

# National Committee for Professional Standards <sup>- 2 MAY 2011</sup>

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28<sup>th</sup> April 2011

Most Rev George Cardinal Pell  
Level 16 - Polding Centre  
133 Liverpool Street  
Sydney NSW 2000

Dear Cardinal Pell,

Your letter of 25 February 2011 was considered in detail at the meeting of the National Committee for Professional Standards on Thursday, 31 March 2011.

Thank you for your detailed study and your constructive analysis of the *Towards Healing* document. The members of the Committee had prior access to your letter and this enabled an informed and very helpful discussion on each area that you raise.

## 1. Timeliness and consistency of contact with complainants

The problems caused by delays are a constant concern at meetings with the State Directors of Professional Standards. While the Directors are working to reduce any delays caused by personnel involved in the process and by the Church Authorities, often the delays are caused by the victims themselves, especially when so many are seriously disturbed and traumatised individuals. This is a matter receiving specific attention.

At the beginning of the process the Director discusses with the complainant the role of the contact person and whether they would prefer a male or female, a religious or lay person, someone in their area or outside the district, whether they would like the contact person to come to their home or to meet in a neutral place. Part of this discussion also involves whether the person wishes to have their own support person or one provided for them by the Director. This is the beginning of working out what "assisting" means in each case. Also the contact person usually makes several visits and/or phone calls before a full contact report is prepared and the complainant is ready to sign the report and the required forms regarding the police and privacy. Each person is different and there is an effort to meet the needs of each person right from the beginning.

There are regular training and discussion sessions for Contact Persons and there is a supporting document *Guidelines for Personnel involved in the process* (which is to be updated to include the changes to the *Towards Healing 2010* document.)

At this stage the 'ownership' of each case is with the Director of Professional Standards and while Michael Salmon has Yolande Schilt-Smith to manage some of the cases the other Directors do not have other staff to take ownership.

One of the other discussion topics at this meeting of the National Committee is the funding of the National and State offices and further investigation and action is being undertaken.

The issues relating to funding are exacerbated by the fact that the need is not decreasing but the funding sources are diminishing with the number of religious decreasing and ageing and the number in some Parish communities declining.

## 2. Adequacy of assessments

Assessments are always a difficult part of the *Towards Healing* process and the rigour over the years has increased. Training continues to be provided to Assessors and following the completion of the recent Review a Training Day for Assessors was held and addressed by Professor Patrick Parkinson, Mr. Gerry Gleeson, the Chair of the National Review Panel, and Mr. David Landa, the former Ombudsman and currently the person who undertakes most of the review of cases for the Committee. While many of the Assessors are lawyers, others are former senior police, trained investigators or psychologists and a balance is necessary given the psychological health of many of the victims. There are cases where it is appropriate to ensure that legal personnel are appointed as Assessors.

The *Towards Healing* process requires the Assessors to both investigate the case and assess the evidence. At the Training Day for Assessors the necessary rigour for both the collection and assessment of evidence was stressed. The Assessors exchanged contact details and are agreed that peer review or, in certain circumstances review of the report by a legal practitioner is important. Thus while the particular section to which you refer from the draft was not included as it implied a quasi-legal approach the substance of the proposal has been retained.

While some lawyers for the victims wanted, under *Towards Healing*, a totally legal approach which they controlled and did not wish any pastoral elements, this matter was addressed by the introduction of clause 36.5. We will continue to monitor assessments through the Directors and the Review Panel.

## 3. Expedition of processes where an alleged offender is deceased or has a well established record of abuse

In many cases where the alleged offender has a well established record of abuse, this is covered by the Church Authority accepting the case and indicating that they are willing to proceed directly to Facilitation. Judgment is needed where the alleged offender is deceased and assessment would only proceed if the Director believes that there are clear lines of enquiry possible.

Clause 39.5 is actioned when exceptional circumstances arise and the Director needs approval to depart from procedure and not be found to be in breach of *Towards Healing*. This documentation is then available were a Review to be requested. Two cases where this new clause has been invoked provide examples of its use:

- A victim had exhibited violent behaviour in the Church office and for the safety of the Director the Archbishop and the Church solicitor believed that the Director should not meet with the victim. Thus approval was given for all communication from the Director to be in writing.
- An ill, elderly Aboriginal woman was the victim of events 50 years ago. She had come to trust the Director and the two Church Authorities involved trusted the Director. In this case the Director also filled the role of Facilitator.

#### 4. Church Authority communication

It certainly is possible, and does currently occur, that the Church Authority nominates different senior, experienced delegates for the preliminary meeting and the contact with the Director at the time of receiving the Contact Report and during the Assessment. In some Congregations where there are a significant number of allegations there is a person nominated to liaise with the Director and perhaps meet with the complainant in the preliminary meeting (clause 36.8) and while the Church Authority is kept informed, the Church Authority is only involved at the Facilitation stage. Other Church Authorities prefer to liaise with the Director and be involved throughout.

#### 5. Disclosure of Findings

A National database is slowly being established and is made more complex because it was not in place from the beginning. Given the minimal staffing in some of the offices entry of back data is proceeding slowly. When the database is fully operational it should be possible to provide a report indicating how many allegations have been substantiated and whether these are cases from the past or recent allegations. This does not address the issue of what information is provided, how and to whom. The information available from the database will assist in preparing a list of priests who are in good standing (see section 6 below). The responses of the Church Authorities to the matters raised by Mr Gerry Gleeson are being gathered at this time and will assist in providing further rigour in the *Towards Healing* process. As you are aware the issues raised by Mr. Gerry Gleeson include the need to report to a responsible person or body on the outcomes of *Towards Healing* cases, documentation of Professional Standards at the Diocesan and Congregational level and the vulnerability of members of Consultative panels where appropriate responses are not in place and monitored.

#### 6. Recourse where a priest continues to engage in public ministry despite having his faculties removed

This is a serious issue and an important step was taken at the November 2010 Meeting of the Bishops' Conference where it was agreed to remove from the Catholic Directory the names of Diocesan priests who have their faculties removed. This is being raised for Clerical Religious at the meeting of Catholic Religious Australia and it is expected that the same action will be taken.

The National Committee believes that it is the responsibility of a Bishop or Congregational Leader to inform all their members when a Priest has faculties removed and to insist that these Priests must not be approached as Supply Priests for a Parish. Further in refining the processing of 45.6 and 45.7 an electronic database of Priests who are 'in good standing' is being designed. A Bishop or Congregational Leader would then have responsibility to inform the National Office when a Priest has faculties removed and the database would be adjusted accordingly. The current considerations involve how the database is to be accessed, realising that it is providing no more than a more up-to-date list of priests currently publically available in the Directory.

Are there canonical questions also? If a priest whose faculties have been removed as a result of sexual abuse does continue to engage in public ministry an application for laicisation could be commenced immediately using the material which led to the initial removal of his faculties. If the priest is not prepared to accept the consequences of his actions and does not act responsibly then the Church Authority will be placed in a position where he needs to take further action. The priest should also know that there could be a section on the electronic database indicating the names of those where a request for laicisation has been commenced because the priest has engaged in public ministry following the removal of his faculties.

7. Litigious matters and *Towards Healing*

The proposed insertion will be put forward for the next review of *Towards Healing* and in the interim this addition will be formally notified to the Directors of Professional Standards and to the Church Authorities. Prior to this the National Committee will seek legal advice as to the wording of a document for Church Authorities and Directors to provide to their legal advisors. Also this material will be made available to the members of the National Review Panel.

8. Pornographic Paedophilia and abuse of mentally disabled who are considered to be the equivalent of minors

*Towards Healing* does implicitly apply to offences against the mentally disabled in the definition of vulnerable persons and in Clause 40.3.5.

Instead of waiting for the next revision of *Towards Healing* the National Committee will prepare documentation providing the specific wording from the updated norms of the Holy See. The material could also include reference to the use of the term 'pornography' which is described by many experts as tending to concentrate on the viewing of the images and not to draw sufficient attention to the actual crimes of abuse perpetuated on the children in producing the material. The experience of some Congregational Leaders, Educational authorities and I am sure some of the Bishops will enable them to provide some information about some sources for professional examination of laptops, personal computers and church computers. Work in this area may also provide an opportunity to gather some professional advice on the appropriate use of modern electronic media especially involving communication with children and adolescents.

It is to be noted that the new document *Integrity in the Service of the Church* gives impetus to the production of policies for different Church entities in the area of electronic communication. A number of Catholic Education Offices and also the Anglican Church have already begun the development of policies in this area.

9. The canonical obligations of Church Authorities in cases of sexual abuse of children and vulnerable people

This addition which is proposed for *Towards Healing* would assist in allaying some of the public criticism. It would be essential that all the Bishops and Congregational Leaders did take the step of seeking advice and sending appropriate cases to Rome. The victim advocacy groups and some in the media would make it very difficult if this were not

followed through. The National Committee would appreciate a united approach from Church Authorities and is willing to provide this addition to *Towards Healing* to Church Authorities and ensure that it also becomes a public document,

The Committee believes that it is possible that there will be a concerted approach from some few Canon lawyers to speak out strongly against this being made a public statement but there is every reason for the National Committee and the Church Authorities to take a strong stance in this area.

The continuing refinement of *Towards Healing*

Thank you, Cardinal Pell, for your thoughtful and constructive approach. As is indicated throughout this response the National Committee will follow through with the matters raised here. Matters raised by Mr Gerry Gleeson, the Chairperson of the Review Panel, and the responses received from Church Authorities have also provided some valuable insights.

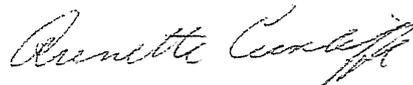
One considered, clear, strong and significant document addressing all the issues which you raised and which were raised in response to the questionnaire would seem to be preferable to a series of shorter statements. It is too late for the May 2011 meeting of the Bishops' Conference. An initial draft document will be prepared for the National Committee meeting in July. Following this a draft could be sent to Bishops and Congregational Leaders in early September with responses by the end of September and as a result a document prepared for distribution in time for the Bishops' meeting in November. Response from the Religious could be via their Executive. We would ask the National Office personnel to liaise with you or with someone from your office, as well as other appropriate personnel from ACBC and CRA in the preparation of the initial draft.

May this be one further step along the path to a just and effective response to the abuse of the past and prevention of abuse into the future.

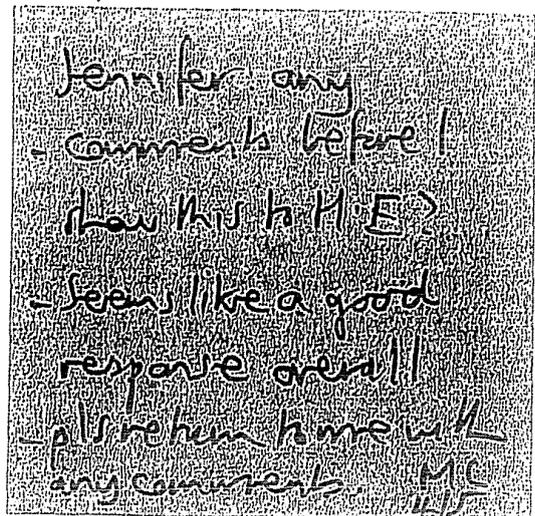
With best wishes,  
Yours sincerely,



Bishop Bill Morris  
Co-Chairperson



Sr Annette Cunliffe rsc  
Co-Chairperson



Jennifer any  
- comments before!  
How this is H/E?  
- seems like a good  
response overall  
- all the time home with  
any comments M/E