

December, 1994

**INTERIM PROCEDURES TO BE FOLLOWED WHEN A
PRIEST IS ACCUSED OF SEXUAL ABUSE**

The PASTORAL DIMENSIONS of the procedures which the Church applies when one of their priests in the Archdiocese is accused of sexual abuse, call for special treatment and understanding; they are outlined in principle in the statements made at various times by the Australian Catholic Bishops' Conference in *'Protocol for Dealing with Allegations of Criminal Behaviour'* April 1992 *'Sexual Offences and the Church'* July 1993, and *'The Catholic Church's Principles in relation to Sexual Abuse and Sexual Misconduct Within the Church'* April 1994.

What follows is specifically concerned with policies and procedures to be applied in respect of complaints of SEXUAL ABUSE against members of the diocesan clergy. It must be read and understood in the light of the procedures which have been established by the Australian Catholic Bishops' Conference and the Australian Conference of Leaders of Religious Institutes and of the pastoral care which must be taken, according to the Bishops' statements, of victims of sexual abuse by the clergy.

In the Archdiocese of Melbourne there is a Professional Standards Standing Committee (PSSC) whose task is to decide, on the basis of evidence presented, if there is a case to answer or if further investigation is warranted in relation to a complaint of sexual abuse by a member of the diocesan clergy.

There is also, on a Provincial basis, a Professional Standards Resource Group (PSRG) with the task of assisting in forming policy on professional standards of conduct for the clergy.

INTRODUCTION

1. The cases under consideration concern allegations of criminal sexual abuse by diocesan priests, with particular reference to sexual abuse of a minor.
2. The Church must act quickly, yet it must act prudently and wisely, so as not to jeopardise the State's right to see that justice is administered fairly and without prejudice, nor to deprive the accused of the right to a fair trial.
3. Compliance with applicable civil and criminal legislation must be maintained.
4. Many elements are involved in situations of alleged sexual abuse by a priest: pastoral and spiritual issues, justice issues, public relations issues, medical issues, civil law issues and canonical issues. In consequence, a team approach will necessarily be required.
5. These procedures embody two attitudes which must mark the Church's response: **COMPASSION** and **RESPONSIBILITY**.

COMPASSION towards those who have been abused, to show that the Church does care and will act decisively and responsibly. This same compassion will be shown towards the person accused.

RESPONSIBILITY calls for seeking the truth and for bringing about satisfactory remedies.

6. The following terms will be used in a specific sense:-

- "allegation": the statement of the facts intended to be relied on in support of a denunciation.

- "delegate": a person delegated by the Vicar General to investigate an allegation of sexual abuse made against a priest incardinated in the Archdiocese of Melbourne, or against a priest incardinated in another diocese and enjoying the faculties of the Archdiocese of Melbourne.
- "minor" or "child": a person who has not reached his/her 18th birthday.
- "secular": as distinguished from the canonical or church system. The term "secular courts" would apply to both criminal courts and civil courts.
- "sexual abuse": the subjection of a child or adult, by a diocesan priest, to a sexual act which is a criminal action in civil or canon law.

7. Guiding Principles underlying the stance taken here include:

- taking allegations of sexual abuse seriously;
- presuming compliance with applicable secular and canonical legislation;
- giving priority to the protection of alleged victims;
- presuming an accused person's innocence until proven otherwise;
- protecting the reputation of persons involved in allegations of sexual abuse.

8. A careful application of these procedures will protect the diocesan authorities by showing that due process was observed. Likewise, if the priest had recourse to the secular courts or the Holy See against the action of the diocesan bishop or the other persons involved, it must be shown that the priest's rights were respected.

I. GENERAL DIOCESAN POLICIES - BEFORE ANY ALLEGATION IS MADE

9. There shall be a Professional Standards Standing Committee (the PSSC), established by the Archbishop and chaired by the Vicar General, and comprising at least a Parish Priest, a Canon Lawyer, a Medical Doctor, a Psychologist and a Civil Lawyer. There is to be at the very least one woman member of the Committee. Its task is to recommend, in relation to a complaint of sexual abuse by a member of the diocesan clergy, if there is a case to answer or if further investigation is warranted.

10. The PSSC should identify appropriate personnel and institutions which could provide psychological assessment as well as assistance with therapeutic responses.

11. For any investigation there shall be a person ("the delegate") delegated by the Vicar General to conduct an enquiry if necessary (c. 1717, #1). A notary will be present during the investigation.

12. The delegate shall be empowered and directed to act immediately to investigate any allegation of sexual abuse, by successive interviews of the complainant(s) and, where necessary, of the alleged offender and of other persons, and to report accordingly to the PSSC. The delegate may be assisted in carrying out the investigations and the interviews by other personnel with appropriate skills.

II. AN ALLEGATION IS MADE - PRELIMINARY ENQUIRY

13. Allegations should be directed to the Vicar General. He will arrange for a written statement of the allegation to be received either by himself or by his delegate.

14. Because of the seriousness of the matter the preliminary investigation of the complainant's allegation should take place as quickly as possible after receipt of the allegation, normally within 48 hours.

15. At the conclusion of this preliminary investigation the complainant(s) should be told that justice requires the accused be heard, that this will be done expeditiously and that the complainant(s) will be informed what action will follow.

16. The Vicar General will contact the priest, inform him of the nature of the complaint and that a delegate will interview him as soon as possible. The accused shall be given the opportunity to seek legal (canonical, civil and criminal) advice and, if he wishes, to have a lawyer or counsellor with him at the interview which should be recorded. At the interview he should be told that he is not bound to admit to an offence and has the right to remain silent. Both the opportunity to seek legal or other counsel, and the right to remain silent should be given to the accused in writing.

17. The priest should be told that a report will now be submitted to the PSSC which will recommend what action will follow this investigation of both the complainant(s) and the accused. The accused will now be directed by the Vicar General not to make contact with the complainant(s) nor with the family of the complainant(s).

18. If the PSSC, after receiving a report of this investigation by the delegate, determines the allegation to be unfounded the enquiry would be terminated and both parties would be so informed. It is for the accused to decide whether he should himself take any further action (e.g. seeking an apology, taking civil action in the courts). The PSSC may also recommend that remedial action be taken on behalf of the Church.

19. If the PSSC, after receiving the delegate's report, determines that the alleged abuse was not criminal behaviour under Canon or Secular Law but constitutes activity which is clearly unacceptable in the ministerial relationship, appropriate disciplinary action will be recommended to the Ordinary.

20. If the allegations of sexual abuse can be proved by the accused to lack truth, but the conduct of the priest has been such as to contribute to the plausibility of the allegations, the PSSC may recommend that he moderate his behaviour or undertake counselling, even though there may be no suggestion of subjective fault.

21. If the PSSC, after receiving the delegate's report, determines that there are reasonable grounds to believe that an abuse might have taken place, the complainant(s) should be told by the Vicar General that:

a) further investigation would now take place;

b) no admission is being made that the accused is guilty;

c) the accused is being directed not to make contact with the complainant(s) or the family of the complainant(s).

d) the complainant(s) are free, and in some instances obliged in law, to take their complaint to departmental officers, and this freedom is being fully respected.

22. If the priest accused admits to the complaints, or if, after the full initial investigation, the PSSC decides there is a basis for the complaint and further canonical investigation is required, the priest is told by the Vicar General that:

a) further investigation would now take place;

b) no admission is being made that the accused is guilty;

c) the accused is directed not to make contact with the complainant(s) or the family of the complainant(s);

d) the complainant(s) are free, and in some instances obliged in law to take their complaint to departmental officers; and

e) the Archbishop on advisement will direct the priest to take administrative leave within 24 hours or as soon thereafter as possible.

23. When given administrative leave, the priest will be directed by the Archbishop to reside at an appropriate place and not to return to his parish or to the pastoral work he had been undertaking. His faculties to preach (c.764) and to hear confessions (c.974#1) should be withdrawn and he should be directed not to celebrate Mass publicly. These measures do not constitute suspension or censure nor do they presume guilt.

24. If the accused refuses to take administrative leave or is otherwise unco-operative, action may be taken in accordance with c.1319.

III SECULAR LEGAL PROCEEDINGS

25. As a complaint of criminal sexual abuse will, or could, involve SECULAR LEGAL PROCEEDINGS the accused should be advised to retain his own independent lawyer and advised who is to bear responsibility for his legal costs.

26. If the accused is not committed for trial or is tried and acquitted, the PSSC should advise the Archbishop whether it is prudent to cease the period of administrative leave, reassign the accused or provide him with psychological therapy.

27. If the accused after trial or a plea of guilty is found guilty of criminal behaviour, whether or not a conviction is recorded, the Archbishop on advisement is to consider disciplinary action.

IV FURTHER CANONICAL INVESTIGATION AFTER THE PRELIMINARY ENQUIRY HAS ESTABLISHED A PRIMA FACIE CASE OF CRIMINAL ACTIVITY

28. The Archbishop on advisement is to decide whether this further investigation is to proceed administratively or by way of canonical penal process.

29. If an administrative procedure is decided on, the Archbishop may impose the appropriate penalties according to the norm of law.

30. If the canonical penal process is chosen, the PSSC shall pass on the evidence to the promoter of justice in order to begin a canonical penal trial at which the procedures prescribed by canonical legislation would be applied throughout the process.\

31. During this entire further investigation and throughout any necessary follow-up period, the priest, in addition to what is necessary for his "worthy" or "decent" support (c.1350), should be given personal support as arranged by the Director of Ministry to Priests.

32. During this entire further investigation and throughout any necessary follow-up period, appropriate personal assistance by way of confidential counselling or other pastoral support will be given to complainants and, where appropriate, to their families