

PROTECTING VICTORIA'S VULNERABLE CHILDREN INQUIRY

SUBMISSION BY PETER O'CALLAGHAN QC (INDEPENDENT COMMISSIONER)

1. I am the Independent Commissioner appointed by the Archdiocese of Melbourne to enquire into allegations of sexual abuse by priests, religious and lay persons within the Archdiocese of Melbourne.

Attachment 1 are the Terms and Conditions of my Appointment ("The Terms"). The Terms were compiled in October 1996 in consultation with an Assistant Commissioner of Victoria Police, and were referred to the then Solicitor General for Victoria Mr Douglas Graham QC. As appears therein the Terms were supplemented in January 2011.

2. My role and that of the Melbourne Response is essentially concerned with the investigation of complaints by victims of sexual abuse by priests, religious and lay persons within the Archdiocese. Given the establishment of the complaint, the complainant can receive free counselling and psychological support and can apply for ex gratia compensation. Attachment 2 is a brochure which describes "The Melbourne Response" its procedures and personnel.

3. It had not been my intention to make any submission to this important Inquiry. It has become necessary to do so because of the submissions made by Melbourne Victims Collective through Ms Pam Krstic, Ms Helen Last and Ms Valerie Gaimon on 28 June 2011. Whilst it may be that these submissions do not easily fall within the Inquiry's terms of reference, I have no option but to refute and correct them, because

they make many false and damaging criticisms of the Melbourne Response, generally and the Independent Commissioner particularly.

4. The Melbourne Victims Collective

The Melbourne Victims Collective was apparently established on 16 June 2008, when nineteen persons signed the Charter "Towards Justice". The signatory page (Attachment 3) states:

"Most importantly, if the Melbourne Catholic Archdiocese continues to respond as it has done to date, we fear that innocent children and vulnerable adults will continued to be assailed within the Archdiocese, both by clerical abusers and, crucially, by the very system put in place to respond to these sinful crimes".

The Charter contained a mass of serious but unparticularised assertions.

5. On 30 June 2008 I wrote to the Solicitors for Melbourne Victims Collective. That letter stated in part:

"I refer to my recent correspondence requesting the identity of the signatories to the Charter.

That request has apparently been ignored, and whilst I have recognised some of the signatures, I consider it is important that I know who it is making complaints. I accordingly maintain that request but in the meantime I respond to the Charter. I do so in my capacity as Independent Commissioner, because much of the Charter expressly or impliedly criticises the role and the performance of the Independent Commissioner. Whilst I have not the slightest objection to constructive criticism, and will endeavour to accommodate to it, this cannot be said

of a great deal of the Charter. It's criticisms generally are unfounded and/or inaccurate and/or misconceived.

I am alarmed at the allegations and certainly if they could be validated appropriate remedial steps should be taken. The problem is that there is little particularity to the assertions made in the Charter and until this occurs it is difficult if not impossible to properly respond....".

The letter then sets out extracts from the Charter, and my comments thereon. I continued to make requests for particulars, and despite some promises, none have been provided.

6. The Submissions of Ms Krstic and Ms Last

I set out hereunder extracts from the submission of Ms Krstic (identified by transcript page and line) and comment thereon.

"As a professional teacher in the Catholic School system I witnessed the first priest's grooming patterns in my classroom and did not know to recognise them as such". (p 96/33)

(a) Whatever be the precise meaning of that statement, the fact is of the five children who were sexually abused by the first priest (DD), only one attended St Brigid's School at Healesville. Much of what is expressed and implied in the MVC submissions, gives the impression that there was apathy and inaction in relation to the deplorable abuse which DD perpetrated on five children three of whom were his nephews and one his niece. The other child whom I will call B was of a family to whom DD was very close. The other person when abused was a male aged about twenty-four (C). DD had resigned from Healesville in January 1995 and is now laicised.

(b) On 21st October 1997 I interviewed a complainant whom I will call

A. I informed him that he had an unfettered right to report his complaint to the police and encouraged him to do so. He agreed to do so and I accordingly contacted the Sexual Child Exploitation Squad, and arranged for A to attend and to be interviewed. I told A that I would be taking no further steps in respect of his complaint until the police investigation and any proceedings resulting therefrom had been completed. (This is my invariable practice. It would be wrong for me to commence or continue an enquiry, concurrently with that being conducted by the police.) I later became aware that the police interviewed the three cousins of A, and as with A charges were laid against DD. Initially DD pleaded guilty to these offences but later changed his plea to not guilty.

(c) Following this I was contacted on 1 June 1999 by B and initially he was unsure as to whether he would report the matter to the police. After further discussion and correspondence, on 30 July 1999 B told me he was happy to cooperate with the police and be interviewed. I accordingly arranged for him to be interviewed by Detective RB who was the informant in the charges against the DD's four relatives. RB then laid charges against the priest in respect of his sexual abuse of B.

(d) On 2 June 1997, being aware that C had made a complaint against DD in 1994, I wrote to C asking him whether he wished to take any further action in respect of his complaint. I wrote again on 3 August 1999, advising C that charges had been laid against DD. C then

instructed me to inform RB of his complaint which I did and DD was charged in respect of his abuse of C.

(e) The priest maintained his plea of not guilty, in respect of the three nephews and the niece, was tried and convicted. He then pleaded guilty to the charges in respect of B and C. On 14 July 2000 DD was sentenced by His Honour Judge Kimm to a total effective sentence of six years imprisonment with a non parole period of four years and six months. Following this conviction, I interviewed all the complainants and five of them applied for and were offered compensation recommended by the Compensation Panel which offers were accepted. A took legal proceedings, which I understand were subsequently settled.

7. *"I did recognise these patterns in the second priest's behaviours and found it impossible to convince others to respond to my concerns. I was accused of overreacting and sent away on holidays to collect myself. In both cases it wasn't until a victim came forward that anything was officially done". (p96/35)*

(a) Whilst as appears hereunder Ms Krstic was concerned at the behaviour of the second priest (PP), the victim of PP was not a student at St Brigid's School Healesville.

(b) I further understand that Ms Krstic did not teach at St Brigid's after 5 May 2006. On 4 December 2006 Ms Krstic had written to the Director of Catholic Education in respect of PP stating inter alia *'In my experience the abovementioned behaviours have been linked with individuals proven to be unsafe with children and as such, they*

trigger anxiety in me; I therefore felt compelled to voice my suspicions regarding Father's behaviour, to ensure the safety of the students. I now reiterate my request that these verbalised suspicions and concerns be documented in writing by your office and kept on your records for future reference.

I am well aware that in this case these behaviours may not demonstrate that Father is unsafe...'

8. The Director responded inter alia *'Please be assured that your concerns have been formally noted and referred onto the Archdiocese for further consideration'*.
9. On 24 October 2006, I had been contacted by a mother who was concerned at the conduct of PP towards her son. Coincidentally, PP had gone on sick leave on 25 October 2006 and from that time on ceased to act as a priest in Healesville or elsewhere. Summarily stated, the complaints were investigated by the Independent Commissioner, but before a hearing had taken place to determine the validity of the complaints, the complaints of the mother and the son were referred to the police. As is my invariable practice when a complaint is or is about to be investigated, I advised that I would be taking no further action until the police investigation and proceedings resulting therefrom were completed. A lengthy police investigation followed resulting in PP being convicted on 29 July 2009. PP is now laicised.
10. I found that the mother and the son were victims of sexual abuse by PP, and advised them they were entitled to apply for compensation.

Notwithstanding my writing on several occasions to their solicitors inviting them to pursue their application for compensation they have not done so. Carelink has provided financial assistance to the mother.

11. It is significant, particularly in the light of my unsuccessful requests for particulars as set out in my letter of 30 June 2008, that the only reference to a factual situation in the MVC submissions was in respect of Healesville. It is submitted that the above demonstrates that these complaints were handled fairly and properly. What occurred in respect of the Healesville complaints refutes the assertions of MVC (104/1) namely:

- (i) Complainants who have decided to report the matters to the police are not assisted in the making of those complaints
- (ii) That complainants having decided to go to the police cannot go through the Melbourne process

12. It can be added that four of the above six complainants were represented by Solicitors.

13. I do not seek to deal with all the assertions contained in the MVC submissions. Suffice to say that these submissions portray a system which is deficient and in disorder. Nowhere save in the reference to the Healesville priests, are any facts identified, which justify the claim of overall systemic failure. For example Ms Krstic states:

"There seemed to be no difference in the systemic response to allegations and convictions between the first priest in 2000 in my school and the second in 2006. It seems to me that it will take

intervention from outside the church for any change to be implanted”.

(100/37)

14. There was no substantial difference in the systemic response. In DD's case, his deplorable activities commenced but were undetected long before he went to Healesville in 1990. So far as the Commission was concerned, immediately a complaint was made by A a nephew of DD who had abused A when he was about six years old, the complaint was referred to the police. This resulted in charges being laid in respect of A, his three cousins, B and C (as referred to in paragraph 6(a) to (e) above). DD was convicted and imprisoned. Five of the victims received psychological and counselling support, and an apology from the Archbishop for the wrongs they had suffered and compensation. It is not suggested that this removes the infamy of the actions of DD (who has been laicised), but it does reflect a fair and reasonable response in the circumstances.
15. PP's case in 2006 was dealt with in much the same way as was that of DD. The complaint having been made to the Commissioner, was initially the subject of investigation and potential hearings, which ceased when complaints were taken to the police. I took no further steps until after the completion of the investigation and resulting proceedings. Both the mother and the son remain entitled to pursue applications for compensation based upon the findings of the Commission that they had been the victims of sexual abuse. If application is made they will receive compensation.

16. To sum up in relation to Ms Krstic's submission, her assertion is that there is a deficiency in the Melbourne Response, which she seeks to characterise as a systemic deficiency in the overall operation. But she has failed to identify instances of default in the operation of the Melbourne Response. Her fundamental premise seems to be based upon the contention that the deplorable conduct of DD and PP was not dealt with adequately or at all by the Melbourne Response. The facts as recited above belie that.

Submissions by Ms Last

17. She states:

"...The victims have been going to the church processes now for fifteen years in regard to the Catholic church and there is an amazing amount of material now held by just the Catholic church, for example, but in other churches in files that are not made available to the police, the materials are not reported to the police. There is no mandating for that. The people put in charge of listening to the disclosures and creating the files are not pressured in any way by the Government to have to report what they are hearing and so they are not doing that. As you know an institution like a church is free to do what it wants to do.

Mr Cummins: It's not free to be complicit in the breaking of the criminal law

Ms Last: We see that there is a complicity here, a systemic complicity and we are definitely trying to argue that very strongly because when you have that amount of material being held by a private organisation or by an institution that is of great concern to the wider society and to

those who are involved in the wider society in terms of its legal running and its law and order and its health and welfare". (103/5)

18. The generality of these assertions makes it difficult to respond. As the Independent Commissioner I have honoured the complainants wishes that I deal with their complaints confidentially. I presume it is this which results in my holding what Ms Last says is an amazing amount of material. If it is suggested that this is the breaking of the criminal law, this is untenable.

The vice of these generalised assertions is that unless there is refutation, adverse inferences will be drawn. Because, as part of this alleged characterisation of a systemic failure, my conduct has been questioned, it is necessary to set the record straight, which I seek to do by detailing the way in which I carry out my role as the Independent Commissioner.

I have dealt with three hundred plus complaints of sexual abuse as described hereunder.

19. I interview the complainant, and inform the complainant that if the conduct of which complaint is made may constitute criminal conduct the complainant has a continuing and unfettered right to report the complaint to the police and I encourage the exercise of that right. If the complainant does not wish to report the complaint to the police I invite the complainant to acknowledge in writing of being advised of that right, and being encouraged to exercise it (See Clause 4 of Terms. (Attachment 1) It is only in a small number of complaints that there is the opportunity to report the complaint to the police. This is because

the majority of the complaints are against priests who have died, or have been convicted of the subject complaint. This reflects that the great majority of complaints are in respect of sexual abuse committed decades ago. Most of the complainants I have seen are adults who complain of sexual abuse, when they were children. Of the priests who were in active ministry at the time I received complaints of sexual abuse against them, all ceased to act as priests, because their right to practise as priests (their faculties), was withdrawn. In most cases, it was upon my recommendation that the Archbishop placed the priest on administrative leave or required his resignation or retirement.

20. In most of these cases the complainant desires not to report the complaint to the police, but to have me deal with the complaint in accordance with the procedures laid down in the Terms. All that a complainant informs me remains confidential save to the extent that it becomes necessary to confront the alleged offender with the complaint, and to relevantly inform Carelink, the Compensation Panel and the Archbishop to make recommendations to the Archbishop as to the position of the offender. (I cannot emphasise too much the wishes of the great majority for their complaints to remain confidential. These are persons who typically have told no one, (save in many cases their spouse), or at best a very limited number of persons, of the grievous abuse they have suffered. (I refer hereunder to there being no obligation of confidentiality imposed on the complainant)

21. Typically the complainant has over a number of years, before seeing me, given the closest consideration to reporting the offence to the

police. Their reasons for not having reported to the police, are many and varied, but one theme is prevalent, namely the desire for the preservation of their privacy. Thus despite my informing them of their continuing and unfettered right to report to the police (of which right they have usually been long aware) and encouraging them to do so, only in a limited number of cases do they change their mind.

22. If I am satisfied that a complainant is a victim of sexual abuse, I can refer the complainant to Carelink which is an agency set up to provide free counselling and psychological support for victims. In some instances, because of the condition of the applicant, I refer them to Carelink before determining the facts of the complaint. I can also refer the complainant to the Compensation Panel which has jurisdiction to make binding recommendations of compensation up to a limit of \$75,000. (See the description of the Panel in Attachment 2)

23. I play no part directly or indirectly in the calculation of compensation.

The Compensation Panel will determine what it considers is the appropriate amount to recommend to be offered, and that determination will be conveyed to the solicitors for the Archdiocese who in turn passes that on to the Archbishop. The Archbishop will on behalf of the Catholic Church make an offer of ex gratia compensation, advising that whether or not the complainant accepts the offer the Archbishop apologises to the complainant, and those around the complainant for the wrongs the complainant has suffered. Accompanying that letter will be a formal offer from the solicitors for the Archdiocese.

24. In that letter the complainant is advised *"If you wish to accept the offer, you will need to sign the enclosed document which releases the Archbishop from all further claims arising out of the Independent Commissioner's findings. We note however that you will remain able to receive treatment and counselling through Carelink... The release that you've signed contains no confidentiality provisions. Whilst your right to confidentiality will be respected if that is your wish you are under no confidentiality restrictions if you accept the offer. You are free to discuss the abuse and the payment you have received if you want to"*.

25. I now refer to a question from Professor Scott namely:

"Yes thank you, I was just going to ask one question and that is are you aware of any situations where individuals have received some form of financial compensation, and one of the conditions is that they not inform the police of an alleged criminal offence (103/31)

Ms Last: yes perhaps Valerie would like to answer that one.

Ms Gaimon: The Melbourne system the church runs is separate to the rest of Australia's system and we work primarily in the Melbourne system. [REDACTED]

[REDACTED] *the church can offer a process and that will result in compensation and a bit of counselling payments and if they choose to go to the police they cannot go through the church process – they have every right to go to the police – but these are separate decisions and that's made clear on the website of the Melbourne Response that they don't allow that to happen simultaneously. (Emphasis supplied)*

Professor Scott: Thank you."

26. Ms Gaimon's answer seems to convey that if a person goes to the police "they cannot go through the Church process". This of course is not so and I refer to paragraphs 6-8 above. Ms Gaimon's comment that victims get "*a bit of counselling payments*" is as unfair as it is inaccurate. Carelink provides whatever reasonable treatment is required. Victims are referred to appropriate professionals, mostly psychiatrists and psychologists, whose fees are met by Carelink. Likewise Carelink will assume responsibility, for the ongoing fees of a therapist already treating the victim. The payments made by Carelink far from being "a bit" can be substantial, and ongoing. Services provided by Carelink include: psychological/counselling; psychiatrists; addiction services; dieticians; pharmaceutical services; remedial therapy; hospitalizations; private medical benefits; general practitioners; food vouchers.

27. At the outset of an interview with a complainant, I inform them of the right to report the matter to the police and my encouragement for them to do so. If they decide to do so, then I take no further step until the completion of the police investigation and proceedings resulting therefrom. At that time I have made no decision as to the validity or otherwise of the complaint, and which I would not do until I investigate the complaint, including putting the complaint to the alleged offender, and inviting a response thereto. Put simply if the police are in I am not. It would probably be unlawful as interfering with the administration of justice and would certainly be inappropriate for me to conduct an

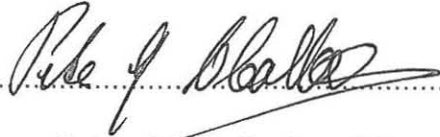
investigation contemporaneously with the police doing so. (See Watts v Hawke & anor (1976) VR 707 and cases there referred to).

28. It can be added that in some cases, even though the police decide not to prosecute or a jury acquits this is not the end of the matter. In those circumstances, and indeed in a case where the complaint is not reported to the police, but the alleged offender denies the complaint, I conduct a confidential hearing in much the same way as a Magistrate hears a criminal information. The applicable onus of proof is on the balance of probabilities applying the principle of Briginshaw etc).

29. Ms Krstic said *"There was reluctance among police, professionals and politicians to engage in any public criticism of the Church's handling of clergy abuse"*.

Given that to be the fact, a reason for this alleged silence could well be that the police professionals and politicians do not consider criticism is warranted. Over the years I have had a deal of contact with the police and have co-operated with them and assisted them in any way I can. Likewise I have received from time to time queries from politicians as to procedures of the Melbourne Response, and of matters dealt with by the Commissioner. I believe I have adequately responded to those queries.

30. If the Inquiry has any queries arising out of the above, or generally, I would be happy to answer same.

A handwritten signature in black ink, appearing to read "Peter J. O'Callaghan", is written over a horizontal dotted line.

Peter J O'Callaghan QC

Independent Commissioner

**APPOINTMENT OF INDEPENDENT COMMISSIONER
TO ENQUIRE INTO SEXUAL AND OTHER ABUSE**

Background

Archbishop George Pell in 1996 then the Catholic Archbishop of Melbourne being concerned that a number of priests and religious have abused children, adolescents and adults in their pastoral care, in order to facilitate the discovery of such abuse, and the taking of consequential action instructed his solicitors to retain Peter John O'Callaghan Q.C. (the "Commissioner") to act as an Independent Commissioner to enquire into and advise the Archbishop with respect to allegations of sexual misconduct by any priest of the Archdiocese and religious, and lay persons working within the Archdiocese on the following terms and conditions (the terms), and which appointment was renewed and confirmed by Archbishop Hart (the Archbishop) upon him becoming the Catholic Archbishop of Melbourne.

The terms were formulated in consultation with the Victoria Police and it was then acknowledged and agreed, as it is now by the Archbishop and the Commissioner, that there can be no substitute for a Police investigation into complaints of sexual and other abuse, which may constitute criminal conduct. It is also acknowledged that some complainants do not wish to take their complaints to the Police. In that context and in order to continue and to facilitate co-operation and assistance between the Archdiocese, the Commissioner and Victoria Police, the Archbishop has supplemented the Terms and Conditions as set out in Clauses 4 to 6 hereunder.

1. Definitions

"Accused" means the person against whom an allegation of sexual or other abuse is made.

"Carelink" is an agency of the Archdiocese that administers the provision of professional support services namely treatment, counselling and support to victims of sexual and other abuse within the Archdiocese.

"Church person" includes any priest of the Archdiocese and religious, and lay persons, working within the Archdiocese.

"Compensation Panel" is a panel established to provide ex gratia payments to complainants of sexual and other abuse who establish the factual basis of their complaint to the satisfaction of the Independent Commissioner.

"Complainant" means any person making a complaint of sexual or other abuse as aforesaid.

“Complaint” means any complaint made to the Commissioner by a person that he or she has been abused by a Church person or a complaint made to the Commissioner by a person who complains that some other person has been abused by a Church person, and any complaint of abuse by a Church person which is referred to the Commissioner by any other body or person.

“Sexual and/or other abuse” includes:

- (a) Any form of criminal sexual assault, sexual harassment or other conduct of a sexual nature that is inconsistent with the public vows, integrity of the ministerial relationship, duties or professional responsibilities of Church personnel; and
- (b) Conduct by a person with a pastoral responsibility for a child or young person which causes serious physical pain or mental anguish without any legitimate disciplinary purpose, as judged by the standards of the time when the behaviour occurred.

2. Role of the Independent Commissioner

- i. The Commissioner is appointed to enquire into and advise the Archbishop with respect to complaints of sexual and other abuse by Church persons.
- ii. The Commissioner shall forthwith enquire into any complaint of sexual and other abuse by a Church person made or referred to him.
- iii. The Commissioner immediately upon there being made or referred to him a complaint of sexual or other abuse (which may constitute criminal conduct), shall inform the complainant that he or she has an unfettered and continuing right to make that complaint to the police, and the Commissioner shall appropriately encourage the exercise of that right.
- iv. Subject to sub clause (xi) below, upon becoming aware of sexual or other abuse (which may constitute criminal conduct), the Commissioner may report that conduct to the police.
- v. The Commissioner will not act so as to prevent any police action in respect of allegations of sexual or other abuse by Church personnel.
- vi. Forthwith upon becoming aware that sexual or other abuse has occurred, is occurring, or is likely to occur, the Commissioner shall advise the Archbishop and make such recommendations as to action to be taken by the Archbishop as the Commissioner considers appropriate.

- vii. The Commissioner is empowered by the Archbishop to require any priest, religious, or other person under the jurisdiction of the Archbishop to attend upon the Commissioner at such time and place as is notified, and to produce to the Commissioner such documents as the Commissioner requires, and to answer such questions as the Commissioner considers appropriate to ask, Provided that no priest, religious, or other person, shall be required to produce to the Commissioner a document, or to answer a question, which document or answer the priest, religious or other person objects to answer or produce or give because it may tend to incriminate.
- viii. The Commissioner may inform himself inter alia by hearings at which the complainant and the accused may be present, and also if desired, their respective legal or other representative.
- ix. The Commissioner shall interview a child or conduct a hearing at which a child is present, only with the written authority of the parent or guardian of such child, and whom the Commissioner shall request be present at such interview or hearing.
- x. The Commissioner shall treat as confidential and privileged all information acquired by him in the course of his investigation, Provided that (subject to sub-clause 2(xi)) the Commissioner may if he considers it appropriate so to do, provide the whole or part of such information to the police, and with the consent of the complainant, to the Compensation Panel.
- xi. If a complainant, prior to stating the facts and circumstances constituting his or her complaint informs the Commissioner that he or she is only prepared to divulge those facts and circumstances to the Commissioner upon his assurances that he will not, (unless required by law) disclose those facts and circumstances to any person other than a person nominated by the complainant, the Commissioner (unless required by law so to do) shall not disclose those facts and circumstances to any other person save to members of his staff from whom he shall have procured an undertaking of confidentiality.
- xii. The Commissioner may decide to discontinue or not conduct an enquiry into a complaint which he considers is trivial, frivolous, vexatious or not made in good faith, Provided that the Commissioner shall notify the complainant in writing of any such decision to discontinue or not conduct an enquiry into complaint.
- xiii. The Commissioner when enquiring into complaints and reporting to the Archbishop shall observe the rules of natural justice.

- xiv. The Commissioner shall determine the procedure to be followed in respect of enquiries and hearings and may publish to the Church authorities and other relevant persons details of such procedures.
 - xv. The Commissioner may refer victims of sexual or other abuse to Carelink.
 - xvi. The Commission will consult with and advise the Compensation Panel as required, subject to sub-paragraphs 2 (x) and (xi).
3.
 - i. The retainer of the Commissioner is ongoing for such period as may be mutually agreed upon and, Provided that in the event of the Commissioner, for whatever reason, becoming incapable of duly performing his retainer the Archbishop may instruct his solicitors to terminate the retainer.
 - ii. The Commissioner will formulate procedures for dealing with and recording complaints of sexual and other abuse and other matters.
 4.
 - i. The Commissioner will endeavour to meet regularly with the squad manager of the Sexual Crime Squad or their delegate (Liaison Officer) to discuss issues of mutual interest and concern.
 - ii. If a complainant informs the Commissioner that it is desired to refer the complaint to the Police, the Commissioner will refer the complainant to the Liaison Officer, and subject to sub-paragraphs (a) and (b) shall take no further steps in relation to the complaint, until the Police investigation and any resulting proceedings are completed; save that
 - (a) If the complainant so wishes, the Commissioner may refer the complainant to Carelink for the provision of free counselling and psychological support; and
 - (b) The Commissioner may make recommendations to the Archbishop in respect of the alleged offender.
 5. Save where
 - i. The alleged offender the subject of a complaint is dead,
 - ii. The complaint has been previously reported to the Police and the Commissioner is satisfied that Police action and any resulting proceedings have been resolved by the conviction or acquittal of the alleged offender or by the Police having notified

the complainant that no further action will be taken in relation to the complaint, or

- iii. The complaint has been referred to the Police and no Police action has been taken in the two years preceding the making of the complaint to the Commissioner

The Commissioner will provide complainants with an information sheet in the form set out below and will seek to obtain the complainant's written acknowledgement on a copy of that document.

1. *The Independent Commissioner has explained to me that he has been appointed by the Catholic Archbishop of Melbourne to investigate allegations of abuse.*
2. *The Commissioner has informed me that because the conduct about which I have complained of may constitute criminal conduct, I have a continuing and unfettered right to report the matter to the police. He has encouraged me to exercise that right. He has informed me that if I did wish to report the matter to the police, he would refer me to an appropriate police officer to deal with the complaint.*
3. *The Commissioner has explained to me that the police have powers which he does not have, including the power to issue search warrants and to arrest offenders, and that it is only through the police that the offender can be brought before a Court and punished for criminal conduct.*
4. *Aware of these matters I do not at this time wish to take my complaint to the police, and:*
 - (a) *I request the Commissioner to exercise the powers conferred upon him by the Archbishop to deal with my complaint; and*
 - (b) *I require the Commissioner to keep my identity confidential to the best of his ability and save as compelled by law.*
5. *I acknowledge that I can refer the complaint to the police at any time, and if I do so the Commissioner will take no further steps in relation to the complaint until the police investigation and any resulting proceedings have been completed.*

NAME: _____

SIGNED: _____

DATED theday of20.....

6. When an alleged offender the subject of a complaint is advised of the complaint by the Commissioner, the Commissioner will, except where paragraph 5(ii) or (iii) applies, include information in writing in the terms set out below:

"The complainant at least at this stage does not wish to report the complaint to the police, despite being told that there is a continuing and unfettered right to do so, and having been encouraged to exercise that right. If subsequently, I become aware the complaint is referred to the police, I will take no further step in dealing with the complaint. I will not advise you that the complaint has been referred to the police for at least four weeks or if requested by the police such further period as is agreed."

APPROVED ON 15 FEBRUARY 2011

+ *Denis J. Hart*

Archbishop Denis Hart DD
Archbishop of Melbourne

Compensation Panel

The Compensation Panel arranges for the provision of ex gratia compensation for people who have been found to have been abused by priests, religious and lay people who are, or were, under the control of the Archbishop of Melbourne.

The Panel, like the Independent Commissioner, operates independently from the Archbishop and the Archdiocese.

The Panel provides an alternative to civil legal proceedings. It operates in an informal way and, by design, is not legalistic but provides a forum for the settlement of claims.

In order to apply to the Panel for compensation, an applicant's claim must first be investigated and upheld by the Independent Commissioner who reports his findings to the Panel.

Applicants are also encouraged to provide the Panel with a report from Carelink or from other treatment providers.

Compensation payments, binding on the Archbishop, are recommended at the discretion of the Panel, currently up to a maximum of \$75,000 per person. This maximum is capped at an amount that exceeds the Victorian Government's victims of crimes compensation system. If the person making a complaint accepts the recommended payment, the amount will be paid in full settlement of all legal claims against the Archbishop and the Archdiocese in relation to the Independent Commissioner's findings. Carelink services will, however, remain available. Whilst the Panel keeps strict confidentiality in relation to the hearings, a claimant is at liberty to disclose to anyone what has transpired at the hearing.

If the recommended payment is not accepted, a person making a complaint is free to use the normal court processes.

The Compensation Panel has four members comprising a psychiatrist, a solicitor and a community representative. The Panel is chaired by Mr David Curtain QC.

Applications for compensation forms are available from the Independent Commissioner.

ATTACHMENT 2

Parish Pastoral Response

The Archdiocese offers spiritual support and pastoral counselling and provides a forum for pastoral healing.

The parish pastoral response is an essential part of the healing process for the wider Church community.

The contact person for the Parish Pastoral Response is Ms Maria Kirkwood who can be contacted through the offices of the Archdiocese on (03) 9926 5677.

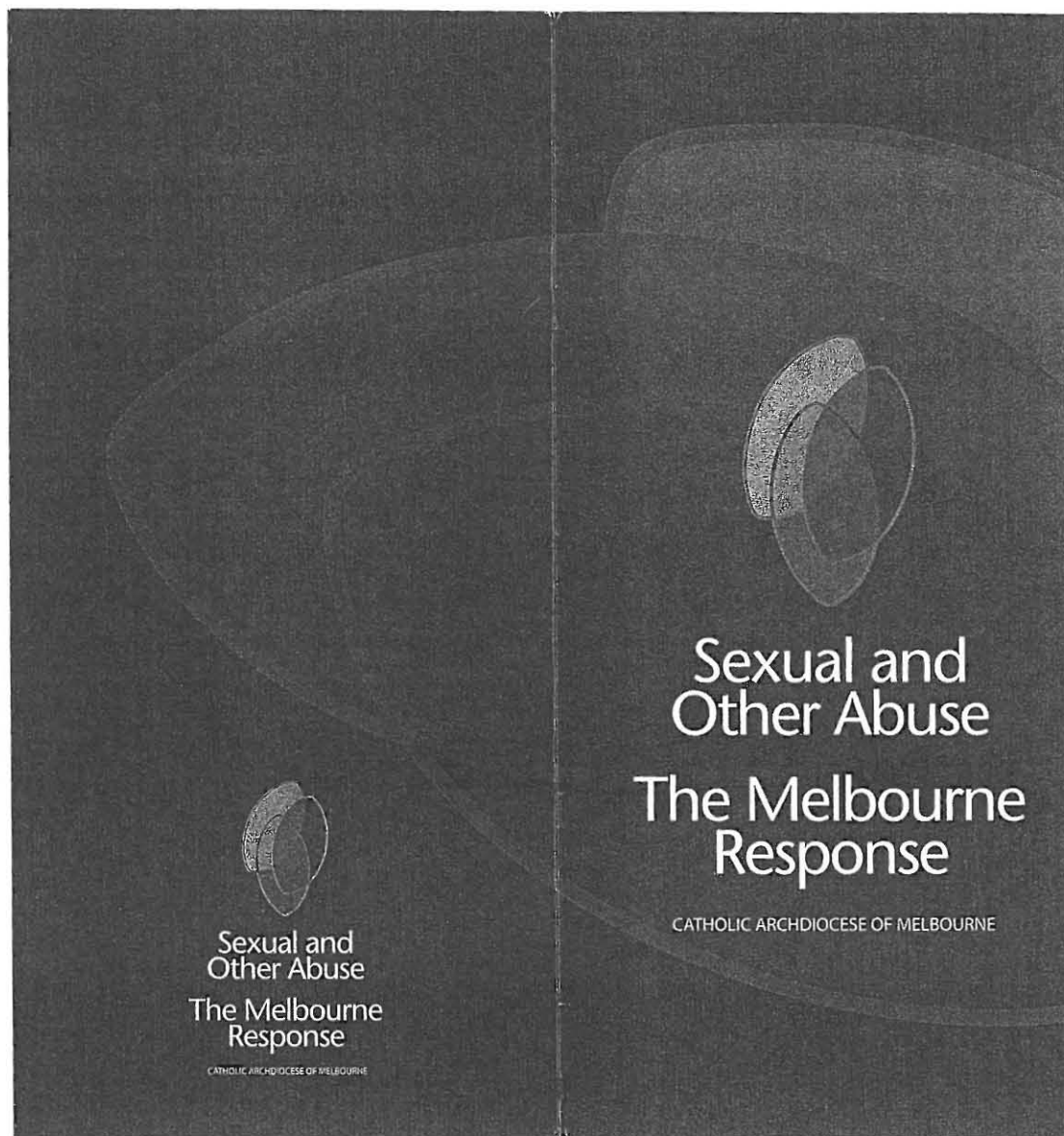
Victoria Police

The Melbourne Response does not restrict the role of the police to investigate and prosecute allegations of criminal conduct. All victims of abuse remain free to, and are encouraged to, report allegations of criminal conduct to Victoria Police.

The police have powers which the Independent Commissioner does not have, including the power to issue search warrants and to make arrests, and it is only through the police that a person can be brought before a court to answer allegations of criminal conduct.

Contact Telephone Numbers

- Independent Commissioner
(03) 9225 7979
- Carelink
(03) 9663 5744
- Archdiocese of Melbourne
(03) 9926 5677
- Towards Healing
1800 816 030



This is a terrible time of suffering and self-examination as the full extent of sexual abuse by Catholic priests, religious and lay workers continues to emerge, not only here in Australia, but throughout the world.

I again, therefore, express my deep sorrow and offer a sincere and unreserved apology to all those who have suffered the pain and humiliation of sexual abuse and to their families.

The scourge of sexual abuse continues to cause great damage and in many cases a crisis of faith amongst Catholics. As Catholic Archbishop of Melbourne, I share this desolation and sense of betrayal. The criminal offences and breaches of vows committed by some priests, religious and lay workers bring shame upon the entire Church.

With great humility, I acknowledge that the crimes of the perpetrators have done great harm. For me, personally, this is one of my saddest times as a Catholic priest.

Sexual abuse in any form, and any attempt to conceal it, is a grave evil and is totally unacceptable. We must face up to the truth and not attempt to disguise, diminish or avoid in any way, the actions of those who have betrayed their sacred trust.

The process for dealing with sexual and other abuse by priests, religious and lay people, who are, or were, under the control of the Archbishop of Melbourne within the Melbourne Archdiocese, was introduced in 1996 and is known as the Melbourne Response.

A short time later the national *Towards Healing* protocol, which is a separate process for dealing with complaints, was also established. The Melbourne Response reflects the principles that are set out in the *Towards Healing* and *Integrity in Ministry* documents which all of the Bishops and leaders of Religious Institutes of the Catholic Church in Australia have adopted.

The Melbourne Response, with the help of those who have courageously brought their complaints forward, has led to compensation and support being provided to approximately 300 victims of abuse. I acknowledge that not all who have been affected have yet come forward, and I encourage them to do so.

We must continue to work to ensure that we have appropriate procedures in place aimed at preventing any recurrence of abuse and to deal with offending clergy. Since 1996, we have introduced procedures to protect parishioners and children against sexual abuse, and processes have been developed and applied to deal with offending clergy.

In addition, there is rigorous screening of all people who aspire to the priesthood and seminarians are required to undertake study of the *Church's Code of Conduct for Priests and Religious on Integrity in Ministry*.

I again encourage anyone, who has been abused by a person under my control in the Archdiocese of Melbourne, to come forward so we are made aware of it and can respond as quickly as possible.

+ Denis J. Hart

Denis Hart, Archbishop of Melbourne



The Help Available

The Melbourne Response assists people who have been abused sexually, physically or emotionally by priests and others under the control of the Catholic Archbishop of Melbourne.

Complaints

Complaints of sexual and other abuse by priests, religious and lay persons under the control of the Archbishop of Melbourne are made to, and investigated by, the Independent Commissioner. Mr Peter O'Callaghan QC is the Independent Commissioner.

Counselling and Support

Free counselling and professional support for those who have been abused is available through Carelink led by the Carelink Coordinator, Ms Susan Sharkey.

Compensation

Ex gratia compensation of up to \$75,000 is currently available through the Compensation Panel chaired by Mr David Curtain QC.

Pastoral Support

Spiritual support and guidance is available to individuals and at a parish level by contacting Ms Maria Kirkwood at the Archdiocese.

Anyone with complaints relating to other parts of the Church should contact *Towards Healing* on 1800 816 030.

Accessing The Melbourne Response

Independent Commissioner

The Office of the Independent Commissioner is the first point of contact for people wishing to make allegations or complaints, or to seek counselling services, or to obtain information about compensation.

The Independent Commissioner receives complaints and enquires into allegations of sexual abuse by priests, lay people and religious who are, or were, under the auspices of the Catholic Archbishop of Melbourne. The Independent Commissioner then makes a determination on the basis of the evidence. When the Commissioner is satisfied that the abuse occurred, the Commissioner notifies the Archbishop about the offender and refers the victim to Carelink.

The Independent Commissioner is there to make an appraisal of all of the circumstances of the situation and help complainants deal with their very personal issues in a compassionate and understanding way.

The Independent Commissioner can refer the complainant to Carelink at any time for the provision of free counselling and psychological support. If the Independent Commissioner finds that a complaint has been established, the Independent Commissioner will refer the complainant to the Compensation Panel.

The Commissioner is funded by but acts independently of the Archdiocese, in accordance with Terms and Conditions of Appointment formulated in consultation with Victoria Police, the principles of natural justice and relevant provisions of Canon Law.

The Independent Commissioner meets with complainants to hear their personal recollections of abuse and to conduct an investigation. The Independent Commissioner recognizes how difficult it might be for them to talk about their own situation but experience has shown that going through this process has brought a sense of closure and relief to many. From the initial contact with the Independent Commissioner, the Melbourne Response respects the individual's privacy.

All complainants have a continuing and unfettered right to go to the police and the Independent Commissioner encourages them to do so if the conduct complained of may constitute criminal conduct. The Independent Commissioner also explains that the police have greater powers of investigation than the Independent Commissioner.

The Independent Commissioner will assist any complainant wishing to go to the police and will take no further steps until

the police investigation and any resulting proceedings are completed. Support from Carelink and the Pastoral Support Office will be available.

The Melbourne Response also recognizes, however, that some complaints will not be dealt with by the police, based on the wishes of the complainant, or because the alleged offender is deceased or the complaint has been previously reported to the police and police action has been finalized.

The Archbishop has given the Independent Commissioner the power to bring priests before him so that he can properly investigate claims. When necessary, the Independent Commissioner conducts confidential hearings at which the relevant parties and their legal representatives can be present.

The Independent Commissioner also makes recommendations to the Archbishop on how to deal with the offender.

The Independent Commissioner's office is located at Owen Dixon Chambers West, Room Level 18, Room 15, 205 William Street, Melbourne.

Telephone: (03) 9225 7979

Carelink

Carelink is a key element of the Melbourne Response and co-ordinates the provision of counselling and other professional support to clients.

Carelink refers clients to psychiatrists, psychologists and other health care providers who have the appropriate background and expertise to address sexual and other abuse and related problems.

Treatment and counselling through Carelink is provided at no cost to Carelink's clients.

Initially, each client is interviewed and assessed by Carelink so that their needs can be identified. The detailed history that Carelink takes from each client helps Carelink understand how the abuse has impacted on various aspects of the client's life.

Carelink asks treating therapists to provide regular progress reports so that a client's treatment can be monitored.

The Carelink Coordinator is a consulting psychologist, Ms Susan Sharkey.

Carelink is located at 25 Lansdowne Street, East Melbourne, Vic 3002

Telephone: (03) 9663 5744

ATTACHMENT 3

Most importantly, if the Melbourne Catholic Archdiocese continues to respond as it has done to date, we fear that innocent children and vulnerable adults will continue to be assailed within the Archdiocese, both by clerical abusers and, crucially, by the very system put in place to respond to these sinful crimes.

Finley *McCaffrey* *Robert* *Sam*

Boyle *Jim* *Boyle* *Plummer*

R. Keane *Tosco-Lewis* *Madison* *John White*

John D. Brown *for* *Boyle* *Boyle* *Boyle*

Helen Last

Ms Helen Last
Representative

Jim Boyle

Mr Jim Boyle
Representative

Pam Krstic

Ms Pam Krstic
Representative

The Melbourne Victims' Collective
Melbourne, Australia, June 2008

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