

PART B

Outcome of the Investigation

To be completed at the conclusion of the investigation of the reportable allegation. Please attach copies of supporting final documentation and complete the following:

7. Details of Agency

Name of agency: CATHOLIC DIOCESE OF WOLLONGONG	
Your case/ref number: 815005	Ombudsman reference: C/2006/7162

8. Procedural fairness (please use one form for each allegation of reportable conduct)

8.1	<p>Describe the alleged reportable conduct that you put to the employee once you collected all evidence relating to the investigation. Attach all relevant documents including records of interview with the employee, emails etc.</p> <ol style="list-style-type: none"> Between 1 June 1991 and 30 September 1991, at the presbytery at Dapto, the sexual assault of ABA ABA, aged 15 years at the time. In 1993 and during an altar servers camp to Canberra, the sexual assault of ABO, aged 9 years at the time. Between 26 December 1990 and 3 January 1991, during a "Summer Safari" to the areas of Canberra, Mt Kosciusko, Braidwood and the South Coast of NSW, the sexual assault of an unnamed boy, under the age of 16 years at the time. Between approximately 1989 and 1993, engaging in a pattern of behaviour that constitutes sexual misconduct. This behaviour impacted on a number of boys, all under the age of 16 years at the time. <p>These allegations were put to Fr Nestor in a letter from Kamira Stacey Consulting, dated 11 October 2007.</p> <p>They were also put to him in an interview with Ms Kylie Starling of Kamira Stacey Consulting on 27 November 2007.</p> <p>They were subsequently put to him in letters from Bishop Peter Ingham, Bishop of Wollongong, on 12 June 2008 and 19 August 2008.</p>
8.2	<p>Was the employee invited to have a support person attend the interview with them?</p> <p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p>
8.3	<p>What was the employee's response to the alleged reportable conduct?</p> <p>Father Nestor denied all allegations in a letter to Kamira Stacey Consulting, dated 4 November 2007, at the interview on 27 November 2007, and in a letter to Bishop Peter Ingham, dated 29 June 2008.</p>

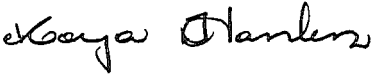
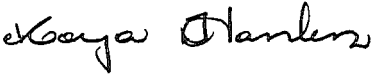
8.4	If no allegation of reportable conduct was put to the employee for response, please state your reason for this

9. Agency Finding for the purposes of reporting to the Commission for Children and Young People

9.1	Finding	Category of conduct	CCYP requirement
	<input checked="" type="checkbox"/> Alleged reportable conduct was found to be - sustained - ^{1, 2, 4} <input checked="" type="checkbox"/> Alleged reportable conduct was found to be – not sustained, insufficient evidence - 3	<input type="checkbox"/> Physical assault <input checked="" type="checkbox"/> Sexual offence <input checked="" type="checkbox"/> Sexual misconduct <input type="checkbox"/> Behaviour causing psychological harm <input type="checkbox"/> Neglect <input type="checkbox"/> Ill-treatment	These findings require notification to the CCYP as a relevant employment proceeding (REP)
	Alleged conduct was found to be: <input type="checkbox"/> Exempted due to Class or Kind agreement with the CCYP, but was: <input type="checkbox"/> Sustained <input type="checkbox"/> Not sustained <input type="checkbox"/> Misconduct was sustained but it did not involve reportable conduct# <input type="checkbox"/> False <input type="checkbox"/> Vexatious and without substance <input type="checkbox"/> Misconceived	<input type="checkbox"/> Physical assault <input type="checkbox"/> Sexual offence <input type="checkbox"/> Sexual misconduct <input type="checkbox"/> Behaviour causing psychological harm <input type="checkbox"/> Neglect <input type="checkbox"/> Ill-treatment	These findings are not reportable to the CCYP as REPs
9.2	State the reason(s) for your finding(s): Bishop Peter Ingham thoroughly studied the report prepared by Kamira Stacey Consulting and the supporting documentation. He also gave serious consideration to Fr Nestor's response. Having carefully weighed the evidence, he reached the findings noted above.		
9.3	Was the matter sent to the CCYP? <input checked="" type="checkbox"/> Yes* <input type="checkbox"/> No What category was the matter reported as? <input checked="" type="checkbox"/> Category 1 <input type="checkbox"/> Category 2		
9.4	State your reasons for the CCYP category: The seriousness of the matters brought against Fr Nestor - sexual abuse and sexual misconduct.		
9.5	Date sent to CCYP: 26 August 2008 * Note: Please attach a copy of the CCYP notification form		

Includes trivial or negligible use of force, the behaviour was reasonable for the circumstances, or the behaviour was accidental.

10. Final action taken at the end of the agency investigation

10.1	<p>Describe the action taken by your agency (including risk assessment and management) at the conclusion of the investigation in respect of the employee who was the subject of the reportable allegation:</p> <p>Fr John Nestor has not been permitted to minister since allegations were brought against him on 1 May 1996. This remains the situation.</p> <p>On 27 August 2008, Bishop Ingham initiated a canon law process in accordance with the requirements of the Catholic Church in matters of this kind. (see attached letter to Fr Nestor)</p>		
10.2	<p>What other issues arose during the investigation that your agency considers relevant?</p>		
10.3	<p>What other action has been taken or is proposed by your agency as a result of the investigation? (eg training, changes to policies).</p> <p>The Diocese of Wollongong is committed to the protection of children and young people and has in place comprehensive child protection policies and procedures. The Diocese will continue to work with the Office of the Ombudsman and other agencies as appropriate, to ensure that these policies remain clear and in accord with current knowledge, and that processes are robust. The Diocese will continue to keep these policies before the eyes of the clergy and to provide ongoing education and training.</p>		
10.4	<p>Date investigation completed: 26 August 2008</p>		
10.5	<p>Date notification completed: 26 August 2008</p>		
10.6	<p>Name, title and signature of person completing notification to Ombudsman:</p>		
	<table border="1"> <tr> <td data-bbox="325 1715 900 1901"> <p>Name: (Sr) Moya Hanlen</p> <p>Title: Chancellor</p> </td> <td data-bbox="904 1715 1509 1901"> <p>Signature:</p>  </td> </tr> </table>	<p>Name: (Sr) Moya Hanlen</p> <p>Title: Chancellor</p>	<p>Signature:</p> 
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