

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

Archbishop George Pell the Catholic Archbishop of Melbourne ("the Archbishop") being concerned that a number of priests and religious have sexually abused children, adolescents and adults in their pastoral care, in **order** to facilitate the discovery of such sexual abuse, and the taking of consequential action has 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.

• **Definitions**

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

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

"**Complaint**" means any complaint made to the Commissioner by a person that he or she has been sexually abused by a church person or a complaint made to the Commissioner by a person who complains that some other person has been sexually abused by a church person, and any complaint of sexual abuse by a church person which is referred to the Commissioner by any other body or person.

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

"Sexual abuse" includes 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.

"The Support Professional" is a person to be appointed by the Archbishop for administering the provision of professional support services namely treatment, counselling and support to victims of sexual abuse within the Archdiocese.

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

1. The Role of the Independent Commissioner

- (i) The Commissioner is appointed to enquire into and advise the Archbishop with respect to complaints of sexual abuse by church persons.
- (ii) The Commissioner shall forthwith enquire into any complaint of sexual 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 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 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 abuse by church personnel.
- (vi) Forthwith upon becoming aware that sexual 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 1 (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 assurance 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 a 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 abuse to the Support Professional.
 - (xvi) The Commission will consult with and advise the Compensation Panel as required, subject to sub-paragraphs 1 (x) and (xi)
2. (i) The retainer of the Commissioner shall be for a period of six months, Provided that if at the expiration of that period, the Commissioner and Instructing Solicitors are of opinion that there are outstanding matters concerning allegations of sexual misconduct in respect of which action should be taken, the Archbishop shall extend the retainer for a further period of six

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months, or such other period as may be mutually agreed upon and, Provided Further 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 abuse and other matters.