

### PANEL 3.2: Professional Standards - Directors

*Diocese of Sydney witness: Mr Lachlan Bryant, Director, Professional Standards Unit, Diocese of Sydney*

#### 1. Policies and procedures in respect of responding to complaints of child sexual abuse.

- As to policies: see the updated Policy Chronology, annexed to the supplementary statement of the Most Rev. Dr Glenn Davies dated 20 December 2016 at Annexure E.

- As to procedures:

(a) *Receiving complaints -*

Since 1996 the Diocese has used an established protocol for receiving complaints and allegations of child sexual abuse or sexual misconduct by clergy or church workers. People with information can contact five Contact Persons, who are trained counsellors, through an abuse report line or email address. The Contact Persons provide information and support to callers. They can then assist in allegations or complaints being documented and reported.

(b) *Complaints handling -*

Once a Contact Person has taken an initial report the complainant is offered counselling and the complaint is sent to the Professional Standards Unit. The Chaplain is responsible for contact with the complainant and remains in touch with them throughout the process. The complaint is served on the Respondent and they are also offered counselling and access to a support person. The Director then investigates the complaint.

(c) *Resolving a complaint -*

In the Diocese of Sydney, in relation to clergy or paid lay workers, the results of the Director's investigation are sent to the Professional Standards Committee ('PSC') for its consideration and recommendations. (In most other jurisdictions, the professional standards committees conduct the investigations.)

Pursuant to the *Discipline Ordinance* 2006 the PSC can recommend that the Archbishop appoint someone to promote a charge against the person before the Diocesan Tribunal (for clergy) or the Disciplinary Tribunal (for laity) if it considers that there is a reasonable likelihood that the complaint, if sustained, will result in the person's deposition from orders, prohibition from functioning or removal from office (if clergy) and a prohibition order or removal from office (if laity). These are the strongest sanctions available.

There are also conciliation provisions, lesser sanctions and other recommendations available to the PSC in appropriate circumstances.

The Archbishop or relevant church authority (in the case of an unlicensed lay person) considers the final recommendations of the PSC and takes action. Respondents that fail to accept or comply with PSC recommendations to the Director's satisfaction can also be brought before the Tribunal. Investigations into complaints concerning unpaid workers are sent to an Adjudicator.

(d) *Support for survivors -*

The Chaplain of the Professional Standards Unit offers pastoral care and support to complainants which can be supplemented by external counselling and other emergency assistance which is paid for by the Professional Standards Unit.

(e) *Redress -*

The Pastoral Care and Assistance Scheme was established in 2004 to provide financial assistance to survivors of abuse or misconduct by clergy or church workers. The Scheme is an alternative to litigation which can be a protracted and harrowing process for survivors. The Scheme includes a mechanism for external assessment if necessary.

The maximum payment under the Scheme has been recently increased to \$150,000, in recognition of the Royal Commission's recommendations in the Redress Report. The assessment matrix has also been updated, for consistency with that Report.

(f) *Review of complaints-handling policies and procedures -*

The Safe Ministry Board was established in 2001 and is tasked with ensuring that safe ministry, child protection and child abuse issues are properly dealt with throughout the Diocese. This includes the development and review of practices and policies with regard to complaints. The Board is comprised of the Director of Professional Standards, six licensed ministers and six laity (three men and three women). The Archbishop also has the right to preside over the Board at any meetings.

2. Operational differences between diocesan professional standards frameworks, including any challenges in implementing the professional standards frameworks.

- The Diocese of Sydney uses an 'offence-based' disciplinary model under the *Discipline Ordinance 2006* for receiving and investigating complaints. This can be differentiated from the 'fitness for office' model set out in the General Synod's model Professional Standards Ordinance.
- The Diocese of Sydney is the only diocese to have Contact Persons and a Chaplain to assist the complainants. It is also the only diocese with a Safe Ministry Board to develop and review child protection policies and training. These resourcing differences necessarily result in operational differences between the Diocese of Sydney and other dioceses.

- The responsibilities of directors also vary from those of the Diocese of Sydney, for example, the directors in some dioceses also handle complaints for persons who were abused in Anglican residential care homes and Anglican schools.
  - The legal requirements for child welfare, mandatory reporting, reporting to police, Working With Children Checks and reporting schemes for employee conduct also differ from state to state, which results in operational differences between jurisdictions.
3. Resolving jurisdictional issues – who has carriage of the disciplinary process.
- On 18 and 19 November 2016, the General Synod recommended the adoption and implementation of a protocol titled ‘Protocol for determining the responsibility of dioceses for disciplining Church workers for misconduct’.
  - The Diocese of Sydney applies that protocol in relevant cases.
  - Findings made by a disciplinary body of another diocese or state administrative or judicial body, that have not been overturned on appeal, are treated as conclusive by the Diocese of Sydney.
4. Responses to issues raised in Case Study 3 and Case Study 36 in respect of professional standards.

GENERALLY:

- As to the Professional Standards response to the Royal Commission generally:
  - a) When the Royal Commission was announced in 2012, the Diocese of Sydney commissioned a law firm to conduct a significant review of all its past and present complaints files. As a result of this review the Diocese now:
    - i. connects all related files;
    - ii. has clearer file management practices which allow for easier differentiation between those files where further work is needed and those where no further action is needed;
    - iii. systematically makes reports, where necessary, to police for current files, and also makes reports with respect to inactive files where it is unclear whether this was done in the past. The Professional Standards Unit also makes inquiries to follow up information received where this does not appear to have been done in the past;
    - iv. makes inquiries to locate further files that may be relevant to the Royal Commission including from the Diocesan archives; and
    - v. all ‘notifiable complaint’ matters concerning child sexual abuse are now entered onto the National Register.

- At the request of the Director of Professional Standards, the Steering Committee of Synod commissioned a review of the Diocese's child protection policies, which was completed by Professor Patrick Parkinson in 2014. As a result:
  - a) a number of the Diocese's policies were rewritten by 2015; and
  - b) the SafeMinistry.org.au website and the Safe Ministry Journey policies, which all parishes are encouraged to adopt, were launched at Synod in 2015.
- In February 2017, the Diocese of Sydney increased the cap under its Pastoral Care and Assistance Scheme to \$150,000 in light of the recommendations in the Royal Commission's Report on Redress and Civil Litigation. It also updated its assessment matrix for consistency with that Report.

AS TO CASE STUDY 36:

- As a result of discussions that started during the hearing of Case Study 36, the Diocese of Sydney was able to make reparation to the witness known as BYC. The Archbishop was also able to speak directly with BYC's mother, known as BYD, about the pain they both have suffered and continue to suffer.
  - The Archbishop also met with Mrs Marion Fortescue, the mother of another survivor, Wayne Guthrie, who passed away just before the hearing. The Diocese, with Mrs Fortescue's consent and input, are now developing a protocol to improve the Diocese's response to the family members of those who die prematurely after having been sexually abused in the church. It will be called 'The Wayne Guthrie Protocol' in Wayne's honour.
  - The details of Simon Jacobs, one of the perpetrators relevant to Case Study 36, had already been entered on the National Register by the time of the CEBS hearing, due to his earlier convictions. However, prior to Jacobs' release from prison in September 2016, a Prohibition Order was also made against him, which prevents him from engaging in ministry or being appointed to any role in the Diocese.
5. Policies and procedures in respect of reporting complaints or information about child sexual abuse to other authorities, including but not limited to:
- a) Police;
  - b) Government bodies;
  - c) The General Synod (via the National Register); and
  - d) Other dioceses.

- *Police –*

Complainants reporting possible criminal behaviour to the Diocese are encouraged to make a report to the NSW Police, and a Contact Person or member of the Professional Standards Unit can assist them to do so. Otherwise, the Professional Standards Unit makes a report. Church workers are also obliged to report allegations of child sexual abuse to the police under s. 316 of the *Crimes Act 1900* (NSW).

- *Government bodies –*

Church workers are obliged to report concerns to the Department of Family and Community Services if they believe a child is at significant risk of harm pursuant to ss. 24 and 27 of the *Children and Young Persons (Care and Protection) Act 1998* (NSW).

- *Office of the Children’s Guardian -*

Complaints against a church worker in the Diocese that allege child sexual abuse are reported to the Office of Children’s Guardian pursuant to Schedule 1, s. 2 of the *Child Protection (Working with Children) Act 2012* (NSW) if a finding has been made under the *Discipline Ordinance 2006* that the conduct occurred.

- *NSW Ombudsman –*

Although the Diocese of Sydney is not a ‘designated agency’ under the Reportable Conduct Scheme set out in s. 25C(1) of the *Ombudsman Act 1974* (NSW), it is obliged to notify the Ombudsman, in certain circumstances of an employee’s sexual misconduct involving a child (including grooming behaviour) or any serious physical assault of a child. This applies to organisations within the Diocese that provide ‘substitute residential care’ for children.

It is currently unclear whether that includes youth camps that last longer than three nights. The Archbishop and the Director of Professional Standards have met with representatives of the NSW Ombudsman’s Office to try and resolve this and await the recommendations of the NSW Government.

- *The General Synod (via the National Register) –*

The Director of Professional Standards enters the details of all ‘notifiable complaints’ (as defined in the *National Register Canon 2007*) on the National Register, to which all other dioceses in Australia have access.

- *Other dioceses –*

The National Network of Directors of Professional Standards from Anglican dioceses across Australia meet face-to-face each quarter. The members of the network also communicate regularly with each other about allegations of child sexual abuse they have received, as needed.

6. Policies and procedures in respect of risk management of known offenders.
- The Professional Standards Unit has developed detailed *Guidelines for Parishes regarding Persons of Interest* and requirements to help parishes to recognise and risk manage known or alleged offenders. Those guidelines are set out in Chapter 4 of the *Safe Ministry Map* and the *Safety Plan*.
  - ‘Persons of Interest’ under the Guidelines include those who have been convicted of child sexual abuse, and others who have admitted to sexual abuse involving children, or who have been the subject of an adverse risk assessment or adverse findings concerning allegations of child sexual abuse but do not have a criminal conviction.
  - Persons of Interest attending or seeking to attend a church must be subject to careful risk management processes, in order to ensure the safety and protection of children. They are also ineligible for leadership roles in the church. A Safety Plan must be developed and agreed to by the church leadership and the Person of Interest, and then registered by the Professional Standards Unit on a Register of Safety Plans. There are 32 Safety Plans for Persons of Interest currently in place at parishes across the Diocese.
  - Pursuant to the Guidelines, parishes are required to contact the Director of Professional Standards to notify the Professional Standards Unit about the Person of Interest’s attendance at the parish and to allow the Director to provide advice and assistance to the parish in relation to the Person of Interest.
  - The Director of the Professional Standards Unit also presents training as part of the Ministry Training and Development program from Safe Ministry module 9, ‘People who Abuse – Pastoral Management’ to help train clergy about these matters.