

John Andrew Ellis

REDACTED



31 July 2004

Michael Salmon
Director, Professional Standards
Catholic Archdiocese of Sydney
Polding Centre
133 Liverpool Street
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by e-mail psa@cathprofstandards.com

Dear Michael

Re: Towards Healing Complaint, Mr John Ellis and Rev Aidan Duggan OSB - Review of Process

I refer to my complaint made formally on 3 June 2002 under the Towards Healing protocol concerning sexual abuse by Fr Aidan Duggan OSB over the period from about 1975 to 1986, during which time Fr Duggan was a priest for the Archdiocese of Sydney.

Under Part 2 §43 of the Towards Healing document dated December 2000, I hereby advise you that I am not satisfied with the response of the Church authority (the Archdiocese of Sydney) to my complaint, and I request a review of the Towards Healing process as applied to my complaint.

I understand that such request may be made within 3 months of the “completion of the process”. One of the areas of dissatisfaction with the process is that there has been no sense of formal “completion”. However, the Towards Healing document states that: *“The process is complete in relation to the complainant when either the Church authority gives its response to the complaint or if the Church authority fails to offer a response within three calendar months of the time when an assessment has been completed or the facts otherwise established.”*

As you are aware, a facilitation meeting was held on the afternoon of 20 July 2004. That meeting was attended by myself, my wife Nicola as support person, Mgr Brian Rayner as representative of the Church authority and Mr Raymond Brazil as facilitator.

Mr Brazil undertook to keep notes of the proceedings and outcome of the meeting and to provide me with a copy of those notes for review and confirmation. To date, I have had no contact from Mr Brazil following the meeting and have not been provided with a copy of the notes. However, at the meeting, the response of the Archdiocese to my complaint was conveyed to me by Mgr Rayner, and so it appears that the process is “completed” for the purpose of the application of §43.

In making my complaint, I had sought a response from the Church Authority consistent with the firm commitment by the Church in Part 1 §12 of the Towards Healing document to strive for truth, humility, healing for the victims and assistance to other persons affected - a compassionate response based on justice, fairness and an appreciation of the impact of the abuse.

As the process unfolded, this became crystallised to specific requests for:

- An acknowledgment of the wrong done and its effects;
- An apology from the Archbishop or one of the assistant Bishops on behalf of the Church;
- Information concerning the circumstances of Fr Duggan's acceptance into the Sydney Archdiocese;
- Information regarding the measures being implemented by the Archdiocese to prevent similar abuse in the future;
- Assistance in healing of my relationship with the Church in the form of spiritual direction;
- Assistance with the effects and impact of the abuse on myself and the family in the form of a financial gesture.

I discussed with the Church authority (both with Mr Brazil in preparation for the facilitation meeting and at the meeting itself) my appreciation that the abuse and its effects had been substantial, and had occurred and been felt over time and space in all areas of my life. The corollary of this is the need for the Church's response to be commensurate with this, and have those same characteristics – in other words, a substantial and tangible response, brought into existence over time and space.

Following the facilitation meeting, I am left with the experience of the response falling well short of those expectations, and of the Towards Healing process itself being re-traumatising rather than healing. In saying this, I am not intending for these remarks to imply any personal criticism of any of the persons involved. For the record, I confirm that my experience in particular of Msg Rayner through the process has been characterised by compassion, understanding and deep faith. I was touched and moved by his personal expression of regret and abhorrence for the abuse, and by his compassion in arranging for (and accompanying myself and Nicola to) a meeting with Fr Duggan in July 2003.

While there has been no record provided to me of the outcome of the meeting (and I am unaware whether a report has been provided to you in accordance with §41.3.8), my understanding of the outcome is as follows:

1. Msg Rayner will contact me and have discussions towards the selection of and arrangements for an appropriate spiritual director. This was agreed as an appropriate and acceptable response to my request in this regard.
2. I was initially informed by Msg Rayner that Fr Duggan had been a member of a contemplative monastic order and so had no contact with young people prior to his transfer to the Archdiocese. When questioned regarding the source of that view, Msg Rayner then reviewed (at the meeting) the Archdiocese file on Fr Duggan and indicated that it appeared from the documents on the file that no letter of commendation was given by the Abbot of Fort Augustus to the then Archbishop and no other enquiries were made

as to Fr Duggan's life, behaviour or studies either at the time of Fr Duggan's temporary placement in the Archdiocese in 1974 or at any time subsequently. I was not shown any of the documents reviewed by Msg Rayner.

3. A personal acknowledgment of regret and abhorrence at Fr Duggan's conduct was offered by Msg Rayner. However, I was informed that no acknowledgment of responsibility by the Archdiocese for Fr Duggan's conduct or its effects could be given.
4. Msg Rayner was to check with your office as to whether the Archbishop is prepared to give an apology. This arose in the context that I was told at the meeting that no apology would be given (and in fact no meeting with the Archbishop would be arranged) unless I was prepared to sign the deed of release proffered to me 10 days before the facilitation meeting. When pressed, Msg Rayner agreed to revert on this issue. No response has yet been relayed to me.
5. The Archdiocese is prepared to make an ex gratia financial gesture in the amount of \$30,000 on the condition that I sign the deed of release proffered to me 10 days before the facilitation meeting. The gesture was described to me as an arbitrary amount, not related to or calculated by reference to the identified impacts on myself or the other persons affected by the abuse or its impacts. I informed Msg Rayner that on legal advice I was not prepared to execute the required deed, and would shortly be making a decision as to whether to pursue other remedies for redress of the financial aspects of the impact of the abuse. In that light, I requested that the offered gesture be made in good faith on the undertaking that the amount of the gesture would be taken into account and set off against any compensation agreed in an alternative process. I was advised that this was not considered appropriate by the Archdiocese, as the Archdiocese would then in effect "*be funding my legal action*".

I am not presently in a position to identify comprehensively all of the respects in which the Towards Healing process has been unsatisfactory. However, I understand the desirability of me seeking to do so in order to facilitate the review. Accordingly, the following comments set out my recollection of the history of the process, with an emphasis on those aspects of the process that I am at this time able to identify as being in some way unsatisfactory:

1. The length of time between the commencement of the process and the facilitation meeting was over two years, and subject to innumerable delays at each stage of the process. Other aspects of these delays are mentioned below. This in itself has had an impact in terms of interfering with rather than promoting the process of healing.
2. At my initial meeting with Mr John Davoren, the then Director of Professional Standards in April or May of 2002, I was given the strong impression that I was being discouraged from commencing upon the process and making a complaint.
3. I was not to my recollection given a copy of the Towards Healing document or a proper explanation of the process, at any stage. This was despite numerous requests to Mr Davoren to identify to me what the next steps were and an indicative time frame. Mr Davoren on several occasions asked me what I wanted the next step to be. I got the impression from such requests that there was not a clearly identified and documented process. I remained under that misapprehension until I myself reviewed the Towards Healing document from the Church's website in March 2003. I was given a hard copy of

the current Towards Healing document 30 minutes prior to the scheduled start of the facilitation meeting on 20 July 2004.

4. I was not informed that the person who recorded my complaint was the person nominated as the "Contact Person" under the Towards Healing process and had a role following the taking of the complaint. My only contact in following up the progress of the process was with Mr Davoren. I was offered an alternative "Contact Person" in July 2003. However, by that time, there seemed to be little point introducing a further person into the process.
5. No assessor was appointed until 26 June 2003. This was more than 12 months after the complaint, and after I had been told three times that the process had been or would be terminated without an assessment being undertaken.
6. I was not formally informed until 19 March 2003 that the Archbishop of Sydney is the relevant Church Authority. I had been informed in June 2002 that my complaint had been forwarded to the Archbishop, but to me that was not identifying the Archbishop as the person who would respond to my complaint. No explanation was given at the time as to his role in the process.
7. In September 2002, I was informed that Bishop Cremin visited Fr Duggan, reviewed his nursing notes, and mentioned my name to Fr Duggan. This was for the purpose of a proposed facilitated meeting between myself and Fr Duggan.
8. On 24 October 2002, I met with yourself at Polding House. I understand now that you had been appointed as facilitator. However, this was not identified to me at the time. We spoke of you arranging a meeting with the Church Authority and discussed an agenda. I also asked you whether any further information was required from me in support of my complaint. You informed me that the Church Authority considered that it had sufficient information at that time to proceed to a meeting and response.
9. I contacted you in December 2002 to follow up on the proposed meeting. You informed me on 17 December that you had not been authorised to proceed to set up a meeting and that I should contact John Davoren. However, you understood that a letter had been sent to me from the Diocesan office and that letter indicated that the Church authority was "*not ready to proceed*" at that time.
10. I contacted Mr Davoren the same day. He was not able to tell me what your role was or the status of the matter and undertook to revert to me when he had more information.
11. On Christmas Eve 2002, I received a letter from Archbishop Pell (as he then was) stating that he had been kept aware of my complaint. The letter concluded as follows:

"I regret that a clear resolution of this matter is not possible, but under the circumstances I do not see that there is anything the Archdiocese can do towards this end"

This appeared to me to be a clear statement that the Archbishop considered the matter to be at an end, despite there having been no formal assessment of my complaint. Receiving this response caused considerable emotional distress to me, exacerbated by its insensitive timing.

12. I was not able to contact Mr Davoren regarding this until 28 January 2003, when he returned from leave. He was unable at that time to confirm whether or not the Archdiocese considered the process completed at that stage.
13. At that time, I also informed Mr Davoren that my mother and another parishioner from Christ the King parish had recently visited Fr Duggan and found him to be lucid and cogent. I requested that, as a matter of urgency, the question of speaking with Fr Duggan be investigated. The reason for the urgency was the possibility that Fr Duggan was experiencing a lucid interlude, a phenomenon not unknown in patients suffering from dementia. If that was the case, there may have been a window of opportunity to speak with Fr Duggan regarding the complaint, despite Bishop Cremin's observations 5 months earlier.
14. On 31 January 2003, Mr Davoren informed me that you were away until the following week, but that he would speak to you immediately on your return. I got the impression that you had a critical involvement in the matter, and that nothing could be done until your return. Mr Davoren also said that he would contact the Archbishop's office to see if matters could be expedited. I was given the impression that Mr Davoren's hands were tied and that there was nothing he could do personally to expedite the matter.
15. On the same day, I spoke to you on your mobile. You informed me that you were unsure of your involvement in the matter, or why your absence would hold things up. You undertook to speak with Mr Davoren the following Monday upon your return from holidays.
16. On 3 February 2003, you informed me that Mr Davoren had undertaken to organise an assessment of Fr Duggan's mental state and that he would report back to me through you on that matter.
17. On 19 March 2003, Mr Davoren informed me that he had legal advice from the Church's lawyers that the Church could not review Fr Duggan's mental state or have access to his records. I contacted Mr Davoren and requested a copy of that advice. He was defensive and evasive. He said he was happy to talk with me but that there was "*not much to be gained by that at this stage*". He also indicated that if I were to seek legal advice regarding my complaint, he would terminate the Towards Healing process. Once again, this statement was the cause of some considerable emotional distress for me.
18. The same day, I spoke with you. You informed me that you were "*not in the loop*" and had nothing further to report.
19. I then reviewed the Towards Healing document from the Australian Catholic Bishops Conference website and made a written complaint to Mr Davoren concerning what I saw as a number of failures to follow the stated procedural steps and principles set out in the document and a lack of open-ness and transparency in the process. I requested that certain specific actions be undertaken as a matter of priority.
20. Despite Mr Davoren's confirmation on 28 March 2003 that my request had been forwarded to the Archdiocese, the advice of the Archdiocese's lawyers was not provided to me, and I have had no response at all to that request to date. The opportunity to take advantage of any lucid interlude Fr Duggan may have had in January 2003 had in any event by then most likely been lost.

21. No response was received to my specific request on 21 March 2003 regarding the appointment of assessors. I repeated that request on 28 March 2003.
22. On 31 March 2003, I was informed in writing by Mr Davoren that: "*The process can go no further if Fr Duggan is not able to be interviewed*". This appeared to me to be a clear statement that if (as appeared likely) Fr Duggan was not fit to be interviewed, the Towards Healing process would be terminated without a formal assessment of my complaint. This attitude caused considerable further emotional distress to me.
23. On 7 May 2003, you informed me that you had had a meeting with the Archdiocese and that after Fr Duggan's mental state had been assessed, an independent assessment would be proceeded with as soon as possible.
24. On 23 June 2003 I was informed that Dr Byrnes had provided a report on Fr Duggan's mental state. I was not given a copy of the report. I was also informed that the Archdiocese was prepared to put the matter to assessment "if I would like that".
25. Michael Eccleston was appointed as assessor on 26 June 2003 and provided his report on 24 November 2003. Mr Raymond Brazil was appointed as facilitator some time during December 2003.
26. Despite numerous undertakings by the appointed facilitator (Mr Brazil) to proceed as expeditiously as possible given the past delays, a facilitation meeting was not held until 20 July 2004, some 8 months after the report was given to the Archdiocese. Even taking account of a one month delay to the start of the facilitation stage of the process due to Christmas holidays, this is, in the circumstances, an inordinate delay.
27. During a meeting attended by myself, Nicola and Mr Brazil on 5 April 2004 (which I understood was to set the agenda for the facilitation meeting), the question of what was described by Mr Brazil as a "financial gesture" by the Church authority was raised by Mr Brazil. It was made clear that any such gesture would be in the form of a gratuity, as a tangible gesture of atonement, directed to some tangible assistance with dealing with the effects of the abuse, and was not intended as "compensation" or "damages" in the legal sense. We were told that making of the gesture would not exclude any other means of redress. Nicola and I then discussed with Mr Brazil what would be, in our opinion, an "appropriate" gesture in all of the circumstances of my abuse and its effects on each of us.
28. As you are aware, the facilitation meeting was not scheduled until 20 July 2004, more than 3 months after this meeting. The following contributed to that delay:
 - It had been a further 6 weeks before a response from the Archdiocese in relation to the discussed financial gesture was relayed to me;
 - At that time, I advised Mr Brazil of the additional impact of having lost my employment and income, and requested that the gesture be re-considered in light of that significant change in circumstances. A further response was not forthcoming until 12 June 2004 [The offer was increased by \$5,000 to \$30,000].
 - At that time, I requested that a date be set as soon as possible and expressed a preference for the meeting to be close to my home, and on 16 June 2004, I discussed the desired agenda for the meeting with Mr Brazil.

- On 26 June 2004, Mr Brazil told me that Msg Rayner would not be able to come to this area for at least 3 weeks, because that would add 3 hours to the meeting time, but that the meeting could be held within 2 weeks if the venue were changed to the city. This did appear to significantly over-state the required travelling time and showed little regard for my clearly expressed preference to have the meeting in this area.
 - On 29 June 2004, Mr Brazil told me that the meeting could not be before 20 June 2004, because you were away until 19 June 2004. That was the first I knew that you intended to participate in the meeting.
29. None of the above delays were explained, other than the last. As you are aware, you subsequently withdrew from the meeting when it was pointed out that for you to participate would be contrary to §41.3.2 of the Towards Healing document. This further delay (at least) appears therefore to have been totally avoidable had attention been paid to the Towards Healing document.
30. On 1 July 2004, less than 3 weeks before the meeting date, I was informed for the first time that the proposed financial gesture was conditional upon my signing a deed of release. The form of that document was given to me on 9 July. It required me to acknowledge that I had obtained legal advice as to my rights, a course which I had not to that time considered, and had thought unnecessary and unhelpful while participating in the Towards Healing process.
31. I was upset that I had previously been misled as to the basis of the gesture – specifically in having been expressly informed on many separate occasions that it would not preclude alternative available remedies for legal redress. At the facilitation meeting, I was informed that a deed of release is always required by the Archdiocese as a matter of practice. To Msg Rayner, this was unexceptional.

It appears that this would have been known to Mr Brazil from the outset and I would therefore have expected to have been told that at an early stage, when the matter of a possible financial gesture was first raised by Mr Brazil. This would have enabled me to consider the issue in a proper context, having regard to the over-riding condition placed upon it.

32. Further, I was told at the facilitation meeting that:

- the amount of the gesture is arbitrary and not assessed in any way by reference to the effects of the abuse on me or my family; and
- no advice is taken from professionals in the area in determining the gesture to be made.

In light of that, it appears to me to have been pointless to request myself and Nicola to reflect on the specific tangible expenses incurred in managing the effects of the abuse, and to have had a long meeting with Mr Brazil and several long follow-up telephone conversations regarding those matters. More than that, it was hurtful and upsetting to be asked to focus on those things only to be told later that they are never taken into account in considering an *ex gratia* payment. That process only served to make us present to the tangible effects of the abuse and to the gap between the financial quantification of those effects and the gratuity being offered.

33. In fact, once we had been notified of the condition and basis of the offered financial gesture, it appeared that most of the discussions which had taken place prior to the facilitation meeting (with consequent delay to the scheduling of the meeting) and the seemingly endless requests for confirmation as to whether the gesture was “accepted” served only to aggravate the painfulness of the process. They certainly did nothing to promote a healing of relationships. It is difficult not to see this as a cynical exercise.
34. Further, on 12 June 2004, Mr Brazil told me that Msg Rayner informed him that careful thought had been put into the amount of the gesture, considering the circumstances of my complaint, and relayed to me several specific reasons (relating to the facts of my complaint) why the amount was reduced from the amount I had indicated would be an appropriate gesture. Both then and again when we discussed the agenda on 16 June 2004, he was quite resistant to my request for those reasons to be stated to me by Msg Rayner in the facilitation meeting. His express position was that he had already told me the reasoning and Msg Rayner would have nothing to add to what I had already been told. However, at my insistence, this was included in the agenda.

When that item was reached during the meeting, Mr Brazil commenced to answer my question as to the basis of the gesture, and I had to intervene to request that response to come directly from Msg Rayner. In the event, Msg Rayner had a very different explanation of how the amount of the gesture had been arrived at.

35. When the agenda was discussed with Mr Brazil on 16 June 2004, one important element was my request for information as to the circumstances of Fr Duggan’s transfer to the Sydney Archdiocese. Mr Brazil undertook to bring this request to Msg Rayner’s attention to allow the matter to be investigated prior to the facilitation meeting. Despite this, the request had not been relayed to Msg Rayner, and the review of that matter was undertaken during the meeting, after Msg Rayner had called for the file. Once again, I was left with the feeling of the discussions prior to the facilitation meeting being an elaborate charade.
36. Msg Rayner in fact confirmed that he had not been given the proposed agenda at any time prior to the meeting. This was contrary to the assertions by Mr Brazil that Msg Rayner had accepted my proposed agenda.
37. I had requested that a transcript of the meeting be kept, in the interests of open-ness and transparency. This request was opposed by Msg Rayner and instead it was offered that Mr Brazil would keep notes which would be provided to each party for confirmation. I am aware Mr Brazil kept notes, but to date they have not been provided to me.
38. Despite stating at the meeting that I was not satisfied with the outcomes of the process, I was not advised of my right to a review, as required by §41.5 of the Towards Healing document.
39. No offer was made to meet any of my expenses in relation to the facilitation, including transportation and parking expenses and the costs of obtaining legal advice as required to meet the condition of the offered financial gesture and (subject to confirmation) the arrangement of a meeting with the Archbishop.
40. As a general observation, the Towards Healing process has fallen well short of my hopes and expectations, particularly in aspects such as timeliness, compassion and transparency.

Of grave concern have been the many failures to comply with the stated procedures. In particular:

- I had been told several times during the process that it would be (or had been) terminated without an assessment of my complaint.
- For the most part, I was not kept informed as to progress without the need to myself to follow this up, and it often took several requests before I got a response.
- The timeframe for the process to date (and for most of the intermediate steps) has been extraordinary and there has never been any adequate explanation for any of the delays.

I appreciate that there have been some difficulties created by the circumstance of Fr Duggan's condition. However, this does not explain the course this matter has taken.

41. In terms of the outcomes, the result at the end of the day (assuming the process to be now complete other than the two issues upon which Msg Rayner is yet to revert to me) appears to be that the Archdiocese is not prepared to make any gesture of acknowledgment of a moral responsibility for Fr Duggan's conduct or its effects, and furthermore has not been prepared to address in any tangible way the effects of the abuse on myself or the other people deeply affected. This appears to be directly contrary to the stated intention of facilitation as a means of addressing the needs of the victim.

On the issue of reparation, §41.3.6 of the Towards Healing document requires the matter to be addressed either in the facilitation meeting or in some other suitable process in order to reach a resolution. Contrary to this, I was presented with only two alternatives:

- accepting the offered arbitrary gesture on the condition of a full release of my legal rights; or
- commencing separate legal action and thereby placing myself outside the process, including (subject to the promised confirmation) for the purpose of obtaining any acknowledgement or apology from the Archbishop. This was expressed by Msg Rayner as effectively resulting in a termination of the process without a conclusion – the fourth time that prospect had been put to me.

In that circumstance, I have had little choice but to now adopt the latter course (particularly considering Limitation Act issues which have become critical due to the length of time taken to get to this stage in Towards Healing process).

In the result, I have not during the course of the Towards Healing process been given any assistance whatsoever with dealing with the impacts of the abuse. I have continued to incur expenses for counselling and therapy and the costs of maintaining a separate household for Nicola and our children. The lack of any assistance appears to be directly contrary to the commitment to provide "*such assistance as is demanded by justice and compassion*" as stated in §19 of the Towards Healing document. Furthermore, no response at all has been made to "*assist in the psychological and spiritual healing*" of the other members of my immediate family seriously affected by the abuse.

42. Finally, it appears to be contrary to the principles expressed in the Towards Healing document for the response of the Church authority to be made subject to an unreasonable and onerous condition, with the result that the inability or unpreparedness

to satisfy the condition precludes any response at all to the needs of the victim and other persons affected. If that condition had been stated at the outset in the absolute way in which it has ultimately been applied, then I would have had different options and choices available to me, and would have been spared the re-traumatising impact of having explored fully with the various people involved in the process the circumstances of the abuse and its impacts, only to be informed that no meaningful response could be made (despite the Church's statements to the contrary in the Towards Healing document). I am left feeling that the depth of the pain I have experienced has been denied or minimised by this withholding of an appropriate response.

The above matters are all the more surprising, disappointing and hurtful in a context where it had been expressed to me on many occasions that there was no doubt on behalf of any of the people concerned as to the veracity of my complaint. I repeat again that on a personal level, I have been treated by the people involved in the process for the most part with compassion and universally with respect. I do not seek in this request for review to imply any personal criticism of any of the persons involved. However my experience of the process has been that it has been, overall, re-abusive and has exacerbated the impacts on me of the conduct the subject of the complaint.

I look forward to your early advice as to the review process.

Yours sincerely in faith



John Ellis

cc Raymond Brazil

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cc Executive Officer

National Committee for Professional Standards

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