

MEDIA RELEASE

Senior Church leaders commit to no Ellis Defence



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The Archbishop of Sydney and one of Australia's most senior Church Leaders, Anthony Fisher, has said the Ellis defence is no longer a legal tactic used within his Archdiocese.

Speaking on ABC's Radio National this morning Archbishop Fisher said both within the Archdiocese of Sydney and more broadly across the Church the position is that in cases of child sex abuse survivors there will always be someone or thing to sue which will be backed by assets and or insurance.

Archbishop Fisher said he is unaware of any case of child sexual abuse against a church body in which the Ellis defence is being used.

"We have been very clear that what we do for victims is, as far as possible, don't put them through a legal process at all and help them settle outside of Court.

"If they want their day in Court then we will help them identify who is the person to sue and make sure that is backed by insurance or assets."

Francis Sullivan, CEO of the Truth Justice and Healing Council, said the comments by Archbishop Fisher are the strongest yet coming from a Church leader about the controversial legal defence.

"This very public endorsement of the new position, developed by the Council and endorsed by Church leaders last year, sends a clear message that it is not business as usual," Mr Sullivan said.

"If a survivor wants to take a claim to Court then at the very least they must have an entity to sue.

"This position has now been fully endorsed by the three major Archdioceses in Australia, Sydney Melbourne and Brisbane and by the Christian Brothers, the Marist Brothers and De La Salle Brothers.

I would now be very surprised if any Diocese or religious order approached to comment on this position now had a different view," Mr Sullivan said.

The Church position in relation to the identification of a proper defendant in civil claims calls for:

The enactment of legislation in the states and territories imposing a requirement on an unincorporated association which appoints or supervises people working with children to establish or to nominate a body corporate to be the proper defendant to any claims of child sexual abuse brought against the association.

The identity and corporate structure of the body corporate should be left to the institutions to determine in accordance with their internal structures, provided that the body corporate has sufficient assets or is appropriately insured or indemnified.

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The legislation should apply equally to all institutions and not interfere with the right of religious institutions to arrange their affairs according to their norms or beliefs but instead should simply provide that there be an identifiable body corporate that is appropriately insured or indemnified.

This position can be found in two submissions to the Royal Commission, the first on Civil Litigation and the second on Redress and Law reform.

These submissions can be read on the TJHC website www.tjhcouncil.org.au or by clicking [here](#)

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

For more information on the Truth Justice and Healing Council go to: www.tjhcouncil.org.au

For more information on the Royal Commission go to: <http://www.childabuseroyalcommission.gov.au/>