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CATHOLIC ARCHDIOCESE OF SYDNEY

Archdiocesan Chancery
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28 March 2003



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Dear Richard

TOWARDS HEALING COMPLAINT BY MR JOHN ELLIS AGAINST FATHER AIDAN DUGGAN

I wish to instruct you to act for the Archdiocese of Sydney in this matter.

I refer to our latest communication in this matter being your email to me dated 24 February 2003 (copy attached).

I also attach a copy of a lengthy email from the complainant, Mr John Ellis, dated 21 March 2003 which was addressed to Mr John Davoren of the Professional Standards Office (PSO).

Mr Davoren, Dr Michael Casey and I had a discussion about the best way to progress this matter yesterday. We determined that it is necessary for the Archdiocese to seek your expert legal opinion.

In his Statement of Complaint to the PSO dated 3 June 2002, Mr Ellis alleges that Father Aidan Duggan subjected him to sexual abuse over a number of years from age 14. Mr Ellis states that there was a continuing sporadic adult homosexual involvement with Father Duggan from 1975 until 1987. A copy of Mr Ellis' Statement of Complaint is attached. Mr Ellis told no one of his alleged relationship with Father Duggan until he made his complaint in 2002, and therefore, Mr Ellis' complaint against Father Duggan can only be found to be substantiated in Mr Ellis' favour if Father Duggan makes a full admission that he sexually assaulted Mr Ellis as a minor. I note that there is no indication on Duggan's record of any complaints against him of this kind.

Mr Ellis is seeking financial compensation from the Church because of the alleged actions of Father Duggan.

Since making his complaint Mr Ellis has also requested a meeting with Father Duggan. Normally, we would be able to accede to such a request without much difficulty (if the alleged perpetrator consents) but, unfortunately, Father Duggan is now a resident at a nursing home at the St John Vianney Villa at Randwick. The nursing home has provided an assessment of Father Duggan's mental health and has advised that he is not in a fit state to plead given his advanced dementia.

On 23 December 2002, Archbishop Pell wrote to Mr Ellis advising him of that the case can go no further since, in the light of Father Duggan's mental health, there was no way of determining the matter on the *balance of probabilities*.

The Archbishop's letter, however, made it clear that Mr Ellis could visit Father Duggan privately if he so wished. A copy of His Grace's letter dated 23 December 2002 is attached.

Mr Ellis has since disputed Father Duggan's mental state. He maintains that Father Duggan is capable of understanding the issues which he wishes to raise with him during the requested meeting. In addition, Mr Ellis indicates that he has not proceeded to meet Father Duggan privately as he says that if Father Duggan were to make any admission to him without witnesses being present the information would have 'no standing' in resolving the case.

The Archdiocese is of course keen to ensure that both Mr Ellis' and Father Duggan's rights are respected. In relation to the latter, we do not feel it is appropriate to subject Father Duggan to a meeting without being assured that Father Duggan has consented to such a meeting either himself directly or via his duly-authorised attorney.

I have also discussed with Mr Davoren the issues raised in your email to me dated 24 February 2003. With respect, Mr Davoren does not agree that the PSO can be considered as the 'Tribunal' in professional standards matters. Accordingly, Mr Davoren does not concede that the PSO is the appropriate body to obtain legal representation for Father Duggan for the purpose of obtaining a medical assessment as to his mental capacity.

Mr Ellis has asked for the case to be reopened [actually it is not clear that he understands that the case is closed] on the grounds that his mother recently visited Father Duggan privately and found him in good health and apparently well aware of what was happening around him.

To progress this matter I would be grateful if you could now:

1. Provide me with a legal opinion on the best way to respond to Mr Ellis' request as set out in his email to the PSO dated 21 March 2003. In particular, I would be grateful if you could reconsider the issue of a way for an assessment as to Father Duggan's mental capacity to be carried out.
2. Prepare a letter to Mr Ellis (for my approval) responding to Mr Ellis' email dated 21 March 2003 to be signed by you as the Archdiocese's legal representative.

I look forward to hearing from you.

Kind regards



Dominic Cudmore
Assistant to the Chancellor

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