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A Message From The Christian Brothers To The Catholic Community of W.A. and S.A.

Most of you will be aware that over the last three years the Christian Brothers have been defendants in court actions in New South Wales and Victoria in which more than 250 former students of the childcare institutions which the Brothers used to run in Western Australia were seeking damages for the alleged negligence of the Christian Brothers' organisation.

These cases have now been withdrawn as part of a multi-million dollar out of court settlement.

The point at issue in these cases was not whether or not abuse had occurred (this had been admitted in our public apology of 1993), although there is disagreement between the two sides about the extent and severity of that abuse. The issue was whether or not the Christian Brothers' Superiors and Administration had been negligent in their conduct of the orphanages. The Brothers defended themselves in this legal action, knowing that there was abundant evidence that their leaders and administrators in the 1940's, 1950's and 1960's acted with the care and responsibility expected of them at that time.

This whole argument has been bedevilled by the time factor. Thirty to fifty years after the events, it has been very difficult to establish conclusively what happened. The cases also involved very complex legal issues of jurisdictions, statutes of limitation, etc.

Being dragged into this litigation immediately imposed an "adversarial" approach to the problems, with two opposing sides battling in court in a win/lose situation. We have said all along that we did not believe that such legal processes were going to be helpful in solving the complex problems involved in this matter.

One of the paramount concerns that we have had has been the welfare of those men who were former residents of these institutions. From personal contact with many, we knew of their hurt, pain and distress. Many have had very difficult lives, both those who were victims of abusive acts as well as many others. Although we have denied that we have a legal liability as an organisation, we have always accepted that we had a moral responsibility to those men who are former students of ours and who are currently in great need.

Given all this, we welcome the settlement that has now been concluded between most of the plaintiffs and the Christian Brothers as a welcome end to what has been a costly and unproductive legal process. This settlement represents a recognition by both parties that continuing to deal with these issues in the legal forum was going to be expensive, drawn out and maybe inconclusive.

This settlement is not about winners and losers. It represents something of a compromise on both sides, but also a willingness to make these compromises in the interests of finding a way forward. It also means that the two sides have put aside the confrontation of the legal process in order to seek a more cooperative approach to assisting these men.

The details of the settlement are as follows:

- The Christian Brothers' four Provinces in Australia have contributed $5m for the settlement.
- $3.5m will be administered by a Trust run by five trustees, including a legal representative from each side, plus three independent trustees including a chairman.
- $1.5m goes to Slater & Gordon to pay for the legal and other costs of the plaintiffs.
One-third of the $3.5m will be available for direct cash payments to a number of individual plaintiffs who have claimed that they were seriously sexually assaulted and who have ongoing psychological difficulties. Some of these men will receive $25,000, others $10,000.

From the remaining two-thirds of the $3.5m, a basic $2,000 will be paid to each plaintiff as a reimbursement for expenses that they have incurred during their involvement in this legal process.

The remainder, about $1.8m, will fund various forms of assistance for the plaintiffs, including therapy and other treatment; various forms of rehabilitation or retraining; family reunification; accommodation needs; emergency relief and low interest loans, etc.

The Brothers will also waive $750,000 in outstanding cost orders against the plaintiffs.

In return for this, the plaintiffs have agreed to withdraw the cases filed in the New South Wales and Victorian Supreme Courts and not to take any further legal action against the Christian Brothers in regard to the W.A. child care institutions.

The payment of $5m will not impact on any of the Brothers’ current schools and ministries, but will come from Provinces’ reserve.

Some people have described the settlement as “compensation” but it is not compensation and does not attempt to be. Compensation implies an attempt to quantify damages and injury. Nothing can “compensate” these men for the loss of a normal family and childhood and for the hardships they have suffered. This settlement attempts to offer practical help and opportunities for healing.

The settlement has also been criticised because it is not a straight cash payout of the plaintiffs. We have maintained all through this controversy that responding compassionately to individuals who have been hurt means a great deal more than simply handing over money, but demands responding to the needs of the men in a flexible and realistic way.

It should be noted that the settlement does not bind any of the parties to silence or secrecy, nor does it limit anyone’s freedom to lay complaints with the police or press for criminal charges against guilty individuals.

People have asked me whether I will be relieved that this matter is over. I am relieved that the legal battle is over, but the story has much further to go. Our Province’s initiatives in assisting former residents of our child care institutions predated the legal action, and they will continue. We continue to fund Christian Brothers’ Ex-Residents’ Services (CBERS) in Perth, which provides counselling, travel assistance for family reunification, and other services to any former students of these institutions. The use of this service is expanding and we will continue to fund it according to the advice given us by its independent management committee. We will continue to be involved in working with the rest of the Catholic Church in addressing wider problems of sexual and child abuse, including participation in case studies and in research into these problems and their prevention. We are also actively cooperating with the recently established W.A. Parliamentary Select Committee into child migration.

The Brothers and their friends have experienced a range of reactions to these unhappy events - initial shock and disbelief has given way to distress, anger at the offenders, compassion for the suffering of many men, and shame for our collective failings. We renew our apology to anyone who has suffered any kind of abuse in an institution or ministry conducted by the Christian Brothers. We renew our pledge to listen to the stories of anyone who has been a victim and to respond to each one’s needs.

We commit ourselves to continued action to protect children and to maintain the highest professional standards in our schools and ministries.

We also acknowledge the courage and persistence of victims in speaking up about their experiences and bringing these matters to the notice of the Brothers and the wider public. The Christian Brothers thank those whose actions have led to the exposure of abuse and deficiencies in childcare systems, and to the action now being taken to address these problems.

The Christian Brothers remain committed to their mission of caring for and educating young people worldwide. The painful experiences of recent years make us more than ever determined to keep working for the dignity and welfare of all, especially the young, the poor and the marginalised.

Yours sincerely,

Br. Tony Shanahan, cfc
Province Leader

Anyone who believes that he or she has been harmed through involvement with a Christian Brothers’ institution or ministry is invited to approach us directly on (08) 8408.6311 or through the CBERS Helpline (08) 8213.035.