



Royal Commission into
Institutional Responses to
Child Sexual Abuse

**THE ROYAL COMMISSION INTO
INSTITUTIONAL RESPONSES TO CHILD SEXUAL ABUSE
AT SYDNEY**

**PUBLIC HEARING INTO THE RESPONSE OF THE DIOCESE OF GRAFTON OF THE
ANGLICAN CHURCH TO CLAIMS OF CHILD SEXUAL ABUSE AT THE NORTH
COAST CHILDREN'S HOME**

OPENING SUBMISSIONS OF COUNSEL ASSISTING

1. The Royal Commission will today commence two weeks of public hearings into the response of the Diocese of Grafton of the Anglican Church to claims of child sexual abuse at the North Coast Children's Home. This is the third case study and public hearing for 2013.
2. The *Royal Commissions Act 1923* (NSW) applies to this public hearing.
3. The next and final public hearing for 2013 will commence on 9 December and will hear evidence about the principles, procedures and application of *Towards Healing*. The Catholic Church adopted *Towards Healing* as its process for responding to victims of child sexual abuse and allegations of child sexual abuse against personnel of the Catholic Church. The

experience of people who have engaged in the *Towards Healing* process will be considered.

4. The case study that the Royal Commission commences today is into the response of the Anglican Diocese of Grafton to claims of child sexual abuse at the North Coast Children's Home is about how claims of historic child sexual abuse are handled. I use the term "historic child abuse" to describe claims which are made about conduct that took place many years, sometimes decades ago. The Royal Commission is likely to hear in both this and other public hearings that those who have suffered from child sexual abuse do not come forward, particularly to the institution concerned, until 20 or more years have elapsed since the abuse.
5. This hearing will consider the way in which the Diocese of Grafton handled claims of child sexual abuse about conduct which is reported to have occurred at the North Coast Children's Home ("the Home") from as early as 1944 through to 1985. The Royal Commission will hear accounts from former residents that children of a young age were sexually abused, some by clergy, some by employees at the Home and some by their fellow residents during that period. Those people have said that the lifetime effects of the sexual and often physical abuse they received have been devastating and have had long-lasting effects on their mental health and their families.
6. At the centre of this public hearing is an examination of a group claim made by over 40 claimants half of whom said they had suffered child sexual abuse at the Home. The hearing will consider the way in which the Diocese of Grafton handled the claim and how a final settlement was reached between the Diocese and a majority of the claimants in 2007. The

hearing will also compare the way in which the Diocese handled the group claims with how claims made by individuals were handled at the time.

7. After the group claims were resolved, evidence is likely to indicate that the claims after 2007 were handled differently. The Royal Commission will hear from further claimants who say they came forward to the Bishop in 2011 to tell him of the sexual abuse they had suffered and of the effects upon them. It is likely that the evidence will show that two such claimants were told that their claims of compensation had been denied. The Royal Commission will explore why this occurred and how the claimants responded.
8. As the Royal Commission will hear, the response of the Diocese of Grafton to those who claimed that were sexually abused should be seen in the wider context of its place as but one diocese of the Anglican Church of Australia. The evidence will explore the extent to which the Primate of the Anglican Church was involved in the handling of claims at the Diocese of Grafton and the degree to which assistance might be provided to a single diocese faced with a number of claims.
9. Evidence will be adduced that the handling of claims of child sexual abuse by the Anglican Church is governed by Diocesan Ordinance and associated protocols and procedures based on national model Ordinances. The Royal Commission will explore whether the relevant ordinances, protocols and procedures were applied by the Diocese of Grafton and what effects that had on those former residents of the Home who claimed they had been sexually abused.

10. A related issue that the Royal Commission will explore is whether the Diocese of Grafton had obligations to report allegations of criminal conduct to police. The evidence is likely to reveal that a number of allegations of sexual abuse were reported to the Diocese of Grafton but were not reported to the police. The hearing will also explore whether clergy and other “church workers” were required to be the subject of disciplinary proceedings and whether they occurred.
11. As the Royal Commission is expected to hear, the Anglican Church has detailed procedures for the disciplining of clergy and other church workers. To be appointed a priest a person must be first ordained and then licensed by the Diocesan Bishop. Even where a member of clergy is retired or not currently licensed measures may be taken to depose a member of clergy from holy orders. This public hearing will explore whether Reverend Kitchingman, who was convicted in 2002 of 5 counts of indecent assault of a male at the Home in 1975, was subjected to the disciplinary processes of the Church.
12. The primary questions which will be addressed in this public hearing are:
 - a. How were claims of historic child sexual abuse handled by the Diocese of Grafton?
 - b. Were they handled according to the policies and procedures of the Diocese and the Anglican Church? If not, why were they not?
 - c. Were the claims of child sexual abuse handled in a consistent and fair manner?

- d. Could and should other parts of the Anglican Church have assisted in the settlement of the claims?
 - e. Were the police informed of allegations of criminal conduct?
 - f. Were disciplinary proceedings taken against clergy and other employees alleged to have offended?
 - g. Were risk assessment measures put in place with respect to identified individuals?
13. The North Coast Children’s Home was established in 1919 and operated as a Home for children both before and after World War II. It was located in Keen Street, Lismore next to residential buildings for the Rector of Lismore and close to St Andrew’s Church. Its land is held in trust by the Corporate Trustees of the Diocese of Grafton for the benefit of the children’s home. It operated as a Home for children up until the end of the 20th Century when it became the Child and Adolescent Specialist Programs and Accommodation (‘CASPA’).
14. The Royal Commission is expected to hear evidence from former residents which indicate that the conditions for the children in the Home were harsh. In at least the 1950s and 1960s both food and clothing were extremely limited. The former residents have provided accounts to the Royal Commission that the children were often hungry and frequently stole food as a result. They have said that the clothing was of such a state that many children were embarrassed, isolated and picked on when they went to the local school. Their accounts indicate that discipline was extremely rigorous and some in the community would consider it brutal. For example, evidence available to the Royal Commission indicates that

children were humiliated for wetting their beds by having them stand or parade around wearing soiled sheets or they had to sleep in a shower recess without blankets.

15. Evidence that will be given is likely to indicate that the physical abuse at the Home was of such severity that some may consider it extreme. Witness statements from former residents indicate that some beatings by cane or 'pony whip' drew blood and left the child concerned with welts which took some time to heal.
16. As the Royal Commission will shortly hear, former child residents of the Home have provided detailed accounts of the sexual abuse they suffered over the period 1944-1985. The allegations they have made to the Royal Commission and, before that the Diocese of Grafton, vary widely. One priest is said to have performed oral sex on a child and then anally raped him. Another resident has provided a statement that he was forced to perform oral sex on a priest who then anally raped him. There are allegations of a priest approaching a child in bed and indecently assaulting her. Other former residents witnessed younger residents being raped by older residents. At least two former residents of the Home have provided descriptions of them being forced to perform oral sex on older males resident at the Home when they were aged 5-6 years old. Those acts, if proved, would amount to offences under the criminal law at the time that they were committed as well as under the criminal law of today. Some of the former residents have asked that the detail of the abuse not be adduced in evidence before the Royal Commission.
17. One example of sexual abuse concerns the conviction of the then Rev Allan Kitchingman for 5 counts of indecent assault of a male who was then

resident at the Home. Rev Kitchingman was convicted in 1968 of one count of indecent assault of a male while he was a priest in the Diocese of Newcastle. He was sentenced at the Newcastle Quarter Sessions, placed on a recognizance and given a 2 year good behaviour bond. The Bishop of the time wrote a reference for him which he sent to the Judge. The offence did not apparently concern his priestly duties and today such an act is not a criminal offence. Rev Kitchingman was removed from his position in the Diocese of Newcastle and the Bishop assisted him to find a place in the Diocese of Grafton. The then Bishop of Grafton accepted him in the knowledge of the offence and undertook to place him with an Archdeacon who understood the situation. Rev Kitchingman then moved to Lismore in the Diocese of Grafton where he became Assistant Priest.

18. By 1975 he was the Chaplain of the North Coast Children's Home and had conducted evening services there for several years. He also had frequent access to children in the Home teaching them music, drama and performance as well as in his pastoral duties. In 2001 Rev Kitchingman was arrested and charged with a number of counts of indecent assault of a male. In 2002 he pleaded guilty to five counts of indecent assault on a 12 and 13 year old boy who was under his care at the Home. The indecent assault involved Rev Kitchingman masturbating his victim and performing oral sex on him on numerous occasions over a 12 month period.
19. Rev Kitchingman was sentenced on 5 August 2002 to periods of imprisonment of 9, 10, 11 and 12 months for the first 4 offences, to be served concurrently, and a partially concurrent sentence of two and a half years for the fifth and most serious offence. His non-parole date meant he was to serve a minimum of 18 months in custody.

20. At the time of Rev Kitchingman's conviction the then Bishop of Newcastle, Roger Herft, now the Archbishop of Perth, was informed by an anonymous source that the 1968 conviction had not been put before the District Court. The evidence is likely to reveal that he raised the issue with the Office of Public Prosecutions.
21. The primary question for this public hearing with respect to Rev Kitchingman is whether steps were taken to discipline him in the Dioceses of Newcastle and in Grafton after the conviction. Rev Kitchingman was resident in the Diocese of Newcastle up until his conviction and then after his period of imprisonment. Evidence will be adduced that during the period 2002-2007 his name appeared in the Anglican Directory as a member of clergy.
22. Rev Kitchingman's victim, CH, commenced personal injury proceedings in the Supreme Court of NSW. The Royal Commission will explore why CH was able to settle that claim for a total of \$290,000 and whether that claim may be contrasted with the amounts which were received by those former residents who proceeded with the group claim.
23. There are some important aspects of the Anglican Church which underlie the evidence that the Royal Commission is about to hear. The first is that the Anglican Church comprises 23 separate and autonomous dioceses each with its own Bishop. The head of the diocese is a Bishop who controls, amongst other things, the ordination and licensing of priests. The diocese is generally managed by a Registrar or General Manager. In five cities there is an Archbishop also called a Metropolitan. The titular head of the Church is the Primate who currently also holds the office of Archbishop of

Brisbane, Dr Phillip Aspinall. The Primate chairs the General Synod which meets every 3-4 years and at which the Bishops attend.

24. The structure of the Anglican Church is such that in many cases the Diocesan Synod takes precedence over the General Synod. When the General Synod came to make canonical laws about professional standards for dealing with child sexual abuse it provided a model for dioceses to follow. The Diocese of Grafton adopted the *Professional Standards Ordinance 2004* and a *Protocol for Handling of Complaints of Sexual Abuse* based on models adopted by General Synod. The 2004 Ordinance establishes a professional standards director, a professional standards committee and a professional standards board. All are to be independent of the senior members of the diocese. A professional standards director organises counselling for claimants and arranges aspects of redress including acknowledgement and apologies and may recommend financial redress to the professional standards committee. He or she also has obligations to report allegations to the police, commence disciplinary proceedings and place entries on the National Register. The committee addresses issues of redress and the board determines disciplinary matters within the canonical structure established for matters of discipline.
25. The 2004 model ordinance was adopted by General Synod following receipt in 2003 of the “Work in Progress” report of the Sexual Abuse Working Group. The Working Group identified that the Anglican Church in dealing with claims of sexual abuse “has not been, but should be”:
 - a. Dealing empathetically, professionally, respectfully, fairly and in a timely way with the needs of complainants and respondents;

- b. Being consistent from diocese to diocese;
 - c. Reporting to the police all allegations of misconduct involving possibly illegal behaviour;
 - d. Adequately resourcing Church systems for dealing with complaints;
 - e. Ensuring that all reasonable steps are taken to protect the public from abuse;
 - f. Ensuring that Bishops do not exercise conflicting roles such as pastoral care as well as determination of compensation, handling litigation and disciplining clergy.
26. That list provides a useful list of issues for the Royal Commission to consider when analysing the evidence which is to come.
27. The evidence is likely to explore in some depth the manner in which the Diocese of Grafton handled the claim made in 2006 by the group of 40 or more former residents of the Home. The claimants detailed sexual, physical and psychological abuse during their time in the Home. 20 of the members of the group had been sexually abused. The group was formed due to the work of Tommy Campion, a former resident of the Home who had himself been sexually abused.
28. The evidence will explore whether the Diocese followed the Ordinance and Protocol and its “pastoral care and assistance package” which included a financial component up to \$75,000 and had been adopted by Bishop-in-Council in 2005. In late 2005 and early 2006 the claimants sought representation by a Brisbane solicitor and the Diocese engaged Grafton solicitor, and Diocesan Advocate, Peter Roland. The Royal

Commission will then consider what effect the management of negotiations through lawyers had upon the claimants and the Diocese.

29. The Diocese denied liability and challenged the group's assertion that the Diocese, the Corporate Trustees or the Bishop was liable. It relied on a limitations defence because the claims related to conduct some decades old. The evidence is likely to reveal that the denial of an association between the Home and the Diocese of Grafton produced a negative response from many of the claimants, particularly Tommy Campion.
30. The group's solicitors prepared statutory declarations for each of the claimants along with detailed and referenced submissions which were provided to the Diocese. Tommy Campion appeared in the media numerous times during 2006 setting out what had happened to him and indicating that a group claim had been made to the Diocese. The Diocese, through its Registrar indicated to the media that the claimants had "substantial hurdles to be overcome", questioned the factual basis for some of the claims and said the Home was "a great North Coast community facility".
31. A settlement conference occurred on 19-20 December 2006 between the solicitors for the claimants and the Diocesan Advocate and Registrar. As a result the parties came away with the group having offered \$1.2m to settle all the claims and the Diocese offering \$750,000. The negotiations continued and by March 2007 the parties had an agreed figure of \$825,000 to be split amongst the group. As the evidence will reveal that meant that members received no greater than about \$10,000 after legal costs each.

32. A majority of the group claimants accepted the amount offered. The Royal Commission will explore why some claimants accepted the offer and others did not. Evidence will also be adduced about the deed of release entered into by many of the group claimants and negotiations with the Bishop of Grafton to receive an apology.
33. Evidence will be adduced with respect to one of the group claimants, Tommy Campion, who rejected the offer of settlement but continued to seek financial compensation, acknowledgement and an apology from the Diocese. As the Royal Commission is likely to hear Mr Campion wrote more than 250 letters to Bishop Slater, Rev Comben, the Primate Dr Aspinall and to Archbishop Jensen. It will explore why he did so and what the response was of the Diocese of Grafton and the Primate of the Anglican Church.
34. The next part of the evidence concerns “post-group claims”, those who made claims after the resolution of the group claim. Mr Campion and CA pursued their claims in 2007. The evidence is likely to reveal that when they sought to achieve an amount closer to the proffered ‘Care and Assistance’ package Bishop Slater wrote to them saying “... *what you are now asking in relation to a Care Package would actually be a betrayal of all those whom you encouraged to make a claim with you through your lawyer.*” The evidence will explore why Bishop Slater took that approach and what effect it had on the two claimants.
35. The Royal Commission will explore what happened to Mr Campion and CA’s claims and why the former was settled but not the latter.

36. By late 2008 and early 2009 the evidence is likely to reveal that the position of the Diocese changed in its handling of claims. Three former residents of the Home, CE, CF and CG, who claimed they had been abused were denied any financial settlement. The Royal Commission will explore whether the position of the Diocese had changed and what factors may have affected that apparent change. The evidence is likely to show that the new policy was applied to CA, CB and CC. When they came forward, the evidence will show, they were offered a “pastoral care and support package” which consisted of appointment of a support person from the Diocese or one nearby. The Royal Commission will explore why the financial settlement offered to the group claimants was no longer available.
37. The next part of this public hearing will concern whether allegations of criminal behaviour were reported to the police, whether disciplinary action was commenced against relevant clergy and whether relevant entries have been made in the Anglican Church’s National Register. I have already touched upon the evidence that concerns the former Rev Kitchingman. However, as part of both the group and post-group claims a number of further allegations of criminal behaviour were made. The public hearing will explore who was referred to the police and why.
38. The Primate, Dr Aspinall, was involved at crucial stages of the negotiations between the Diocese of Grafton and the group claimants, and also with Mr Champion. The public hearing will explore what his influence was on the Bishop of the Diocese of Grafton. As the Royal Commission is likely to hear, Dr Aspinall’s position is that he has a role to counsel and advise a diocesan Bishop but that matters such as dealing with claims of child

sexual abuse are properly the domain of the Bishop of the relevant diocese.

39. The evidence is also likely to reveal that the Anglican Diocese of Grafton was suffering from financial distress caused by debts incurred by one of its schools. The Royal Commission will explore whether this had any bearing on the approach of the Diocese of Grafton to claims of child sexual abuse by those formerly resident at the Home.
40. As the Royal Commission is likely to hear, the Anglican Church represents itself as the Anglican Church of Australia, a national body. An issue which will be explored is the relationship of the Primate and the General Synod with a diocese which has a limited financial capacity to respond to large numbers of claims. The Royal Commission will consider whether there is a place for dioceses which are better resourced to contribute to other dioceses which are less well resourced so as to meet the obligations of the Church.
41. The final element of the hearing will be an exploration of why the Bishop of Grafton resigned in May 2013 and whether his resignation was affected by the handling of claims in the Diocese of Grafton.
42. The oral evidence will commence with the accounts of those who were resident in the North Coast Children's Home. The Royal Commission placed notifications online and in local papers for those formerly resident to come forward and speak with the Royal Commission about their experiences at the Home and the making of a claim to the Diocese of Grafton. A number of people came forward but many were unwilling or simply unable to give evidence. Two claimants are willing to give oral

evidence to the Royal Commission. The first of them, CK, was one of the group claimants who accepted the offer of the Diocese of Grafton to settle his claim. The second witness will be Mr Campion mentioned earlier.

43. As with earlier public hearings written statements have been provided to the Royal Commission and they will be read out. The Royal Commission will hear the statements of CN and CM who were part of the group claim and accepted the payment negotiated. The Royal Commission will also hear the statements of CD and CB who made claims after the resolution of the group claim. The statement of CA will then be read.
44. The first of the non-claimant witnesses is Ann Hywood who was the Acting Registrar for the Diocese of Grafton and whose 2013 report was influential in the resignation of Bishop Slater. Ms Hywood's evidence is expected to provide an overview of the claims process handling at the Diocese of Grafton up to May 2013.
45. The next group of witnesses will set out the handling of the group claims from the end of 2005 to mid-2007. Simon Harrison will give evidence of his handling of the group claims from the perspective of the claimants. Rod McLary, the Professional Standards Director at Brisbane at the time, will give evidence of the involvement of the Primate in negotiations over the group claim and interaction with Mr Campion. Phillip Gerber was the Professional Standards Director for Sydney until 2009 but also provided his services to the Dioceses of Grafton and Newcastle up until the end of 2007. He was assisted by Jennifer Woodhouse. Anthony Newby was the Registrar who succeeded Rev Comben and dealt with some of the post-group claims.

46. The third group of witnesses will give evidence of the position taken by the Diocese of Grafton during both the group claimants and the post-group claims. Peter Roland was the Diocesan Advocate during the period 2005-2011 and handled all the group claims and most of the post-group claims for the Diocese. Pat Comben was the Registrar of the Diocese of Grafton and provided instructions for the handling of the group claims. Mr Comben will be followed by Bishop Slater who was the Bishop of Grafton from 2003.
47. The fourth group of witnesses will provide evidence about the current situation in the Diocese of Grafton. The Royal Commission will hear from Archdeacon Greg Ezzy who assumed the position of Administrator of the Diocese until a new Bishop is confirmed. He will be followed by Michael Elliott who has been the Professional Standards Director for Grafton and Newcastle since 2009.
48. Martin Drevikovsky, the General Secretary on the General Synod, will give evidence about the operation and efficacy of the Anglican Church's National Register. The Archbishop of Perth, Roger Herft, will then give evidence about matters concerning Allan Kitchingman while he was the Bishop of Newcastle from 1993 to 2005.
49. The Archbishop will be followed by the Primate of the Anglican Church and Archbishop of Brisbane, Dr Phillip Aspinall. The Primate will give evidence about his role as the head of the Anglican Church and his specific involvement in the group claims, his interactions with Bishop Slater and Mr Campion.

50. The statements of the witnesses are contained in 6 volumes of material. In addition there is a tender bundle of two volumes of documents and a third volume of policies and procedures.

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