are bishops, and one is a Brigidine sister. Three of the Council members are either survivors of abuse within the Church or have immediate family members who have been abused.

The Council provides independent advice to the ACBC and CRA, through a Supervisory Group, made up of the Permanent Committee of the ACBC and representatives of CRA.

The Supervisory Group has endorsed all submissions made to the Royal Commission by the Council.

Thirty-one dioceses and 97 religious institutes, commonly referred to as congregations and orders, have agreed to have the Council represent and act for them during the Royal Commission process.

The ACBC appointed Francis Sullivan as the CEO of the Council. Francis has led the Church's response in the Royal Commission public hearings and other activities, and by meeting with and responding to survivors and survivor groups.

He has kept the Catholic community informed about the Royal Commission process and the Church's response through well over 60 meetings with religious orders and dioceses, Catholic welfare, health and education groups and parish visits around Australia.

He has also directed the Church public communications, responding to all media requests and providing regular information through the Council's communications channels.

Terms of reference

The Truth Justice and Healing Council is charged to:

1. Subject to directions from the Supervisory Group and any powers reserved to the Supervisory Group and consistent with the civil, canonical and pastoral obligations of each Bishop and Congregational Leader, to organise, manage and coordinate the Catholic Church's representation in, response to and engagement with the Royal Commission into Institutional Responses to Child Sexual Abuse, including:
 - a. the preparation of documentation and legal submissions
 - b. the facilitation of materials for the Royal Commission, and
 - c. the organisation of individuals appearing before the Royal Commission in relation to the matters associated with the Catholic Church.
2. Report regularly to the Supervisory Group through the Chair of the Supervisory Group on:
 - a. the activities and operations of the Council, and
 - b. the Royal Commission, its conduct and the ramifications for the Church's agencies, processes, procedures and pastoral life.
3. Review the formulation, development and compliance with existing Church protocols and policies in relation to child safety, protection and welfare, and provide recommendations to the Supervisory Group.
4. In collaboration with Church leaders, to be responsible for and to manage all public relations and communications for the Church in relation to the Royal Commission.
5. Provide a focal point for other stakeholders associated with the Royal Commission.
6. Undertake research into the issue of sex abuse consistent with the requirements of the Royal Commission and the Supervisory Group. In discharging its responsibilities, the Council is to refer the following matters to the Supervisory Group for its prior consideration and approval:
 - formal submissions on behalf of the Church to the Royal Commission
 - annual budget
 - material expenditure outside the approved budget
 - changes to the existing processes and protocols operating within the Church in Australia including:
 - *Towards Healing*
 - Integrity in Ministry
 - Integrity in the Service of the Church, and
 - *Melbourne Response*
 - changes to existing structures in relation to the Church's handling of sexual/criminal abuse in Australia:
 - National Committee for Professional Standards
 - Bishops Committee for Professional Standards
 - Diocesan and Congregational Committees, and
 - Independent Commissioners, Compensation Panel and Carelink under the *Melbourne Response* noting also that the approval of the Archbishop of Melbourne will be required.

7. The Council is also to refer to the Supervisory Group for its consideration any recommendations it would make in relation to amendments to the following:

- Working with Children Checks
- reporting to police
- sacrament of confession
- vicarious liability of bishops and Church leaders
- accessing assets held by Church property trusts to pay compensation
- extending the Statute of Limitations, and
- introduction of criminal offences linked to the conduct of Church leaders.

After consideration of the recommendations put forward, the Supervisory Group, if it deems it appropriate, will forward them to the relevant authority.

+ Denis J Hart

Archbishop of Melbourne
President
Australian Catholic Bishops Conference

20 February 2013

Sister Annette Cunliffe rsc

President
Catholic Religious Australia

Council members

The Council is chaired by the Hon Neville Owen, former judge of the Supreme Court of Western Australia and former HIH royal commissioner. Mr Owen has a distinguished 40-year career as a judge, barrister, solicitor, advocate and reformer. He has worked closely with many charities and educational bodies advising on governance and reform initiatives. Mr Owen's appointment followed the death of the Council's inaugural chair, the Hon Barry O'Keefe AM, QC in April 2014.

Members of the Council

- The Hon Neville Owen
Chair, former judge of the Supreme Court of Western Australia and former HIH royal commissioner
- The Hon Greg Crafter AO
Former South Australian minister of education
- Professor Greg Craven
Vice-Chancellor of the Australian Catholic University
- Archbishop Mark Coleridge
Archbishop of Brisbane
- Mr Stephen Elder
Former member of the Victorian Legislative Assembly and parliamentary secretary for education and currently Executive Director of Catholic Education for the Archdiocese of Melbourne
- Professor Maria Harries
Adjunct Professor at Curtin University and Research Fellow in Social Work and Social Policy at the University of Western Australia
- Mr Jack Heath
CEO of SANE Australia
- Sr Maree Marsh
Former congregational leader of the Brigidine Sisters and currently Co-Chair Kildare Ministries and Psychologist with Anti-Slavery Australia, University of Technology Sydney.
- Ms Elizabeth Proust AO
Former secretary to the Victorian Department of Premier and Cabinet, and currently Chairman of the Bank of Melbourne, Nestlé Australia and other boards
- Associate Professor Rosemary Sheehan AM
Department of Social Work, Faculty of Medicine, Nursing and Health Sciences, Monash University
- Dr Marian Sullivan
Child and Adolescent Psychiatrist
- Bishop Bill Wright
Bishop of Maitland-Newcastle.

Former members



The Hon Barry O'Keefe AM QC (dec April 2014)

Inaugural chair of the Council, a highly accomplished barrister, arbitrator and judge. He played a pivotal role in the creation of the Council, the setting of its agenda and its approach to the Royal Commission.



Ms Sue Gordon AM (Until October 2013)

Former magistrate in the WA Children's Court, inaugural ATSIC commissioner and Chair of the National Indigenous Council and the NT Emergency Response Taskforce.



The Hon Greg Crafter AO



Professor Greg Craven



Archbishop
Mark Coleridge



Mr Stephen Elder



Professor Maria Harries



Mr Jack Heath



Sr Maree Marsh



The Hon Neville Owen



Ms Elizabeth Proust AO



Associate Professor
Rosemary Sheehan AM



Dr Marian Sullivan



Bishop Bill Wright

The Supervisory Group

The Council provides independent advice to the ACBC and CRA, through a Supervisory Group, which is made up of the Permanent Committee of the ACBC and representatives of CRA.

Members of the Supervisory Group

- Archbishop Denis Hart
Archbishop of Melbourne and
President of the Australian Catholic Bishops Conference
- Sr Berneice Loch rsm
Institute Leader of the Institute of the Sisters of Mercy
of Australia and Papua New Guinea and President of
Catholic Religious Australia
- Archbishop Mark Coleridge
Archbishop of Brisbane
- Archbishop Timothy Costelloe SDB
Archbishop of Perth
- Sr Annette Cunliffe rsc
Congregational Leader of the Sisters of Charity and
former president of Catholic Religious Australia
- Bishop Eugene Hurley
Bishop of Darwin
- Bishop Peter Ingham
Bishop of Wollongong
- Bishop Greg O'Kelly SJ
Bishop of Port Pirie
- Archbishop Christopher Prowse
Archbishop of Canberra and Goulburn
- Fr Paul Smith OFM
Provincial Minister of the Franciscans
- Archbishop Philip Wilson
Archbishop of Adelaide

Former members

- Very Rev Tony Banks OSA
Provincial of the Order of St Augustinian
- Sr Anne Derwin rsj
Former congregational leader of the Sisters of St Joseph
- Cardinal George Pell
Former Archbishop of Sydney
- Bishop Michael Putney (dec)
Former Bishop of Townsville



Royal Commission

On Friday 11 January 2013, Her Excellency Quentin Bryce, Governor General of the Commonwealth of Australia, appointed a six-member Royal Commission to investigate institutional responses to child sexual abuse.

The Royal Commission is inquiring into how institutions with a responsibility for children have managed and responded to allegations and instances of child sexual abuse.

It is focusing on where systems have failed to protect children and will make recommendations on how to improve laws, policies and practices to prevent and better respond to child sexual abuse in institutions.

The Commissioners can look at any organisation that is, or was in the past, involved with children including government agencies, schools, sporting clubs, orphanages, foster care organisations and religious organisations.

The Hon Justice Peter McClellan AM is the Chair of the Royal Commission. He is supported by five other Commissioners, Justice Jennifer Coate, Mr Bob Atkinson AO APM, Mr Robert Fitzgerald AM, Ms Helen Milroy and Mr Andrew Murray.

The Royal Commission released its interim report on 30 June 2014. At the time, it asked the federal government for an extension of two years in which to complete its investigations. That extension has been granted and the Royal Commission's final report is now due at the end of 2017.



L-R: Commissioner Andrew Murray, Commissioner Robert Fitzgerald AM, The Hon Justice Peter McClellan AM, Justice Jennifer Coate, Commissioner Bob Atkinson AO APM, Commissioner Helen Milroy

The work of the Council

The most important work of the Council has been to provide leadership to the Church in responding to the Royal Commission and articulating a pathway to truth, justice and healing for the survivors of child sexual abuse perpetrated within Church institutions.

This leadership has been demonstrated through the Council appearing as a party in all the Royal Commission's public hearings involving Church institutions, through the commentary it provides in the national media and through its attendance at hundreds of meetings with Catholic communities across Australia.

The Council has also provided leadership through its public policy and communication activities. It has developed a raft of public policy positions and an internal Church reform agenda that has been endorsed by the Church leadership.

The Council has made a significant contribution to the public debate through responding to the Royal Commission's issues papers and participating in its round table processes.

In its communications and media activities the Council has demonstrated the Church is willing to accept criticism, is not defensive about its past and will engage in the public discussion with honesty, humility and transparency.

Engagement with the Royal Commission

Up to the end of 2014 the Council has:

- represented the Church and Church organisations at eight Royal Commission public case study hearings
- produced more than 160,000 documents from Church leaders and organisations sought by the Royal Commission
- assisted more than 50 witnesses to prepare statements requested by the Royal Commission for the purpose of the public hearings
- made extensive written submissions in response to those of Counsel Assisting the Royal Commission on available findings following the case studies
- prepared submissions on behalf of the Church to the seven issues papers released by the Royal Commission, consulting with Church and stakeholder groups, on:
 - Working with Children Checks
 - *Towards Healing*
 - Child Safe Institutions
 - Preventing Sexual Abuse of Children in Out of Home Care
 - Civil Litigation
 - Redress Schemes, and
 - Statutory Victims of Crime Compensation Schemes
- attended several Royal Commission round tables held on working with children checks, preventing sexual abuse of children in out of home care, civil litigation and redress.

Leading the Church's response

The Council has made recommendations to the Church leadership on a range of matters related to systemic issues under consideration by the Royal Commission including:

- the introduction of an independent national redress scheme
- a new overarching Church body to set child protection standards for Church organisations and to audit and publicly report on the standards, and
- significant changes to the way in which Church organisations approach civil claims related to child sexual abuse.

In its research role, the Council has:

- initiated research into best practice procedures, policies and structures to protect children
- assisted in identifying systemic institutional failures that have impeded the protection of children, and
- provided information to the Royal Commission concerning the various procedures, policies and structures that have been put in place by Church organisations over the past 25 years to deal with complaints and instances of child sexual abuse and improvements which might be made to them to provide greater protection for children.

In engaging with the community, the Council has:

- initiated or attended meetings with individual survivor and advocacy groups, including Bravehearts, CLAN, ASCA, In Good Faith Foundation, Micah, Childwise and knowmore
- made presentations at meetings of peak Catholic education, professional standards and social services bodies
- attended meetings and made presentations at individual schools, parishes, education offices and commissions and social services agencies
- made presentations to national meetings of clergy, bishops and leaders of religious orders, and
- undertaken research and surveys into the Catholic and broader communities responses to the abuse crisis in the Church, and other issues.

Representing the Church in the public arena

In representing the Church in the public arena the Council has:

- given more than 150 media interviews
- distributed a weekly newsletter to more than 4,000 subscribers
- issued regular media releases and other statements to both Catholic and secular media
- developed and maintained the Council website which has attracted more than 125,000 page views, and
- attended and spoken at more than 60 stakeholder and parish meetings.

Royal Commission June 2014 Interim Report

On 30 June 2014, the Royal Commission submitted its interim report to the Governor General and the state governors.

The interim report is in two volumes. Volume 1 describes the work the Royal Commission has done to date, the issues it is examining and the work which it considers still needs to be done.

Volume 2 sets out in summary form 150 personal stories from people who have shared their experience of abuse with the Royal Commission in private sessions. The Royal Commission describes these stories as a representative sample of the stories it has heard.

In the interim report the Royal Commission asked governments to extend the final reporting date by two years from December 2015.

On 2 September 2014 the Commonwealth Attorney-General announced the extension of the Royal Commission's reporting date to December 2017.

Private hearings

According to its interim report, by 31 May 2014 the Royal Commission had held 1,677 private sessions with survivors of abuse and received 1,632 written accounts. Over 160 allegations of abuse had been referred to the police.

An analysis of information collected from 1,476 private sessions held between 7 May 2013 and 30 April 2014 shows:

- abuse was reported to have taken place in 1,719 different institutions
- 60.1 per cent (1,033) of these institutions were faith-based organisations, and
- 68.1 per cent (703) of the faith-based institutions were Catholic.

Information obtained in private sessions also reveals:

- 90 per cent of perpetrators of abuse were male
- on average, female survivors were 9 years old and male survivors were 10 years old when the abuse started
- on average, it took survivors 22 years to disclose the abuse
- 28.8 per cent of survivors were abused by members of the clergy, Catholic and other, and
- 15.7 per cent were abused by teachers.

Public hearings

By 30 June 2014, 14 public hearings had been held in Sydney, Brisbane, Adelaide, Perth and Canberra. Seven of these involved the Catholic Church. Two case study reports, involving the Scouts and the YMCA, had been finalised and submitted to the Governor General and the state governors.

By 30 June 2014, 21 research projects had been completed, with more under way or in scoping phase.

Issues papers on topics including working with children checks, child safe organisations, *Towards Healing*, out of home care, civil litigation, redress schemes and statutory survivors of crime compensation schemes had been released for public response.

Since the Royal Commission's interim report

Since releasing its interim report, the Royal Commission has:

- released two final reports, one into the Anglican Diocese of Grafton's response to child sexual abuse at the North Coast Children's Home and the other into child sexual abuse at the Parramatta Training School for Girls and the Institution for Girls in Hay, and
- held a further seven public hearings.

As at December 2014, the Royal Commission has:

- heard more than 2,600 individuals tell their stories of abuse in private sessions, and
- held 21 public hearings — eight involving the Catholic Church.

Royal Commission public hearings involving the Church

Up to the end of 2014, eight of the 21 public hearings conducted by the Royal Commission have involved Catholic dioceses or religious orders.

The public hearings have for the most part lasted for around two weeks. Most have followed a similar pattern.

Survivors or survivor representatives are called first. They are given the opportunity to read their witness statement and then answer questions from Counsel Assisting the Royal Commission and barristers representing other parties about the abuse they suffered and the way the Church responded when the abuse was reported.

This is a time for survivors to be heard, with some telling their stories for the first time.

They may be questioned by legal representatives for the Council and Church organisations, but in most cases are not.

Following evidence from survivors, representatives from the Church organisations involved appear. So far, close to 70 witnesses from Catholic organisations have appeared before the Royal Commission. Most have been represented by the Council.

Some church witnesses have spent many hours in the witness box.

Church witnesses have usually also provided the Royal Commission with a written statement and this is tendered into evidence before they are examined by Counsel Assisting. They are often also questioned by the presiding commissioner and barristers representing the survivors. Barristers engaged by the Council and Church organisations may then re-examine if necessary.

The examination by Counsel Assisting of Church witnesses may explore issues including whether Church leaders had knowledge of the abuse and what response the Church organisation made to complaints about the abuse. Witnesses are generally taken through documents the Royal Commission has obtained under its powers to compel production.

The case study usually finishes with the Church organisation, typically represented by the current bishop or congregational leader, giving evidence.

Through the case study hearings, the Royal Commission is exploring the institutional learnings that might be taken from the fact of the abuse and the institutional response to it. This often involves the Royal Commission trying to get an understanding of the systemic or cultural issues that played a part in the abuse and considering the institutional changes that have taken place since the abuse.

The following describes the eight public hearings up to the end of 2014 involving the Church.

Towards Healing

Archdiocese of Brisbane, Diocese of Lismore and the Marist Brothers

Case Study 4, December 2013, Sydney

This public hearing explored the experiences of four Queensland residents who engaged with the *Towards Healing* process. *Towards Healing* is the Church's protocol for responding to complaints of abuse against Church personnel. It applies throughout Australia, with the exception of the Melbourne Archdiocese, which has its own protocol known as the *Melbourne Response*.

The public hearing examined the management under *Towards Healing* of complaints of child sexual abuse against Church personnel in the Archdiocese of Brisbane, the Diocese of Lismore and the Marist Brothers, between 1998 and 2012.

The Royal Commission heard four quite different stories which showed that people can experience *Towards Healing* differently, depending upon when they went through the process, the Church authority involved, and their expectations. The case studies also demonstrated the changes and differences in implementation of *Towards Healing* over time.

Church witnesses were examined about their implementation of *Towards Healing* in their respective roles, their recall of relevant events at the time and their communication with survivors.

The Archbishop of Brisbane, Mark Coleridge, the Bishop of Lismore, Geoffrey Jarrett, and the Provincial of the Marist Brothers, Brother Jeffrey Crowe, all gave evidence. Each apologised for the abuse survivors had suffered and for the way aspects of the respective cases were handled.

Diocese of Toowoomba, primary school

Case Study 6, February 2014, Brisbane

Case Study 6 examined the response by the Catholic Education Office (CEO), Diocese of Toowoomba, to child sexual abuse that occurred in a class room of a diocesan primary school.

The hearing examined the circumstances in which 44 child sexual assault offences were committed by a teacher, Gerard Byrnes. The offences were committed between January 2007 and November 2008 against 13 girls then aged between 8 and 10 years and occurred despite an earlier complaint being received about Byrnes' conduct.

At the time of the initial complaint, the CEO had policies and procedures in place to deal with allegations of abuse and regular staff training was provided. Those policies and procedures had been reviewed by the relevant state government agency. However, although they had undergone child protection training, the individuals made aware of the complaint did not deal with it in accordance with the policies.

The former bishop of Toowoomba, Bishop Bill Morris, gave evidence about his involvement with the case following Byrnes' arrest. Bishop Morris told the Royal Commission there had been a number of significant systemic failings which led to the failure to properly deal with the abuse following the initial complaint. These ranged from the failure to report suspected abuse to police to re-engaging Byrnes as a casual teacher after he had left his permanent teaching position.

In response to these failings Bishop Morris terminated the employment of the school principal and two CEO officers. Bishop Morris said the abuse by Byrnes had been the catalyst for major changes within the CEO that have led to significant improvements in diocesan child protection policies and procedures.

The Bishop also reached out to survivors' families to offer compensation and support.

Archdiocese of Sydney, John Ellis

Case Study 8, March 2014, Sydney

Mr John Ellis was sexually abused in the 1970s from the age of 13 by Father Aidan Duggan, a priest of the Archdiocese of Sydney.

This case study closely examined the response of the Sydney Archdiocese to the complaint made by Mr Ellis under *Towards Healing* and to the subsequent civil claim which he brought in relation to the abuse he had suffered.

Church witnesses from the Archdiocese, and others involved in the Church's dealings with Mr Ellis including the Professional Standards Office and legal advisors, gave evidence.

The Royal Commission considered their respective roles in the management of the *Towards Healing* process, the reparation negotiations, management of the litigation and defences taken during the proceedings and communications, both internally and with Mr Ellis.

Cardinal George Pell was questioned about the circumstances of the Ellis case and personally apologised to Mr Ellis saying the Archdiocese had failed in its moral and pastoral responsibilities to him.

At this hearing the Cardinal agreed with the Council's stated policy that in civil claims Church authorities should provide a legal entity that is capable of responding to proceedings.

When asked by Commissioner McClellan if the Archdiocese should go back and look at past payments under *Towards Healing* Cardinal Pell agreed.

Archdiocese of Adelaide, St Ann's Special School

Case Study 9, March 2014, Adelaide

This case study looked at the responses of the Archdiocese of Adelaide and the South Australian Police to allegations of child sexual abuse at St Ann's Special School.

The hearing examined the circumstances in which Brian Perkins was engaged as a bus driver for special needs students attending the school. In 2003 Perkins was convicted of abusing a number of children in his care between 1986 and 1991 and sentenced to 10 years' jail.

The hearing looked at the monitoring, supervision and oversight of Perkins' activities as an employee and volunteer and the response of the school principal and board to allegations of Perkins' abuse.

The Royal Commission heard about failures in communication at the school level, as well as failures by the South Australian Police, which ultimately enabled Perkins to flee to Queensland. He was not arrested and brought to trial until the Archdiocese encouraged the police to extradite him in 2002.

The disabilities of some of the students at the school meant they were not able to confirm whether they had been abused. In view of this the Archdiocese of Adelaide, under the leadership of Archbishop Philip Wilson, devised a group approach to redress based on an assessment of the risk of abuse of each student. The Archdiocese made ex gratia payments of \$2.3 million to the students and their families.

The Christian Brothers, WA orphanages and farm schools

Case Study 11, April 2014, Perth

The focus of this case study was on the experiences of boys who lived in residential institutions in Western Australia in the 1940s and 1950s run by the Christian Brothers.

The hearing examined the experiences of 11 men who were abused as children in Castledare Junior Orphanage, St Vincent's Orphanage Clontarf, St Mary's Agricultural School Tardun, and Bindoon Farm School.

It looked at the response of the Christian Brothers and of relevant Western Australian state authorities, including the police, to the abuse, the redress scheme established by the WA State Government and various services supported by the Christian Brothers to provide assistance to the men.

The hearing also considered a class action brought on behalf of the survivors, the approach taken by the plaintiffs' solicitors in attempting to deal with limitation of action problems and the way the Christian Brothers sought to defend and settle the action, through the establishment of an independent trust which determined the claims.

The Royal Commission also considered the Christian Brothers' approach to formation of young men entering the order and whether that may have contributed to the abuse that occurred, as well as changes in the approach to formation.

During the hearing the Deputy Provincial Leader of the Christian Brothers Province of Oceania, Brother Julian McDonald, gave undertakings to provide survivors with ongoing professional psychological counselling, for life if needed, and to re-examine any cases settled on unjust and unreasonably low terms.

The Marist Brothers

Case Study 13, June 2014, Canberra



This case study examined the way in which the Marist Brothers responded to child sexual abuse perpetrated by Brother John Chute, also known as Brother Kostka, and former brother, Gregory Sutton, from the early 1960s through to the late 1980s in schools in NSW, Qld and the ACT.

Chute had allegations of sexual abuse made against him by 48 different individuals. The allegations dated from as early as 1960. He was removed from teaching in November 1993. In January 2008 Chute was charged with 19 counts of child abuse against six former students in the ACT and, after pleading guilty, was sentenced to six years' imprisonment.

Sutton taught in Qld, the ACT and NSW from 1973 until he was removed from teaching in 1987. The Marist Brothers have received allegations against Sutton from 21 individuals. In 1996 he was extradited from the USA and was charged and convicted in NSW of 67 counts of sexual offences against 15 different children.

Former provincial Brother Alexis Turton was questioned over his role in the handling of allegations against both Chute and Sutton. Particular interest centred on the sending of Sutton to Canada for psychological treatment. Sutton was also called to give evidence about the sequence of events at that time.

The hearing also considered the steps taken by the Marist Brothers and Catholic Church Insurance Ltd to resolve claims for compensation brought against the Brothers in respect of the abuse by Sutton and Chute.

During the hearing the Provincial of the Marist Brothers, Brother Jeffrey Crowe, re-stated the commitment of the Brothers to deal compassionately and justly with all survivors of abuse. He said that the Brothers would review past settlements if asked to do so, to ensure they are fair, reasonable and compassionate.

Diocese of Wollongong, dismissing John Nestor from the priesthood

Case Study 14, June 2014, Sydney

This case study examined the relationship between the Bishop of Wollongong (and, in his absence, the Diocesan Administrator) and the Holy See (the Vatican) in matters concerning preventative and disciplinary action taken in response to allegations of child sexual abuse against Father John Gerard Nestor.

Nestor was convicted of offences, but acquitted on appeal. However, Bishop Philip Wilson and subsequently Bishop Peter Ingham held the view that he was not a suitable person to work in ministry with children.

The Royal Commission heard about the lengthy canonical processes involving the Vatican in the steps taken by Bishops Wilson and Ingham to have Nestor removed from ministry and dismissed from the priesthood.

Both bishops told the Royal Commission they would have offered to resign as bishops if Nestor had not ultimately been dismissed.

The Melbourne Response

Case Study 16, August 2014, Melbourne

The hearing examined the principles, practices and procedures of the *Melbourne Response*.

The *Melbourne Response* was put in place by the Archdiocese of Melbourne in 1996 to respond to allegations from people who were sexually abused by priests, religious and lay people under the control of the Archbishop of Melbourne.

The hearing heard evidence from three people who engaged with the *Melbourne Response*: Mrs Christine Foster, Mr Paul Hersbach, and another survivor known as AFA.

The case study explored the key features of the *Melbourne Response* including:

- the activities of the independent commissioners engaged to investigate allegations of sexual abuse and determine whether the abuse occurred
- a counselling and professional support service, known as Carelink, and
- a compensation panel charged with making recommendations as to the ex gratia compensation payments the Archdiocese should make to survivors.

These elements are funded by the Archdiocese but operate independently of the Archdiocese.

This hearing provided the Royal Commission with an opportunity to inquire into the structure, processes and operation of the *Melbourne Response* in the context of its broader consideration of redress schemes.

At the hearing, Archbishop Hart announced the engagement of retired Federal Court Judge, the Hon Donnell Ryan QC, to review aspects of the *Melbourne Response*, including the cap on payments, which is currently set at \$75,000.



Case Study 16 hearing

Emerging issues

Over the past two years the Council has been involved in the Royal Commission process and has heard from many people, including survivors and victims groups, Catholic organisations, priests, religious, lay Catholics and the broader community.

In the course of this involvement a number of issues have emerged about child sexual abuse within Church institutions and how Church leaders responded. Some of the issues are listed below.

Treatment of survivors

- Many survivors were not believed when they came to the Church to report sexual abuse.
- Some Church leaders concealed or covered up what they knew of the facts and moved perpetrators.
- Abuse was often not reported to the police.
- Often the reputation of the Church was given priority over protecting children and their families.
- Sometimes the Church's redress arrangements served to re-traumatise survivors.
- Use of legal defences such as limitation periods and the lack of a proper defendant often stands in the way of delivering a fair, just and compassionate outcome for survivors.

Access to justice

- Legal advice and the way in which a Church authority defends a civil claim should always be assessed through the lens of moral responsibility, Christian principles and values.
- The starting position should be to believe the survivor and work to assist in establishing the allegation rather than trying to defeat it. Where the Church authority has access to information that supports a survivor's case, the information should be made available.
- A Church authority which is the defendant in a civil claim should always identify to the plaintiff the appropriate entity to sue. This entity must be backed by assets or insurance and be able to satisfy an adverse judgement.
- Access of survivors to justice should not be impeded by the way correspondence with them is framed or by the physical arrangements in place for hearing their story.
- From the outset, every opportunity should be taken to seek to mediate the dispute. Where mediation is used, having the senior representative of the Church authority present is valuable.
- When implemented and communicated properly, group redress schemes have the potential to be an effective means of providing redress to survivors. However redress needs to be transparent and determined independently from the Church.
- The development of legal services guidelines and/or standards to provide basic principles by which lawyers who act for the Church must abide could assist both survivors and Church authorities.

Pastoral issues

- Survivors are often at their most vulnerable when they first disclose the abuse they have suffered, often feeling shame, guilt, embarrassment, self-blame and self-doubt.
- There are many barriers a survivor can face when considering reporting abuse including not being believed and concern for others particularly family members. Survivors need to be believed and encouraged to come forward.
- In many cases the abuse suffered by survivors can have a life-long impact on all areas of their lives.
- Survivors need support over a long period of time, possibly for the rest of their lives. For some survivors, being approached personally is important.
- Support for survivors needs to be flexible and able to change over time as their needs change.
- The involvement of survivors in the design and type of support structures and redress is important.
- Child sexual abuse often has a direct impact on others apart from the primary victim. This needs to be considered as part of a pastoral response.
- A valuable component of any redress scheme is the emphasis on, and entitlement to counselling which should be available for as long as necessary and not limited to primary survivors.
- Pastoral support for survivors needs to take into consideration physical and mental health, education and career prospects, ability to form relationships and their faith.
- The impact of similar types of abuse can have different effects on different people.

The operation and independence of Church redress arrangements

The Church redress schemes, *Towards Healing* and the *Melbourne Response* were among the first Catholic Church redress schemes in the world. While they have been of value for many survivors, for others they have been unsatisfactory and in some cases have added to the trauma suffered by survivors. A number of issues have been raised about both schemes.

- Survivors of abuse express concern that these redress schemes are not fully independent of the Church and the Church authorities which ultimately provide the financial and or pastoral assistance to survivors.
- There is concern held by survivors, many Catholics and the broader community that levels of financial compensation and pastoral assistance offered under both schemes are not adequate.
- There have also been concerns expressed that those working within the Church redress schemes are not appropriately trained and skilled in assisting and building relationships with survivors of abuse.
- In several hearings the Royal Commission has heard that the administration of *Towards Healing* is inconsistent across different dioceses and congregations and that survivors can receive different redress outcomes depending on where the abuse occurred and which Church organisation ultimately determines the amount of redress offered.
- During the Melbourne hearing it was said that the *Melbourne Response* is too legalistic, and some in the community consider that the way apologies are given is indicative of a broader indifference to survivors.
- There appears to be a general lack of information, and broad misunderstanding, about how payments are reached and about the use of deeds of release in Church redress schemes.
- The broader Catholic community is largely unaware of the redress processes the Church has had in place since 1996. As a result, the extent to which local Church communities are able to become involved, to reach out and offer support to survivors through the processes, is limited.
- There is broad support for an independent, government-authorised redress framework in which survivors' compensation is determined independently of the institution responsible for the abuse but paid for by that institution.

Culture and clericalism

Throughout the public hearings and as the Council has engaged with stakeholders, many issues have been raised about the Church's culture and the way in which it may have played a part in contributing to child sexual abuse within the Church.

There has also been much discussion about the impact of 'clericalism', which can be understood as referring to approaches or practices involving ordained ministry geared to power over others, not service to others. Clericalism has been seen as a contributing factor to the way in which the Church has responded to abuse claims and engaged with survivors. It may be seen as having played a part in the following:

- historically Church leaders seemed to have responded virtually identically to complaints of child sexual abuse
- Church institutions and their leaders, over many decades, seemed to turn a blind eye, either instinctively or deliberately, to the abuse happening within their diocese or religious order, protecting the institution rather than caring for the child
- historically, parents were reluctant to believe their children and did not confront Church leaders about allegations of abuse
- obedience and closed environments also seem to have had a role in the prevalence of abuse within some religious orders and dioceses
- another contributor may have been the way in which candidates for the priesthood or religious life were accepted for entry, and
- obligatory celibacy may also have contributed to abuse in some circumstances.

Compliance and consistency

- Within Church organisations issues associated with compliance with child protection protocols, training and implementation can vary markedly from school to school, diocese to diocese.
- Child protection policy and procedure manuals should be clear, simple, short, up to date and easy to follow. Subject to any legislative constraints, discretion to report should be minimised.
- Assessors, contact people and those involved in the *Towards Healing* process all need to be appropriately trained in dealing with survivors of abuse.
- There should be consistency between Catholic education offices in relation to staff employment procedures.
- Consideration should be given to the way in which Catholic education offices communicate with each other about staff involved in allegations of abuse, including those who have failed to deal with complaints appropriately.
- Professional standards offices need to have good file management and review processes to ensure that each *Towards Healing* claim is progressed effectively.
- Information about allegations should be provided to relevant stakeholders such as parents or parishioners as is appropriate to the circumstances.
- Incoming directors, school principals and newly appointed provincials, bishops and religious leaders need to be provided with a complete handover and training that covers professional standards issues to ensure they are aware of all relevant information and any past issues and are up to date with the applicable policies and procedures.
- Effective national working with children checks are needed for all workers engaged in child-related employment, including temporary staff and volunteers. The understood definition of what is 'child-related employment' should be broad.
- There is broad support for an independent lay Church authority to be established to have an oversight role in ensuring child protection policies in Church organisations are enforced and levels of compliance reported.
- Ongoing training and development, including psycho-sexual development, is necessary for priests and religious.

The need for transparency

- Survivors feel they should be consulted and have a say in the appointment of key people associated with their *Towards Healing* process.
- The role of lawyers and insurers in the *Towards Healing* process should be explained more clearly to survivors.
- There needs to be greater clarity around the role of the Vatican and its involvement with the way in which Church authorities in Australia responded to abuse allegations.
- There needs to be a proper understanding of the relationship between criminal law and canon law.
- There is a need for a national data base of complaints to aid consistency of approaches and decision making and to provide transparency about the scope and extent of child sexual abuse.
- Consideration should be given to collecting feedback from survivors regarding their experience with *Towards Healing*, to inform any future changes to the process.
- Greater effort needs to be made, including public reporting, to allow Catholics and the broader community to understand how Church institutions are ensuring schools, parishes and other Church organisations are safe for children.

Accountability

- Children have been abused in many of the different types of institutions that make up the Catholic Church in Australia.
- Child safety and protection must be embedded in the culture of the Church. Protocols and procedures must be driven and reinforced by Church leaders.
- Church leaders across Australia have now recognised and acknowledged that sexual abuse of a child by a priest or religious is a crime under Australian law and under canon law. This was not always understood by some Church leaders.
- Many survivors want a face-to-face apology from a senior Church leader. This is of great importance and a significant part of the healing process for some survivors.
- In litigious matters, the Church organisation needs to take responsibility for decisions about the defence of a claim. It is not sufficient to hand decision making over to lawyers, or to uncritically accept all advice given by lawyers.
- There is a lack of understanding about the Church's approach to the dismissal of priests and others within the Church who have been convicted of a child sexual abuse offence. This includes concerns about people found guilty of abuse remaining in the priesthood or religious order and seemingly being supported by the Church.
- There is a lack of relevant professional development for priests and other religious including ongoing assessment, accreditation and oversight.

The need for clear and open lines of communication

- While *Towards Healing* is intended to be flexible, there needs to be clarity for survivors about the protocols and procedures to be followed. Communication with survivors about the progress of their claim also needs to be optimal.
- There should be improved communications between the bishop and parishioners if their parish priest becomes subject to a child sexual abuse complaint.
- Catholics generally have little or no understanding of the work the Church has done over the past two decades in trying to address the crisis of child sexual abuse. Parishioners want to be able to talk about the issues and understand what improvements and reforms have been and are being made.
- Communication between people working on the ground and those in administrative and governance roles needs to be optimal.

Royal Commission issues papers and Council submissions

The Royal Commission has released seven issues papers so far on topics of interest to its work and recommendations, to allow organisations and individuals an opportunity to provide their opinions and expertise in an open forum.

The Council has made submissions to all the issues papers after wide consultation with relevant people and bodies within the Catholic community.

The Council is among just a handful of institutions to have made submissions on all issues papers.

Issues Paper No 1: Working With Children Checks

In June 2013 the Royal Commission called for submissions to its first issues paper on Working with Children Checks (WWCC).

All states and territories have systems which, in general terms, provide some level of pre-employment screening for adults working with children.

In most states, individuals need to apply for a WWCC which might include a police check, criminal history check, relevant employment proceedings, and findings from professional disciplinary bodies.

Council response

The key recommendation from the Council's WWCC submission was that governments around Australia take a national approach overseen by a regulatory body which would:

- provide greater transparency and consistency across jurisdictions
- help close loopholes that currently pose a threat to the safety of children
- enable the sharing of intelligence across jurisdictions
- ensure continuous monitoring of relevant records across jurisdictions
- provide greater 'portability' for workers, enabling them to travel from state to state, and
- limit the burdensome red tape that currently exists for workers travelling across states and territories.

Consultation

In the preparation of the submission the Council consulted with a range of stakeholders, including:

- dioceses and religious orders
- Catholic education, schools and parent bodies
- Catholic social services
- Catholic employment relations, and
- professional standards offices.

Issues Paper No 2: *Towards Healing*

In July 2013 the Royal Commission released its second issues paper.

Towards Healing: Principles and Procedures in Responding to Complaints of Sexual Abuse against Personnel of the Catholic Church in Australia (Towards Healing) was adopted by the Australian Catholic Bishops Conference and Catholic Religious Australia in 1996.

It is used by all Catholic dioceses and religious orders in Australia apart from the Melbourne Archdiocese, which has adopted the *Melbourne Response*, to respond to survivors of child sexual abuse within Church institutions.

Towards Healing was revised in 2000, 2003 and 2010. The first and last revisions followed internal reviews.

The Royal Commission said it was particularly interested in:

- the experience of survivors who have engaged in the *Towards Healing* process
- the principles and procedures of *Towards Healing* as instructions for Catholic Church authorities dealing with complaints and redress regarding survivors of child sexual abuse, and
- the principles and procedures of *Towards Healing* relating to the accused and particularly the responses and outcomes available.

Council response

In the Council's submission to the Royal Commission it was recommended that:

- an independent compensation commissioner be appointed to determine payments within *Towards Healing*, which would separate the pastoral responses in *Towards Healing* from the determination of financial payments
- lay and independent experts be appointed to strengthen the Church's National Committee for Professional Standards
- an independent national board be introduced to develop and administer national child protection standards
- the board would monitor adherence to these standards and publicly report on compliance
- the board would also provide more rigorous assessment, monitoring, auditing and enforcement of *Towards Healing* practices, and
- greater transparency be introduced through public reporting by both the new national board and the *Towards Healing* process.

Consultation

In the preparation of the submission, the Council consulted with a range of stakeholders, including:

- all religious orders and their affiliated services through Catholic Religious Australia
- all dioceses and archdioceses and their affiliated services through the Australian Catholic Bishops Conference, and
- professional standards offices.

Issues Paper No 3: Child Safe Institutions

In August 2013 the Royal Commission released its Child Safe Institutions issues paper and called for submissions on how child safe policies and practices could be implemented or developed to reduce potential risks and keep children safer in institutions.

It described examples of child safe policies and practices as including codes of conduct, complaints handling procedures, and the recruitment, education, training and supervision of staff, including volunteers.

Council response

Recommendations from the Council's submission included:

- a national mandatory accreditation and data collection system for all institutions working with children
- a national mandatory accreditation scheme overseen by a national body with responsibility for auditing organisations against child safe standards and practices
- a protective, child-centred, organisational culture
- governance and leadership informed by an understanding of the developmental needs of children
- a risk management process that identifies and develops responses to high risk issues
- implementation of a child protection policy
- human resource practices that promote the recruitment of suitable people to work with children, invest in their development, and monitor their performance
- effective investigation processes and external monitoring, and
- empowerment of children and victim support programs.

Consultation

In the preparation of the submission, the Council consulted with a range of stakeholders, including:

- Catholic social services
- Catholic education
- Catholic employment relations
- professional standards offices, and
- bishops and leaders of religious orders.



Working with Children Check Round Table

Issues Paper No 4: Preventing Sexual Abuse of Children in Out-of-Home Care

In September 2013 the Royal Commission called for submissions on preventing sexual abuse of children in Out-of-Home Care (OOHC).

All states and territories have a system where children can be cared for outside of their family home. This is generally as a result of Children's Court orders where responsibility for the child is transferred to the state. Sometimes parents voluntarily arrange for OOHC.

OOHC can include foster care, relative or kinship care, family group homes, residential care and independent living arrangements.

Council response

In its submission the Council noted there is a need for:

- development of a best practice approach to the implementation of the National Standards for Out of Home Care which monitors performance and ensures the appropriate qualification of carers and a safe environment for children
- consideration of the individual needs of children in out of home care
- engagement in active planning for safe care within OOHC systems
- implementation of rigorous independent monitoring and oversight of investigations into abuse allegations as they arise, and
- regulation and monitoring by governments and independent agencies.



Out of Home Care Round Table

To that end the Council recommended that a best practice approach to the prevention of sexual abuse in OOHC should feature the following:

- ensuring all providers are child safe organisations
- placement-matching based on purpose of care and the assessed behavioural support needs of the child
- a 'continuum of care' approach to OOHC service provision (whereby a range of placement types across both foster care and residential care are able to be provided for a child as his/her care needs change over time)
- recognition of particular needs in relation to specific groups of children (for example Aboriginal and Torres Strait Islander children, children from culturally and linguistically diverse backgrounds, and children in kinship care)
- case management and decision making for OOHC plans which occurs as closely as possible to the child
- regular reviews of child-related plans, with the full participation of the child
- strong, independent regulatory, accreditation and licensing systems for OOHC providers
- rigorous recruitment, assessment and initial and ongoing training of prospective and current paid and volunteer OOHC carers, in addition to working with children checks
- realistic worker caseloads which allow for regular frequent visits to children in care, and the development of a trusting worker-child relationship
- clear reporting requirements and independent oversight of investigations into allegations of all forms of abuse (including sexual abuse) of children in OOHC
- comprehensive processes for the selection of appropriately qualified, skilled and experienced staff
- induction arrangements for new staff
- regular training of caseworkers and carers in policies and procedures and arrangements to ensure these are understood by staff
- supervision of case workers and carers, and
- regular review of policies and updating and training of staff on changes to policies, processes and practices.

Consultation

In the preparation of the submission, the Council consulted with a range of stakeholders, including:

- dioceses and religious orders
- Catholic social services
- Catholic education
- Catholic health
- professional standards offices, and
- Catholic employment relations.

Issues Paper No 5: Civil Litigation

In December 2013 the Royal Commission called for submissions on how effective civil litigation systems throughout Australia are in resolving claims for damages for child sexual abuse.

Across Australia there are broadly similar civil litigation systems which allow a person who claims to have been wrongfully harmed to seek damages from the individual or institution.

The Royal Commission asked for submissions on possible reforms to improve the effectiveness of the civil litigation systems particularly in claims of child sexual abuse.

Council response

In its submission the Council recognised and endorsed the need for law reform around a number of issues related to access to justice and in particular, obstacles that exist for survivors of abuse who may seek to bring civil claims against the Church.

Entity to sue

The Church in Australia is not a discrete legal entity and it can sometimes be difficult for a survivor to identify a responsible party against which to bring proceedings.

In its submission the Council suggested legislation should be introduced imposing a requirement on all unincorporated associations which appoint or supervise people working with children to establish an incorporated entity able to be sued on behalf of the institution.

The legislation would require the institution to ensure the entity is sufficiently insured or indemnified from the assets of the institution to meet any civil claims that may be made against it relating to the abuse of a child.

Limitation periods

In relation to the issue of statutes of limitation operating in many circumstances to bar civil child sexual abuse claims the Council recommended that governments in Australia establish limitation periods of 25 years running from the age on which the victim reached his or her majority, with the victim being entitled to apply to have the period extended.

Liability

Another significant public issue is the liability Church leaders have when a priest or a member of a religious congregation abuses a child.

To date the general position within the Church has been that the current law in Australia relating to vicarious liability should be a matter for the courts.

That law holds that the abuse of a child by a priest or religious is a criminal act for which the perpetrator is responsible and that, absent any dereliction of duty or negligence by the perpetrator's bishop or congregational leader, the Church organisation concerned is not legally liable. This is also the position in relation to liability for abuse perpetrated by individuals working in government and other institutions.

This position was upheld by the High Court most recently in 2003. But the law in Canada and the United Kingdom in this area has been changing.

While the Council made no recommendation on this matter in its submission, the Council notes that, in its round table discussions, the Royal Commission has been considering whether the law should be reformed to impose a new duty on institutions which work with children. It is possible that reform recommendations on this issue will emerge out of the Royal Commission's deliberations which the Council could support.

Suitability of civil litigation as an avenue of redress

In its submission the Council made it clear that, while civil litigation must always be an option for survivors of abuse, it is inevitably difficult, time consuming, expensive and uncertain and is often not the best way for victims to achieve healing.

It is the view of the Council that a national, independent redress scheme, funded by institutions responsible for the abuse, will provide a faster, fairer and more compassionate way for survivors to achieve justice.

Consultation

In the preparation of the submission, the Council consulted with a range of stakeholders, including:

- members of Catholic Religious Australia and their delegates, and
- members of the Australian Catholic Bishops Conference and their delegates.

Issues Paper No 6: Redress Schemes

In April 2014 the Royal Commission released its sixth issues paper on redress schemes.

The Royal Commission is looking into what institutions and governments should do to address, or alleviate the impact of past and future child sexual abuse in institutional contexts, including in ensuring justice for survivors through the provision of redress by institutions. 'Redress' means remedy or compensation, and it can include financial compensation, provision of services, recognition and apologies and the like.

The Royal Commission is considering the effectiveness of redress schemes or processes established by governments or institutions to offer compensation and/or services to those who suffer child sexual abuse in institutional contexts. It is expected that the Royal Commission will deliver a report to government on redress by mid-2015.

Council response

In its submission the Council proposed a national redress scheme, run by an independent body but funded by institutions against which claims of abuse had been upheld.

Under the scheme proposed by the Council:

- there should be no time limit for bringing a claim
- financial redress should take into account past out-of-pocket medical expenses, non-economic loss (eg pain and suffering) and the cost of counselling services
- financial redress should be capped with the cap determined in line with community standards
- the cap should be indexed
- any claimant, having rejected a redress offer made through the scheme, should have the option of instigating civil proceedings
- the ongoing administration of the scheme should be funded by the institutions against which claims are upheld
- a levy on public liability insurance for institutions that have contact with children should be established to cover payments on behalf of institutions that no longer exist, and
- limited free legal advice should be available – alternatively, claimants should be able to retain lawyers, with costs calculated on a prescribed fee scale.

In a speech in October 2014 Justice McClellan outlined what the Royal Commission considers to be the three key elements of a redress scheme, designed to ensure justice for abuse survivors including an opportunity to receive a meaningful apology, counselling or psychiatric care for as long as needed and a lump sum payment.

The Council fully supports this approach which is consistent with the redress scheme outlined in our submission to the Royal Commission.

Significantly, the Council's submission also made a recommendation which goes to one of the major problems Justice McClellan identified in his speech: where do victims go to get justice when the institution responsible for their abuse no longer exists?

As part of the Council's redress scheme proposal a small levy on insurance coverage for all institutions that currently have responsibility for children could build, fairly quickly, a fund that could provide support for people abused in institutions that have closed, leaving no one and no assets to cover redress payments.

This approach would spread the load and would sharply focus the attention of all institutions that care for children on the need for rigorous child protection policies and practices.

Pastoral care for survivors of child sexual abuse within the Church has always been an integral part of the Church's two current redress schemes, *Towards Healing* and the *Melbourne Response*. The Council's submission recommends that pastoral care should continue to be offered by institutions, alongside payment of redress under the scheme.

At a minimum, pastoral care offerings should include:

- the opportunity for a survivor to receive a meaningful apology from the senior leader of the diocese or religious order in which the abuse occurred
- the opportunity, if requested and possible, to confront the person responsible for the abuse directly
- an individually developed pastoral care package designed with the direct input of the survivor, and
- an explanation as to the steps taken by the institution to protect against the occurrence of further abuse.

Consultation

In the preparation of the submission, the Council consulted with a range of stakeholders, including:

- the Australian Catholic Bishops Conference
- Catholic Religious Australia, and
- representatives from Catholic education, social services, employment relations, and professional standards.

Issues Paper No 7: Statutory Victims of Crime Compensation Schemes

In May 2014 the Royal Commission released an issues paper on statutory victims of crime compensation schemes and their effectiveness for those who experience child sexual abuse while in the care of an institution.

The paper forms part of a series of projects in relation to the scope of justice for victims.

All states and territories have schemes that allow victims of crime to apply for compensation, counselling and other services from a dedicated pool of funds.

The schemes can differ greatly between states and territories, such as time frames for victims to apply for compensation, the payments and services that victims receive and the level of supportive evidence victims require to apply for compensation.

The Royal Commission is required under its terms of reference to consider the role of compensation in addressing and alleviating the impact of child sexual abuse.

Council response

The Council said adult survivors of child sexual abuse would be better off under a national redress scheme than existing arrangements for redress through state-based statutory victims of crime compensation schemes.

The Council's submission outlined disadvantages of statutory victims of crime compensation schemes but said there may still be a limited role for a statutory victims of crime compensation scheme (SVOCC), however the following aspects would need to be considered:

- consistency, or harmonisation, in order to ensure similar outcomes for victims of child sexual abuse nationally
- the establishment of simplified and accessible application processes that are flexible and accommodate the special needs of applicants, including making interpreters available and having staff who are cross-culturally trained and trained to cater for special needs
- preparation of information about the SVOCC process which is made readily available in easily understandable formats
- compliance with principles of natural justice
- consistent standards of proof
- timeliness in decision making, including the establishment of clear response times and communication of those response times
- amounts of financial compensation that reflect the long-term impact of child sexual abuse, with caps on that compensation determined by reference to community standards
- power to order that financial awards be paid by the institution responsible for the child sexual abuse
- capacity for awards to include non-monetary redress such as an apology
- the provision of ongoing counselling and medical services
- no limitation periods
- any scheme for victims should be independent, generous and designed and developed in consultation with victims, and
- it should represent best practice in terms of process and outcomes for victims of child sexual abuse.

Consultation

In the preparation of the submission, the Council consulted with a range of stakeholders, including:

- members of the Australian Catholic Bishops Conference and their delegates
- members of Catholic Religious Australia and their delegates, and
- representatives from Catholic social services and professional standards.

Council engagement with the Royal Commission

The Council has a small in-house legal team which coordinates the Council's legal and policy response to the Royal Commission.

Upon the Council's establishment it was recognised that external legal assistance would also be required to handle the document production and legal representation requirements of the most extensive Royal Commission in Australia's history and one that would be strongly focused on institutions of the Church. Accordingly, following a competitive tender process, the Council appointed Gilbert and Tobin as its external legal advisers.

Counsel (barristers) also needed to be engaged to appear before the Royal Commission for the Council and the Church organisations it represented. Given the likelihood that the Royal Commission's structure would enable it to conduct overlapping hearings involving different organisations of the Church, the Council considered it necessary that two Senior Counsel be engaged. Jane Needham SC and Peter Gray SC, both of the Sydney Bar, were engaged. They are assisted as necessary by junior counsel.

These external legal representatives work with the Council in taking a cooperative and responsive approach to the Church's engagement with the Royal Commission. The Council has instructed its lawyers to treat survivors with respect and consideration.

The work of the legal team has the following main components.

Legal research and production of legal issues papers, discussion papers and other advice for the Council and CEO of the Council

This work is done almost exclusively by the in-house team.

Preparing submissions in response to issues papers issued by the Royal Commission

While this work is mainly done by the in-house team, on occasion the Council has been assisted by subject matter experts from various Church organisations who have undertaken the role of principal author for particular issues papers. Larger submissions, eg, the submission on *Towards Healing*, have also required major input from Gilbert and Tobin and counsel.

Producing documents in response to summonses and notices to produce documents issued by the Royal Commission

More than 160,000 documents have been produced to the Royal Commission by Church organisations in response to notices issued by the Royal Commission. This is both very intensive and very extensive legal work, involving, amongst other things, discussions and negotiations with the Royal Commission, assembly and scanning of documents, assessing documents for relevance to the terms of the notice, indexing documents and entering them into a document management system that is compatible with the Royal Commission's system. The work has to be done within strict time limits imposed by the Royal Commission. Most of the work is done within Gilbert and Tobin, using paralegals and junior lawyers to the greatest extent possible.

Briefing counsel and preparing witness statements for case studies involving Church organisations

More than one third of the Royal Commission's public hearings to date have directly involved Church organisations. For each of the hearings the Royal Commission has called for witness statements from a long list of Church personnel. The preparation of witness statements has largely been completed by Gilbert and Tobin and counsel, with input from the in-house team. When witnesses are subsequently summoned to appear, members of the legal team work with them to prepare them for the hearing.

Preparing written accounts requested by the Royal Commission of particular events or circumstances

Preparation of these accounts has required review of diocesan or religious order documents and interviews with Church officials. The work has generally involved input, to varying degrees, from the in-house team, Gilbert and Tobin and senior counsel.

Appearing at hearings

One or other of our senior counsel leads the legal team at hearings. The team must be familiar with the tender bundle of relevant documents which the Royal Commission prepares and with other documents relevant to the evidence to be given at the hearing. IT and logistical support must also be provided to the legal team and Church witnesses.

Preparing written submissions in response to written submissions of Counsel Assisting the Royal Commission

At the conclusion of oral evidence the Royal Commission sets a timetable for the provision of written submissions on the evidence adduced at the hearing. The written submissions of Counsel Assisting can sometimes run to more than 100 pages and our submissions in reply are normally of similar length. Junior counsel generally prepares the first draft and this is subsequently developed in consultation with the whole legal team and relevant witnesses. Senior counsel settles our submissions.

Findings

The Council anticipates the Royal Commission will release findings in relation to case studies involving Church organisations in due course.

Stakeholder engagement

Over the past two years the Council has developed an extensive stakeholder engagement program designed to ensure that information about the Council and Royal Commission's work is available to anyone interested.

This engagement is particularly important in ensuring the Catholic community is aware of developments within the Church and is a part of the reform process.

Material is provided to a wide range of individuals and organisations through the Council's contact lists and distribution networks.

An important part of the stakeholder engagement program is direct contact with different parts of the Catholic community.

Council CEO, Francis Sullivan and representatives from the Council have been invited to address conferences, meetings and briefings with a range of stakeholders around Australia including:

- survivors and survivor support groups including Bravehearts, CLAN, Adults Surviving Child Abuse, Childwise, In Good Faith Foundation, Micah, and knowmore
- Catholic dioceses and archdioceses Australia-wide
- national meetings of Catholic Religious Australia and the Australian Catholic Bishops Conference
- parishes in ACT, NSW, Qld, Vic, SA, Tas and WA
- meetings with priests and clergy, including the National Conference of Directors of Clergy
- Catholic education, including the National Catholic Education Commission, Catholic education offices nationally, state-based gatherings of school principals, meetings with individual schools, and school parent groups including the national body of Catholic school parents, Catholic School Parents Australia
- Catholic social services, including Catholic Social Services Australia, Catholic Social Services Victoria and individual providers nationally
- Catholic professional standards offices including national and state-based consultations
- Catholic Health Australia
- other churches, including the Uniting, Anglican, Coptic Orthodox and Baptist churches, the Lutherans, and The Salvation Army
- Catholic media, including editors of diocesan publications, and material published by various religious orders, including Eureka Street.
- CathNews, a national daily online publication
- Australasian Catholic Press Association
- Australian defence forces
- Royal Commission staff, including regular meetings with the Chair, and
- politicians, including the offices of state and federal attorneys-general.

Communications and media

The Council is responsible for all communications from the Church about the Royal Commission. It has been charged with being the public voice of the Church in relation to the Royal Commission and related issues.

As a result the Council took an early decision to work as hard as possible to be a voice in as much of the media coverage about the Church and the Royal Commission as possible.

This has resulted in the Council putting in place an extensive range of communication channels to provide the Catholic community and others with information about its activities and the operations of the Royal Commission.

The Council has also been available and responsive to incoming media requests.

Our media and communication material is often reproduced through Church media outlets and within parish, diocesan and congregational communication channels.

Media appearances

Since the beginning of 2013 the Council's CEO Francis Sullivan has appeared in the media across radio, TV, print and online outlets including:

- regular appearances on ABC radio and TV programs: AM, PM, Lateline, The Religion Report, Sunday Nights and News 24
- print coverage of the Royal Commission in metropolitan and regional Fairfax and News Limited outlets, where he has been quoted regularly
- online outlets such as *The Conversation* and *The Guardian*
- regular quotes in AAP stories which are reprinted in many regional newspapers
- appearances on commercial television and radio news bulletins and breakfast shows
- feature articles written for the *Daily Telegraph*, *The West Australian*, *The Australian*, the ABC's Religion and Ethics website
- Four Corners program on the *Melbourne Response*, and
- appearances in international programs including the BBC's Religion Report and the BBC's Panorama program.

Digital assets

The Council's website, www.tjhcouncil.org.au, provides a range of information and materials dealing with the Royal Commission and the response from the Church including:

- information about the activities of both the Council and the Royal Commission
- comprehensive coverage of the public hearings involving the Church including daily updates, transcripts and witness statements
- links to support services for survivors both within the Church and independent of the Church
- media coverage of the Royal Commission and the Council
- archives of the Council's newsletters and media statements
- statements and other communications from Church leaders and the Catholic community dealing with child sexual abuse

- community resources available to the Catholic community and others to help understand and engage with the issues around child sexual abuse, and
- videos, produced by the Council, ranging across a general introduction to the Council and the Royal Commission, information on specific public hearings, speeches and public policy issues.

The Council also has facebook and Twitter accounts which enable it to reach a diverse audience. It also enables the Council to engage in real time with the media and key stakeholders.

e-Newsletter

The Council has produced more than 60 issues of the e-Newsletter over the past 18 months which have been distributed each week to some 4,000 subscribers including media and government representatives, bishops, priests, religious and other church personnel, survivors of abuse, Catholics and other key stakeholders.

The newsletter includes a weekly rundown of the activities of the Council, the blog from CEO Francis Sullivan, relevant media coverage both locally and internationally and information from the Royal Commission including upcoming hearings, round tables and notices.

The newsletters are stored on the Council's website and are an important record of the Council's engagement with the Royal Commission and the Catholic and broader community.

Public speeches

Since early 2013 Francis Sullivan has delivered several keynote speeches ranging across the activities of the Council, the response of the Church leadership to the Royal Commission, the challenges facing the Church and the way forward.

The speeches include addresses to:

- the St Thomas More Forum in Canberra
- a public meeting in Ballarat's St Patrick's Cathedral Hall
- the 2013 and 2014 National Conference of Catholic Religious Australia
- the national plenary meeting of the Australian Catholic Bishops Conference, and
- the Assembly of Catholic Professionals in Brisbane.

These speeches are in addition to around 60 parish and stakeholder visits Francis Sullivan has made since the beginning of 2013.

Royal Commission into Institutional Responses to Child Sexual Abuse

Hotline: 1800 099 340

www.childabuseroyalcommission.gov.au

Support

If you or someone you know was sexually abused as a child by a priest, religious or other Church personnel please contact the local police or the Royal Commission or you can contact *Towards Healing* in your state by calling:

1300 369 977	New South Wales/Australian Capital Territory
0418 736 890	Northern Territory
1800 337 928 / (07) 3336 9474	Queensland
1800 139 020	South Australia
1800 356 613 / (03) 6108 6222	Tasmania
1800 816 030	Victoria
1800 072 390	Western Australia

or you can contact the *Melbourne Response* on (03) 9225 7979



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