

**NOTES OF DISCUSSION AT CCI ON WEDNESDAY 13TH NOVEMBER 2002.**

**Present:** Edmund Fernandes (claims manager CCI)  
 Karen Mole (claims officer CCI)  
 Patrick Monaghan (lawyer for CCI)  
 Allan Dooley  
 Jane Swift  
 Eileen Young  
 Sue Cain  
 Tony Fuller

The representatives of CCI outlined a number of concerns they had:-

1. Lack of information.
2. Inability to progress the matter with the information they have.
3. Inability to fix a reserve on the amount of the potential claims.
4. They have limited knowledge of the victims, they know the perpetrator but have no indication of legal liability.
5. To the extent that our proposal contemplates payments to families as secondary plaintiffs they are opposed to it. They have never made payments to families (as distinct from the victims) and do not want to set a precedent.
6. They do not have copies of any statements submitted by the victims.

Allan Dooley explained that in the early stages he and Jane Swift were the point of contact for families who claimed to be victims. They received four statements and submitted those two Professional Standards.

Once the matter became public, Allan and Jane ceased to be the point of contact and Professional Standards then had oversight of the obtaining of statements.

Allan said that from the point of view of Professional Standards there appeared to be no need for any further evidence of sexual abuse in the case of most of the category one families. The evidence obtained by the police made it reasonably clear (at least on the balance of probabilities) that they had been directly affected by Brian Perkins' activities. Allan indicated that Sue Cain would still need to consider and confirm that view in her capacity as Director of Professional Standards.

Patrick Monaghan said that while that may well be the case, he was concerned about the issue of whether or not the Archdiocese had any legal liability to those victims.

He explained that it was necessary for the Archdiocese to establish that it was legally liable before it had a right to claim under its insurance policy with CCI. While he acknowledged that the respite care cases were the most likely victims he questioned whether or not the school, and therefore the Archdiocese, had any responsibility for what occurred on weekends and off-site. He said there may well be a pastoral need to compensate those people, but he questioned the existence of any legal liability.

Allan confirmed that nothing had been disclosed to the parents which might indicate that the Archdiocese might be prepared to consider settling any of the claims.

There was some general discussion about the inquiry initiated by the Archbishop. Patrick Monaghan asked if CCI was going to be provided with copies of statements which had been taken. Tony Fuller explained that he had specific instructions from the Archbishop that all the evidence obtained in the course of the inquiry was to be kept strictly confidential until he (the Archbishop) made a decision ultimately as to what (if any) of it would be disclosed. Tony explained that the inquiry was not related to the alleged offences by Perkins but rather was directed to what occurred after the allegations became

known and how the matter was dealt with. To that extent the statements were not relevant to the issues which concerned CCI. Tony explained that if further statements had to be obtained from any of those witnesses who might have relevant information about the allegations (in the context of trying to determine the question of legal liability) that would have to occur outside the scope of the inquiry.

Edmund Fernandes made it quite clear that CCI will only pay claims if there is a legal liability to do so. Later in the meeting he emphasised that CCI would strive to indemnify if there was any legal basis to do so. He said CCI did not want to use legalese to deny liability. Patrick Monaghan added to that by saying that in his experiences in acting for CCI he had found them to be unusually generous in their attitude towards accepting and paying claims.

In referring to the amount in the draft proposal, he disclosed that the average payout by CCI in special-interest claims like these was \$38,000.

Patrick Monaghan referred to the fact that there were two cases presently waiting for a decision from the High Court of Australia on the question of legal liability in cases not dissimilar to this one. He said that until that decision came down, there was a significant level of uncertainty as to whether or not legal liability might exist in these types of cases where there was no evidence of direct involvement, of prior knowledge of character or of lack of supervision on the part of the institution. He expected that decision to be handed down within the next couple of months.

There was general discussion about the categorisation of the families. Eileen Young indicated that there were approximately 60 families with little or no basis for a claim, approximately 25 families whose students were passengers on the bus where there was either contact or opportunity for contact and 7 families where the evidence pointed to the students being direct victims.

Allan Dooley gave an outline of the type of evidence which the police had in relation to the two students (LH and MR) who were anticipated to be the prime witnesses in the prosecution. Patrick Monaghan questioned why other students were not involved in the prosecution. Allan explained that as far as he was aware no other students were able to give evidence.

Allan Dooley then explained on the whiteboard his understanding from the meeting of the process for dealing with claims made under Towards Healing. Once a complaint in the form of a statement was made, that statement was referred to the Archbishop and through the Archbishop to CCI. Sue Cain was then charged with the responsibility to action that complaint and to report to the Archbishop on the outcome. That report would then be forwarded to CCI. After discussions between CCI, the Archbishop and Professional Standards a decision would be made jointly as to how to proceed with that claim.

Edmund and Karen then raised the issue of what costs would or should be covered by CCI. They referred to the policy document and to their obligation to cover only those costs incurred in the settlement or defence of claims for compensation. They emphasised that that indemnity may not extend to the costs incurred by CEO or the Church in connection with the inquiry. Allan expressed his concern to know whether the costs of the suspension of Claude Haman, the costs of Eileen Young's role and the costs of EMA would be fully covered. As far as the legal costs were concerned, Edmund said that the itemisation would need to be looked at to determine which aspects of them related to the settlement and defence of claims.

As far as immediate further action was concerned, it was generally agreed:-

- > That Allan and Tony would prepare detailed outlines of expenditure to date.
- > That Tony would continue to deal with Donal Craig until the issue of legal liability is resolved (by the decision of the High Court and its application to this case).
- > That Sue Cain would consider what further files and information needed to be forwarded to the Archbishop and then to CCI.

Tony foreshadowed that if the conclusion was that legal liability on the part of the Archdiocese existed, it might be appropriate for him and Patrick Monaghan to discuss whether it would be more appropriate

at that time for Patrick Monaghan to deal with the civil claims on half of CCI and for Tony to continue with the inquiry and his general advisory position to the Archbishop and Allan Dooley.

The meeting then concluded.

Following the meeting, Allan, Jane, Eileen, Sue and Tony had further discussions about what would be done and by whom. It was generally decided:-

- > That Sue and Eileen would put together a package of all statements from category one or category two families received to date in the Towards Healing process and provide them to the Archbishop (even though he may already have some of them).
- > They would supplement that package with copies of any police statements and psychological reports or assessments presently available in respect of the students of those families, provided the families agree or have agreed to the provision of those statements to the Church.
- > With the approval of the Archbishop all that information would then be forwarded to CCI.
- > With respect to police statements which were not presently in hand, Eileen would liaise with the relevant parents to obtain a letter of authority directed to the police (along the lines of the draft attached to the settlement proposal) with a view to obtaining all available statements, once again with a view to providing them to the Archbishop and to CCI.
- > Copies of all that material would also be sent to Tony.

13th November 2002.