

CORRS

CHAMBERS

WESTGARTH

S O L I C I T O R S

18 October 1996

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 Our Ref: ROMA5455-001

Mr Gavin Brown, APM
 Assistant Commissioner
 Corporate Policy Planning and
 Review Department
 Victoria Police
 637 Flinders Street
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Dear Assistant Commissioner

We refer to your meeting on 16 October 1996 with Monsignor Hart, Mr Peter O'Callaghan QC, our Mr Darvall and Mr Leder. We considered it a most helpful and constructive meeting and we thank you for your co-operation and assistance.

With respect to the discussion as to the desirability of the document of appointment containing specific reference to encouraging complainants to report to the police, it has been agreed that it is desirable for this to be included and accordingly clause 1(iii) will now read:

"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."

We reiterate that the view of the Archbishop and his advisers is that if there are allegations of criminal conduct, then obviously the same are best referred to the police, first because of the investigative expertise and resources of the police, and secondly if there is criminal conduct, the same should be dealt with by the courts and it is only through the police that this can be done.

However there may be instances such as those contemplated in clause 1(xi) of the document of appointment when for various reasons the complainant would have made it clear at the outset that he or she does not wish to report the matter to the police. It is in order to allow for that situation that the word "appropriately" has been included.

With respect to the discussion as to the Commissioner conducting an interview with a priest or religious, following the matter being referred to the police, we make the following comments.

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Naturally, the Commissioner will be astute not to interfere in any way with the progress of a police investigation and action. Unnecessary as it is so to state, it is specifically provided in the document that "The Commissioner will not act so as to prevent any police action in respect of allegations of sexual abuse by church personnel".

However it may be necessary for the Commissioner concurrently with a police investigation to interview a priest and recommend some action by the Archbishop. For instance, if there are allegations of sexual abuse it may become incumbent upon the Archbishop or his delegate to immediately take appropriate action to protect vulnerable persons, and to prevent disquiet and concern amongst members of a congregation of a church. Typically this could be done by suspending or transferring the alleged offender, though emphasising this did not indicate any finding of guilt. As was discussed at our meeting analogous situations arise in other organisations including the police.

However, on behalf of the Commissioner we confirm that the procedures will continue to be the subject of close consideration and monitoring. No doubt as time goes by it will be necessary to amend or add to them. In this context, you can be assured the Commissioner will communicate in an appropriate way with you and with other appropriate police personnel. In that context, we would be happy to receive such comments from time to time as you see fit to make.

We also confirm that the Commissioner proposes to inform the Solicitor General, Mr Douglas Graham QC of the proposed appointment, and the terms thereof, so that the Solicitor General can appropriately inform the Attorney General and such other Government persons as is considered desirable.

Once again thanking you for your assistance.

Yours faithfully
CORRS CHAMBERS WESTGARTH

A W LeP Darvall
Managing Partner