

National Committee for Professional Standards

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9 Feb 2010

Rev Brian Lucas
 General Secretary
 ACBC General Secretariat
 GPO Box 368
 Canberra, ACT, 2601

Dear Brian,

Encompass Clinical Files

At the meeting of the National Committee for Professional Standards held on Thursday, 4th February 2010, a Memorandum of Understanding between the Committee and the Archdiocese of Canberra Goulburn CatholicCare dealing with the security and access to the clinical files of Encompass Australasia was formally adopted.

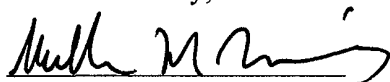
The terms of the memorandum and its appendices were drawn up with regard for the rules of the Australian Psychological Society, so far as they relate to the access to files by the clients themselves and other authorised persons. Consideration was also given to the wishes expressed by Catholic Religious Australia regarding the control and access to files.

We enclose copy of the memorandum which records the appointment of Mr Neil Harrigan to act in this matter. Appendix B describes the procedure that has been approved with regard to the control and access to files. You will note that it is the wish of the parties that Mr Harrigan maintains direct contact with the operators of the storage facility. We shall ask Mr Harrigan to contact you to arrange his taking over the process.

We presume that storage fees to date have been debited to the account of the NCPS. The NCPS Executive office would be happy to receive future accounts for fees directly from the storage facility company.

Brian, we take the responsibility for the security and control of these files very seriously. The arrangements you made for the delivery and secure storage of the files when Encompass ceased operations were first class and we are most grateful to you for stepping into the breach and taking care of the matter on our behalf.

Yours Sincerely,



Bishop Bill Morris

Co-chairs, National Committee for Professional Standards



Fr. Tim Brennan

MEMORANDUM OF UNDERSTANDING

The Archdiocese of Canberra and Goulburn – CatholicCare
and
The National Committee for Professional Standards

This Memorandum of Understanding is made between the Archdiocese of Canberra and Goulburn CatholicCare of 42 Canberra Avenue, Forrest, ACT and the National Committee for Professional Standards (NCPS) Post Office Box 981. Bondi Junction, NSW 1355

The aim of this document is to record an agreed policy framework within which CatholicCare will provide on behalf of the NCPS services required pursuant to certain obligations undertaken by the Australian Catholic Bishops Conference(ACBC) and Australian Catholic Leaders of Religious Institutes, now known as Catholic Religious Australia (CRA), in terms of a Pastoral Letter to the Catholic People issued in April 1996. (At Appendix A)

The NCPS, a joint committee of the ACBC and the CRA is charged with the responsibility of providing services described as follows: ... “to treat those clergy and religious who suffer from psycho-sexual disorders. The program will contain a suitable spiritual input.” For eleven years these services were provided under a corporate structure established by NCPS known as Encompass Australasia. In the course of time it was found that clergy and religious were seeking psychological assessment and treatment of a more general nature and the services were extended to accommodate these needs.

It was found impracticable to continue with the supply of services under a corporate structure and Encompass ceased operating at 30th June 2008. NCPS now seeks an alternative method of meeting the obligation under the Pastoral letter so far as is possible.

His Grace, the Archbishop of Canberra and Goulburn, the Most Reverend Mark Coleridge, has kindly agreed to the proposal of the CEO of CatholicCare, Mr Neil Harrigan, following an approach from NCPS, that CatholicCare be engaged to assist with this task.

It is intended that, to the extent best possible, a continuation of services described above will be provided by referral of clients for treatment by clinicians in private practice.

In addition, CatholicCare will undertake management of the clinical files of Encompass held in secure storage.

It is the understanding of the parties to this memorandum the services will be provided by the person holding the office of CEO of CatholicCare and in that person's absence the Deputy CEO.

In relation to the services the CEO will report to the Co-Chairpersons of the NCPS and will submit a written report of the operations to the national office for inclusion in the agenda of the meetings of the Committee; normally these occur three monthly.

The CEO will maintain an up to date list of approved clinicians operating in each State and the Territories and will liaise with the Directors of Professional Standards in the development and maintenance of the lists.

The clinical files of Encompass are located at a secure storage site presently under the control of the CEO and access to the files and the procedures governing the means by which access may be obtained, are set out in the attachment to this memorandum.
(At Appendix B)

It is understood that an account will be submitted at least on a quarterly basis for any expenses incurred by CatholicCare related to providing these services. Further it is understood that CatholicCare may wish to present an account for fees for services rendered. The opportunity to consider the amount of such fees would be welcomed by the NCPS.

Catholic Church Insurances Limited confirm that the Professional Indemnity Policy issued to the Archdiocese of Canberra-Goulburn will provide indemnity in respect to claims arising from the professional services CatholicCare agree to provide in terms this memorandum,

This document is a statement of understanding and is not intended to create binding or legal obligations on either party.

Signed for and on behalf of
Archdiocese of Canberra-Goulburn CatholicCare
by

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Signed for and on behalf of the
National Committee for Professional Standards
by

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Appendix A

AUSTRALIAN CATHOLIC BISHOPS CONFERENCE PLENARY MEETING

April 15 - 24, 1996

PASTORAL LETTER TO THE CATHOLIC PEOPLE OF AUSTRALIA

Over the past ten days, the Australian Catholic Bishops have been meeting in Plenary Assembly at Kensington, NSW. A major item on the scheduled agenda has been the issue of sexual abuse by priests and religious. The Bishops and Leaders of Religious Institutes share the dismay of many people at the instances of such abuse.

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.

When the guilt of a priest or religious is established, the response of the Church authority must be appropriate to the seriousness of what has happened. Serious offenders who have abused their power may not be given such power again. Those who have made the best response to treatment recognise this themselves, and they no longer claim a right to return to ministry.

At our Conference we have sought to put in place a plan of action that would respond to the magnitude of this problem.

1. The Bishops and Leaders of Religious Institutes set up in 1988 a Professional Standards Committee composed of appropriately qualified professionals. The Committee will continue to review and update, in the light of the discussion that has taken place at the Conference, the principles and procedures according to which the Bishops operate.
2. The Professional Standards Committee will take advantage of the opportunity presented by the New South Wales Police Royal Commission to make a submission and will take account of any recommendations made by the Royal Commission.

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3. Dioceses and Religious Institutes will be asked to engage professional and independent persons to make suitable case studies of how incidents of sexual abuse have been handled and how well or badly the needs of victims have been met and what might now be done to assist victims.
4. Likewise Dioceses and Religious Institutes will be asked to make a study of how an incident of sexual abuse has been handled in relation to the community in which it occurred, what lessons might be learned, what effects both the abuse and the Church body's response have had on the community, and what the Church body might now do to assist the community.
5. Meetings will be arranged through the counselling services of the Church in which Bishops and Religious Leaders might meet with persons who have suffered sexual abuse at the hands of a priest or religious and hear directly their stories, hurts, concerns and needs. The counselling services of the Church are to be empowered to arrange such meetings whenever they believe that this would be helpful to both victims and church leaders.
6. A widely representative Committee is to be established to prepare codes of conduct for priests and religious. It will consult widely, and seek the advice of victims of sexual abuse.
7. The Australian Catholic Social Welfare Commission and Centacare Sydney will be asked to co-ordinate a study of any factors peculiar to the Catholic Church which might lead to sexual abuse by priests, religious or other church workers. The study will include a review of the relevant literature, interviews with experts and with other relevant Catholic bodies, and with those offenders who are willing to assist.
8. In collaboration with the Leaders of Religious Institutes it is proposed to establish a program to treat those clergy and religious who suffer from psycho-sexual disorders. This program will contain a suitable spiritual input.
9. The Professional Standards Committee will employ a full-time Executive Officer to co-ordinate the above projects and to assist it in carrying out this mandate.

Those who have offended are a small minority, but their actions have affected all priests and religious, as well as the wider Church community. The Bishops say without hesitation that the overwhelming majority of priests and religious serve their people with integrity and dedication. They deserve affirmation and support.

We especially thank you, our Catholic people, for your understanding and prayers.

April 24, 1996

Appendix B

NATIONAL COMMITTEE FOR PROFESSIONAL STANDARDS
CLINICAL FILES OF THE FORMER ENCOMPASS AUSTRALASIA
STORAGE , SECURITY AND ACCESS

The National Committee for Professional Standards was responsible for the establishment of Encompass Australasia and maintained an overview of the company during its years of providing treatment services. Upon discontinuance of operations on 30th June 2008 the committee has seen to the winding up of the company's affairs and to the establishment of alternative services.

In the course of the processes involved, considerable attention has been given to the proper disposition of the company's files. The ordinary commercial files will be stored for the required period of time within the archives of the Australian Catholic Bishops Conference General Secretariat at Canberra. So far as the clinical files are concerned both legal and professional protocols are required to be observed.

PROCEDURES TO ACCESS A FILE

A written application, certified by a JP or a Commissioner of Oaths should be addressed to: Mr Neil Harrigan
Chief Executive Officer, CatholicCare
PO Box 3167, Manuka, ACT

If the applicant is a person other than the client treated by Encompass, an application in writing should be accompanied by a written authority from the client similarly certified.

The CEO of CatholicCare will respond to the applicant to confirm arrangements for an appointment at which the file may be viewed.

The CEO of CatholicCare will retrieve the file from the off-site secure storage facility. (Note 1) The file will be held in a secure location at the CatholicCare Chief Executive Office pending the applicant's arrival.

An applicant who is the client treated by Encompass should be accompanied by a qualified psychologist or psychiatrist, preferably the clinician who provided the treatment. If that person is not available, another suitably qualified clinician should attend. The CEO of CatholicCare, Mr Neil Harrigan, is a qualified Psychologist and would attend, if required, to satisfy the requirements of the protocol of the Australian Psychological Society.

Documents may not be removed from a file but copies may be taken of certain material under the supervision of the attending clinician. (Note 2) The file may not be removed from the CatholicCare office. The CEO will see to its safe return to the storage facility.

NOTES REGARDING STORAGE OF FILES

1. Security of Files

The clinical files of Encompass have been placed in a professional storage facility, the name and location of which will remain undisclosed. Each file is particular to a single person and is identifiable only by access to a bar code system operated by the CEO of CatholicCare and the Manager of the storage facility.

2. APS Rules Regarding Access to Contents of Files

Protocol governs the type of material that may be handed to the client. These are generally restricted to material created by the client and correspondence between the client, the treating psychologist and the referring client (the Church Authority).

3. Length of Storage

Legal advisors suggest clinical files should be stored forever. Having regard for the Statutes of Limitations, which vary from state to state, it is generally accepted that a claim in negligence will be avoided if files are kept for at least seven years. The policy adopted is that files will be stored indefinitely, with a review of the situation every five years.

4. Response to Sub Poena or Search Warrant

In the event of civil legal proceedings it can be assumed both the Church Authority and the former client of Encompass will be named as defendants. If access to a file is sought sub poena, the client and the Church Authority will be informed and response will be made only after the advice of solicitors acting for both those parties has been received.

Where police are seeking access to records relating to a former client of Encompass, a warrant granting authority to search the premises of the offices of CatholicCare might be obtained. The files are stored elsewhere and such a search will reveal nothing. The relevant parties will be alerted. Legal advice as to the validity of the warrant and scope of the authority sought will be obtained. If the police seek an amendment to their warrant authorising access to a file wherever located, all parties will have been notified.

5. Files relating to Treatment Unrelated to Psycho-Sexual Disorders

It has been suggested that some distinction should be made between files relating to the treatment of clients with psychosexual disorders and those related to pastoral assessments or the treatment of clients who presented with needs of a more usual nature. However, when setting its protocols, the Australian Psychological Society makes no such distinction and we are required to act accordingly.

6. Ongoing Responsibility for Files

The NCPS is acutely aware of the sensitive nature of the contents of these files and takes very seriously its ongoing responsibility to protect the interests and privacy of all former clients of Encompass Australasia. Procedures have been adopted to ensure the measures described are continually maintained.