



CONFIDENTIAL

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His Grace
The Most Reverend Denis J. Hart
Archbishop of Melbourne
President of ACBC
GPO Box 368
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Your Grace,

On behalf of the Congregation for the Doctrine of the Faith, I write to you concerning the *Australian Catholic Church Guidelines*, prepared by the Australian Catholic Bishops Conference. The Congregation thanks the bishops and their collaborators for their efforts in creating the documents and implementing their content.

The Congregation notes that many other documents accompanied the above-mentioned guidelines and notes also that some necessary elements lacking in the *Australian Catholic Church Guidelines* are present in *Towards Healing*, while elements lacking in the latter, are found in the former. The complete guidelines addressing sexual abuse of minors perpetrated by clerics should be contained in a single document. The multiplicity of documents can lead to confusion regarding different procedures to be followed when an accusation is made against a cleric as opposed to those to be followed in accusations made against a layperson.

Having reviewed the various documents, the Congregation for the Doctrine of the Faith offers the following limited observations.

In regard to the *Australian Catholic Church Guidelines*:

1. It is not clear who is competent to receive a complaint of sexual abuse and who is to investigate said reports.
2. Specific reference should be made to article 19 of the *motu proprio Sacramentorum sanctitatis tutela*, which allows an Ordinary to impose from the outset of the preliminary investigation those precautionary measures established in canon 1722 CIC.
3. Pastoral care of the victim, including availability of therapy, should be more specific. The document should express more clearly the right of a

victim to intervene in canonical procedures as an injured party and, therefore, his right to bring a contentious action to repair damages incurred personally from the delict, within the same canonical process (canon 1729 CIC).

4. In regards to prevention of abuse and child protection, the bishops are encouraged to develop programs of awareness and education of the safety and protection of children for use in the seminary and as part of the permanent and ongoing formation of clergy. Even the *Programme for Priestly Formation*, produced by the Australian Catholic Bishops Conference in 2007, is silent in this regard.

Concerning *Towards Healing* ("Guidelines for Church Authorities") the Congregation notes:

1. The document is to incorporate the *motu proprio Sacramentorum sanctitatis tutela* dated 30 April 2001 and the amendments made to the same *motu proprio* on 21 May 2010. The Congregation has competence in matters of sexual abuse of minors and other *graviora delicta*, as indicated in the *motu proprio*. Therefore, it is required that all accusations of sexual abuse of a minor containing at least a semblance of truth be forwarded to the Congregation along with the acts of the preliminary investigation, which would include the response of the accused. It is the Congregation which will decide how the case is to proceed. Canonical procedures must follow the directives of the Holy See.
2. That the Congregation has exclusive competence in matters of sexual abuse of minors perpetrated by clerics is not mentioned.
3. The document should express more clearly the right of a victim to intervene in canonical procedures as an injured party and, therefore, his right to bring a contentious action to repair damages incurred personally from the delict, within the same canonical process (canon 1729 CIC).
4. In regards to prevention of abuse and child protection, the bishops are encouraged to develop programs of awareness and education of the safety and protection of children for use in the seminary and as part of the permanent and ongoing formation of clergy.

In addition to the above-mentioned general comments, the Congregation notes the following in regards to specific content of *Towards Healing, Principles and procedures in responding to complaints of abuse against personnel of the Catholic Church in Australia*:

1. Concerning 38.10, page 20: It should be made clear that the Ordinary (Diocesan Bishop or Major Religious Superior) is responsible for deciding whether or not precautionary measures are to be taken against a cleric. Article 19 of the above-mentioned *motu proprio* and canon 1722 CIC should be referenced here.
2. Concerning 39, page 21: It must be made clear that provided there is a semblance of truth to the allegation, the acts of the case are to be sent

to the Congregation for evaluation and decision. It is the Congregation that will determine the "appropriate process" for clerics accused of sexual abuse of minors. In effect, sections 39 and 40 are applicable only to non-clerics.

3. Concerning 42.5 and 42.6, page 27: While the Ordinary may discuss future options with a cleric or religious who has admitted to or been found guilty of the sexual abuse of minors, ultimately the final decision rests with the Congregation. At all times, however, the offending cleric may be offered the opportunity to petition the Holy Father for the grace of a dispensation from the obligations connected with priesthood.

Concerning the document *Integrity in Ministry*, the Congregation would like to comment on only one area, section 4.3 on page 11. Concerning the last point, which envisions priests acting as a spiritual director or counsellor only when "professionally qualified and supervised", it could be the case that priests would be fearful of engaging in any one-to-one ministry. Steps should be taken to ensure that priests are qualified in this area and clarification should be made as to how a priest giving spiritual direction would be "supervised".

Concerning the *Programme for Priestly Formation*: While it is a substantial and important document, it does not appear to address awareness and education of the safety and protection of children for use in the seminary.

Since the document entitled *Integrity in the Service of the Church* applies solely to laypeople and is, therefore, outside the competence of the Congregation, no comments will be provided in this regard.

The Congregation for the Doctrine of the Faith looks forward to receiving the guidelines once they have been revised according to the observations presented above.

With every good and cordial wish, I am

Sincerely yours in Christ,



Mgr. Luis-Miguel Muñoz Cárdbaba
Chargé d'Affaires a.i.