

Dominic Cudmore

From: John F. Davoren [john.davoren@cathprofstandards.com]
Sent: Tuesday, 25 March 2003 8:21 AM
To: mcasey@ado.syd.catholic.org.au; DCudmore@ado.syd.catholic.org.au
Subject: FW: Towards Healing - Complaint against Fr Aidan Duggan OSB

Michael and Dominic,
 The following came in on Friday and I do not think that I have copied it to either of you so far.

I will prepare a reply on Wednesday and discuss it with you before sending.

I think John has missed some salient points. We cannot have an assessment unless and until we know that Fr Duggan is well enough to be interviewed. Some of the delay [about which he complains] occurred because we originally went along with Ellis' proposal to set up a meeting between them with Bishop Cremin and a facilitator present.

It then became clear that this was potentially unjust to Fr Duggan and HG then wrote to Ellis to say that Ellis could meet Fr Duggan if he wished, but that a formal meeting would not be arranged.

Ellis then said that he would not see Fr Duggan as this would get no where if no one else was present.

Finally he was threatening to go legal in our last conversation and I then advised him that this would mean that the Towards Healing process would necessarily stop. He now says that all he meant was that he would seek assistance from a lawyer. If that means advice on our process he is wasting his money, but that is up to him. If, on the other hand, he is seeking civil legal advice it comes close to being outside Towards Healing.

And so it goes on.

John Davoren

-----Original Message-----

From: Ellis, John [mailto:John.Ellis@BakerNet.com]
Sent: Friday, 21 March 2003 3:21 PM
To: John F. Davoren
Subject: Towards Healing - Complaint against Fr Aidan Duggan OSB

John,

Thank you for speaking with me yesterday.

As you may gather, I am far from happy with the conduct of this process so far. As I have told you, I have felt little healing and compassion in the process to date, with the exception of my one conversation with Br Laurie Needham, and my initial conversation with Michael Salmon. I have also had grave concerns regarding the issue as to whether due process is being adhered to, and generally with the openness and transparency of the process.

However, to make things perfectly clear, I wish you to proceed as I requested in January of this year to have a further visit to Fr Duggan arranged as soon as possible to ascertain whether he can provide any information regarding my complaint. Given the varying reports about his condition, this matter was urgent when I first made my request. This step should be taken in the context of the process outlined in the Towards Healing document, as more fully detailed below.

I was disappointed that you would suggest that you would stop that process if I was to seek legal advice regarding the latest issue which has arisen. The Towards Healing document clearly entitles me to have an adviser involved to protect my interests, if I consider that necessary. Given my experience of the process to date, I am coming more towards the view that it would be advisable for me to have this type of support.

I would also like you to request a copy of the legal advice you have referred to from the church authority and provide a copy to me on a confidential basis. As indicated to you on the telephone, I cannot see how the advice relates to the question as to whether an assessor can speak with Fr Duggan, to ascertain what, if any, information he can provide. From what you have told me, the advice relates to a completely separate issue - whether the church authority can

commission an inquiry into Fr Duggan's mental state, or have access to his medical records.

As indicated, it also appears counter-intuitive that there is a legal impediment to having access to Fr Duggan's medical records or information from his carers, when the outcome of not having such access would be to leave in place a "finding" by the church authority that Fr Duggan's mental state is not such that it would be appropriate to interview him, as set out in your letter of 15 July 2002. That "finding" was based on advice from the Director of Nursing at the Little Sisters of the Poor, Randwick. A similar conclusion was stated in the Archbishop's letter to me of 23 December 2002. As you are aware, the experience of the people who visited Fr Duggan in January 2003 appears to be in conflict with that assessment.

The Process

I have hinted already at a more fundamental issue I have with the process so far. As you should be aware from a number of our discussions, one of my difficulties throughout this process has been a lack of clarity as to the process being undertaken, the steps actually underway at any time, the next steps to be taken and the roles of the various people I have been in contact with.

Added to this, responses have been very slow in coming to me, and have tended to come only when I have chased things up. For example, you told me yesterday that the advice you mentioned in your e-mail this week was actually conveyed to you early in February.

I have now, belatedly, looked at those parts of the Towards Healing document which refer to the process and procedures to be followed. I am, I must say shocked and dismayed to find that the required process is very clearly set out in that document. I cannot understand, after reading it, why I could not have been given very clear information as to precisely what the process would be - except for the fact that the written procedures have not been followed, either in letter or in spirit.

I do not have time to elaborate on this in detail at the moment, but I set out below some extracts from "Towards Healing" and have highlighted in red the parts I have not experienced as occurring:

12. The Church makes a firm commitment to strive for seven things in particular: truth, humility, healing for the victims, assistance to other persons affected, an effective response to those who are accused, an effective response to those who are guilty of abuse and prevention of abuse. Truth 13. The Church makes a commitment to seek to know the full extent of the problem of abuse and the causes of such behaviour within a community that professes the values of Jesus Christ.

14. Concealing the truth is unjust to victims, a disservice to offenders and damaging to the whole Church community. Humility 15. It is very humbling for a Christian Church to have to acknowledge that some of its clergy, religious and other Church personnel have committed abuse. We must recognise that humility is essential if we are to care for victims and prevent abuse in the future.

Healing for the Victims 16. Whenever the offender is a clergyman, religious or another person appointed to a position of pastoral care by an agency of the Church, Church authorities accept that they have a responsibility to seek to bring healing to those who have been victims of abuse.

17. A compassionate response to the complainant must be the first priority in all cases of abuse.

18. This attitude must be present even at a time when it is not yet certain that the allegations are accurate. At the first interview complainants should be assured that, if the facts are truly as stated, abuse must be named for what it is and victims assisted to move the blame from themselves to the offender. They should be asked what needs to be done to ensure that they feel safe from further abuse. They should be offered whatever assistance is appropriate. These responses do not pass judgment on or prejudice the rights of the person accused, but they are part of the Christian response to the very possibility that the person present is a victim of abuse.

19. Whenever it is established, either by admission or by proof, that abuse did in fact take place, the Church authority shall listen to victims concerning their needs and ensure they are given such assistance as is demanded by justice and compassion. Details concerning the procedures to be followed are contained in the second half of this document.

Assistance to Other Persons Affected 20. We shall also strive to assist in the psychological and spiritual healing of those persons who, as well as the victims, have been seriously affected by incidents of abuse.

21. The effect on the family of the victim can be profound. Sometimes the disclosure is so terrible that the family would rather reject the victim than face the reality. Parents can feel guilty that they did not protect their child more effectively.

38.7 Where there is a significant dispute about the facts, or the accused is unavailable to give a response, the matter shall be investigated in accordance with the procedures set out in this document. 40.1 In all cases to which this Clause applies, the Director of Professional Standards shall appoint assessors. Two assessors shall be appointed unless the Director

considers that in the circumstances one professional assessor is sufficient. A list of assessors shall be maintained by the Resource Group. The appointment of the assessors shall occur as soon as practicable. 40.3 The assessor or assessors shall arrange an interview with the complainant. Where there is more than one assessor, both should interview the complainant and the accused. 40.3.2 The complainant shall be invited to have another person present at the interview. 40.3.3 Under no circumstances shall there be any attempt to intimidate a complainant or to dissuade a complainant from proceeding with a complaint. 40.4 The assessor or assessors shall arrange an interview with the accused, if he or she is available and willing to speak to them. If the accused does not wish to co-operate with the assessment, the assessment shall still proceed and the assessors shall endeavour to reach a conclusion concerning the truth of the matter so that the Church authority can make an appropriate response to the complainant. 40.7 The assessors shall interview any other persons who could be of assistance. Decisions about who should be interviewed should be made after taking account of any wishes expressed by the complainant and the accused, and following consultation with the Director of Professional Standards. They may also need to put to the complainant the accused's version of events. 40.8 Church authorities shall comply with all reasonable requests made by assessors for access to documents which may assist them in their work. Church authorities are not required to disclose documents concerning which it has an obligation of confidentiality to the accused or to any other person. 40.9 A written or taped record shall be made of all interviews. 40.10 The contact person and the accused's support person shall have ready access to the assessors and shall have the responsibility of keeping the complainant and accused, respectively, informed of the progress of the assessment. 40.11 After the assessment is completed, the assessors shall provide a written report to the Church authority and the Director of Professional Standards. The assessors shall review the evidence for the complaint, examine the areas of dispute and may advise the Church authority whether they consider the complaint to be true. 40.11.1 The assessors must provide reasons for their conclusions. If they are unable to reach a determination of the truth of the matter with a sufficient degree of certainty, they may nonetheless make recommendations to the Church authority concerning its response to the complainant. 40.11.3 The complainant is entitled to know the findings of the assessment promptly. The accused is also entitled to know the findings of the assessment if he or she has participated in the assessment or otherwise could be subjected to disciplinary action as a consequence of it by the Church authority. The Director of Professional Standards is responsible for communicating the relevant findings. 40.12 The Church authority shall discuss the findings and recommendations of the report with the Director of Professional Standards as quickly as possible. If the assessors consider the complaint to be true, then the Church authority must consider what action needs to be taken under Clauses 41 and 42 of these procedures. The Director of Professional Standards may be called upon by the Church authority for advice on these matters. If the Church authority decides to reject the complaint, then it must provide reasons for its decision to the complainant. 40.13 Mindful that the assessment process is a difficult and trying time for all concerned, particularly the complainant and the accused, the process of the assessment shall be undertaken and concluded as quickly as possible and the process shall be as transparent as possible to all concerned. The Director of Professional Standards shall seek to ensure that all parties adhere to this principle. 41.1 In the event that the Church authority is satisfied of the truth of the complaint, whether through admission of the offender, a finding of a court, a canon law process or a Church assessment, the Church authority shall respond to the needs of the victim in such ways as are demanded by justice and compassion. Responses may include the provision of an apology on behalf of the Church, the provision of counselling services or the payment of counselling costs. Financial assistance or reparation may also be paid to victims of a criminal offense or civil wrong, even though the Church is not legally liable. 41.2 The Church authority may seek such further information as it considers necessary to understand the needs of the victim. 41.3 Facilitation shall be the normal means of addressing the needs of the victim. The Church authority and the victim shall mutually agree on a Facilitator from the approved panel. 41.3.1 The Facilitator shall arrange and moderate a process for communication between the victim and Church authority (or delegate with power to make binding decisions). This may involve a meeting, under the direction of the Facilitator, in which apologies can be offered and unresolved problems addressed. 41.3.2 The victim may have a support person or adviser present at the meeting. The Church authority or delegate may also have an adviser if required. The presence of any other persons accompanying either the victim or the Church authority shall be subject to the agreement of the Facilitator. The Director of Professional Standards should not participate in the facilitation process. 41.3.3 The Facilitator shall seek to know the ongoing needs of the victim and the response of the Church authority to these needs. 41.3.4 The Facilitator shall also seek to know the needs of the victim's family and of the community in whose midst the abuse occurred. 41.3.5 The Facilitator shall seek to identify any outstanding issues where the victim is not satisfied with the response received and shall explore with both parties the best means of dealing with such issues. 41.3.6 Issues concerning reparation may either be dealt with in a facilitation, addressed through a compensation panel or dealt with through some other such process in order to reach a resolution on this aspect of the matter. 41.3.7 The Facilitator shall ensure that there is a record of any agreement reached and of any outstanding areas of disagreement. 41.3.8 The Director of Professional Standards shall be informed of the outcome, and whether the Facilitator considers that any other processes or actions would assist further in bringing the matter to a conclusion. 41.3.9 The Church authority shall bear all ordinary and reasonable expenses of the process of facilitation. 41.5 If the victim remains of the view that the response of the Church authority is unsatisfactory, the victim shall be informed about access to a review process.

 In light of the above, I request the following as a matter of urgency, in accordance with paragraph 40.13 of the Towards Healing document:

- * Please appoint two assessors to investigate my complaint
- * Please notify me who my Contact Person is. If it is Br Laurie

Needham,
who conducted the initial interview to formally record the complaint, please provide him with full details of the process so far and request that he convey this to me promptly

* Please ensure that appropriate steps are taken to ascertain whether Fr

Duggan can be interviewed

* If not, please ensure that the assessors ascertain what other information is to be sought to assess my complaint. I can provide assistance with ascertaining what relevant information may be available, and what other people could be interviewed, should that assist.

* Please ensure that the process of assessment is undertaken in accordance

with the guidelines - eg that the process is implemented promptly, that all interviews are properly recorded, that the assessors interview other people who can provide assistance, that a written report is prepared (with reasons), that I am consulted throughout the process, that my Contact Person is kept informed, etc..

* Please inform me of the role of Michael Salmon in the process.

The impression I received was that he was the "Facilitator", although this was not formally advised. I asked Michael what his role was, and he was not able to tell me. It now appears that he cannot have been the Facilitator, as I am to be consulted in agreeing a Facilitator

* Please ensure that a Facilitator is appointed at the appropriate time,

after consultation with me, and that the effects on my family are assessed by the Facilitator

* Please ensure that the process is conducted from here on with

justice

and compassion.

I would appreciate a prompt written response to this e-mail Regards

John Ellis

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