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ROMAN CATHOLIC ARCHDIOCESE OF MELBOURNE

**RESPONSE TO ALLEGATIONS OF SEXUAL ABUSE
MADE AGAINST THOSE ASSOCIATED WITH THE CHURCH**

A FOUR PART PLAN

DRAFT 7 FOR SUBMISSION TO P J O'CALLAGHAN QC

BACKGROUND

On 26 April 1996 the Catholic Bishops of Australia published a Pastoral Letter dealing with the issue of sexual abuse by priests and religious.

In this Pastoral Letter they stated that:

"With deep regret, we acknowledge that a number of people associated with the Church have betrayed the trust placed in them by sexual abuse of minors and adults. In doing so, they have acted in a way that is contrary to everything the Church stands for.

We cannot change what has happened in the past, undo the wrongs that have been done, or banish the memories and the hurt. In seeking to do what is possible, our major goals must be: truth, humility, healing for the victims, assistance to other persons affected, an adequate response to those accused and to offenders, and prevention of any such offences in the future".

It is in the spirit of these reflections that the following document is published. It does not pretend to be a final and comprehensive pastoral response to this deplorable reality that has so shocked our community. Its parameters are more limited. It aims simply to offer a satisfactory administrative framework around which situations requiring action can be dealt with in a professional, caring and appropriate manner.

1. INTRODUCTION

1.1 The plan has four parts for dealing with complaints of sexual abuse:

- An enquiry into and report by an Independent Commissioner in respect of allegations of sexual abuse
- Provision of professional support to victims
- Compensation
- Parish pastoral response.

In addition, priests will be provided with counselling and support.

1.2 The plan only applies to allegations of sexual abuse made against any priest of the Archdiocese and to lay persons and religious working within the Archdiocese ("Church person").

1.3 An allegation of 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 persons.

1.4 In this plan a "complainant" is any person making a complaint of sexual abuse against a Church person, and an "accused" is a Church person against whom an allegation of sexual assault is made.

1.5 This document is intended to describe but not to implement the various parts of the plan. The documents appointing the independent commissioner, the support professional and the compensation panel have precedence over this document.

2. THE INDEPENDENT COMMISSIONER

2.1 The Archbishop is appointing Mr Peter O'Callaghan QC to act as an independent commissioner to enquire into and report with respect to allegations of sexual abuse by Church persons.

2.2 The independent commissioner's role will be:

- to enquire into allegations of sexual abuse by Church persons
- to consult as he considers it appropriate with the accused, the complainant and relevant witnesses
- to provide a recommendation to the Archbishop as to interim action to be taken: for example in the case of a priest, whether the priest should be placed on administrative leave
- to encourage the appropriate reporting of criminal activity to the police.

2.3 The independent commissioner is being appointed pursuant to terms and conditions of appointment. They provide, amongst other things, that:

- immediately upon a complaint of sexual abuse being made to him, the commissioner shall inform the complainant that he or she has an unfettered and continuing right to report the matter to the police
- the commissioner shall appropriately encourage the exercise of that right
- the commissioner will not act so as to prevent any police action
- the commissioner will respect obligations of confidentiality imposed on him by complainants to the maximum extent permitted by law. Except where those obligations preclude him from so doing, he may if he considers it appropriate report matters to the police.

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- 2.4 The activities of the commissioner will be subject to Canon Law and to rules of natural justice. Under Canon Law the commissioner will be a delegate of the Archbishop, empowered to require priests, religious and lay persons within the Archdiocese of Melbourne to attend before him, answer questions and produce documents. The commissioner's role will be substantially identical to that of a royal commissioner appointed by a government to enquire into and report upon alleged corruption within an organisation or department. The commissioner will report and make recommendations to the Archbishop.
- 2.5 The appointment of the commissioner will not conflict with police investigation or action in respect of sexual abuse. Rather it is intended that the appointment of the commissioner will facilitate the identification of those engaging in sexual abuse, and thus result in them being dealt with by the criminal law. The police and government have been informed of the appointment of the commissioner, and the terms and conditions of that appointment. Notice will be published in the press by the commissioner advising those who desire to make complaints of sexual abuse of the way in which the commissioner will receive such complaints.

3. PROFESSIONAL SUPPORT SERVICES

- 3.1 The Archbishop is appointing Professor Richard Ball (the "support professional") to be responsible for administering the provision of professional support services, namely treatment, counselling and support to victims of accused Church persons within the Archdiocese.
- 3.2 The professional support service will operate from premises to be established at 163 Victoria Parade (the "centre"). The centre will be staffed by persons with appropriate qualifications and experience. Professional support services will be available directly from these staff. Complainants may also be offered services from members of a panel. In addition, the services will administer reimbursement of the costs of approved private treatment, counselling and support.
- 3.3 Existing treatment, counselling and support being provided by the Archdiocese will now be provided or channeled through the professional support service.

- 3.4 The professional support service will provide contact persons who will perform an intake assessment, develop a case management plan and provide support to complainants in relation to each part of the plan.
- 3.5 The existence of the professional support service will be widely publicised. However it will only be to actual victims of sexual abuse within the Archdiocese that professional support services will be provided. If it eventuates that a person receiving support services was not a victim of sexual abuse by a Church person, then the professional support services may be withdrawn. There will be regular meetings between the service and the Archbishop's media spokesperson to ensure that the service receives appropriate publicity.
- 3.6 The service will respect the confidentiality of complainants, but will comply with legal reporting requirements. It may also disclose information with the consent of the complainant.
- 3.7 The role of the professional support services is not investigatory.

4. COMPENSATION PANEL

- 4.1 A compensation panel will be established to provide ex gratia compensation to complainants of sexual abuse by accused Church persons within the Archdiocese. Mr Alex Chernov QC is being appointed to chair the panel.
- 4.2 The function of the panel is to provide complainants with an alternative to the pursuit of legal proceedings against the Archbishop or the Archdiocese. It is expected that the panel will provide an informal rather than legalistic approach and a forum for a fair, just and speedy settlement of claims. The panel will operate in a manner similar to a number of Ombudsman/Alternative Dispute Resolution schemes.

- 4.3 The establishment of the panel and the payment or offer to pay compensation is not an admission of legal liability. The Archbishop, the Archdiocese and the Church do not accept that they have any legal obligation to make payments to complainants. The Archbishop also recognises that there is strong opposition from some quarters to the making of any compensation payments. The compensation scheme takes these factors into account and strives to achieve a fair and reasonable compromise.
- 4.4 The panel will operate as follows:
- If the panel determines that an amount of compensation is to be paid then that determination will bind the Archdiocese, in the event that it is accepted by the complainant.
 - If the complainant accepts the amount of compensation offered, then it will be paid in full settlement of the complainant's legal claims against the Archbishop and the Archdiocese, except that professional support services will remain available to the complainant.
 - If the recommended payment is not acceptable to the complainant then that complainant is free to pursue other remedies. In that event neither the Archdiocese nor the complainant will be able to rely upon any material produced during the compensation panel process.
- 4.5 The maximum ex gratia payment that will be available to any complainant from the panel will be \$50,000.00. This maximum amount will be available for the most serious and aggravated forms of assault. The panel will, in the exercise of its discretion, determine the appropriate amount to be offered to each complainant.

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- 4.6 Complainants remain free to use the normal court processes if they do not wish to avail themselves of the compensation panel process. In that event they should expect that the proceedings will continue to be strenuously defended. Any claimant coming before the panel will be informed of their right to refuse the ex gratia payment being offered and to pursue their claim in the civil courts. They will also be informed that the Archbishop and the Archdiocese will continue to defend claims in the courts on all bases.
- 4.7 The membership of the panel will consist of:
- an eminent psychologist or psychiatrist;
 - an eminent lawyer;
 - two other eminent lay persons.
- The chairperson will have a casting vote and will if possible consist of at least two women.
- 4.8 Although the initial appointment of members of the panel will be by the Archbishop, the panel shall to the maximum extent possible operate independently of the Archbishop and the Archdiocese.
- 4.9 The panel will determine guidelines appropriate to the method in which it is to operate.
- 4.10 To be eligible for an ex gratia compensation payment, the complainant will need to establish the factual basis of the claim. The panel will consult and liaise with the independent commissioner in this regard.
- 4.11 Payments will not be made for complaints relating to alleged offenders who were not priests of the Archdiocese, nor will it be paid in relation to complaints regarding lay persons or religious unless they were working within the Archdiocese and subject to the employment or control of the Archbishop.

5. PARISH PASTORAL RESPONSE

- 5.1 In addition to the measures set out above, there will be a pastoral response team that will operate at a parish level. The team will offer spiritual support and counselling at a parish level and provide a forum for pastoral healing.
- 5.2 The parish pastoral response team will be administered by the Vicar-General's office.
- 5.3 Members of the parish pastoral response team will not discuss sexual abuse issues with the media, save with the specific prior permission of the Archbishop, the Vicar-General or the Archbishop's media adviser.
- 5.4 Members of the team will not assist claimants before the compensation panel or in legal proceedings.

6. COUNSELLING AND SUPPORT FOR PRIESTS

The Vicar-General's Office will administer the provision of appropriate counselling and support for Church persons against whom allegations of sexual abuse have been made. Nothing within the plan is intended to pre-judge the guilt or innocence of any particular priest, religious or lay person.

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