



**"Brad Woodhouse"**  
 <bwoodhouse@ado.sy  
 d.catholic.org.au>

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To: <john.dalzell@corrs.com.au>  
 cc: "Anna Ross" <Anna.Ross@ado.syd.catholic.org.au>  
 Subject: Ellis - Notice to produce

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John

Just a quick note to follow up on our discussion earlier regarding the Notice to Produce received last night.

Monsgr Mullens (of the Archdiocese) spoke this morning with Father McGloin to sound him out about the contents of SA [redacted]'s affidavit. Father McGloin could not recall any such complaint against Father Duggan, nor could he recall attending or organising the alleged meeting.

Michael Casey subsequently made enquiries with the Archdiocesan Archives. These searches have not uncovered any material (including any record of the alleged stat dec). It appears that, at some point (time unknown), Father McGloin was posted to the Parramatta Diocese, where he remains. For this reason, Father McGloin's personal file is with the Parramatta Diocese.

Michael also made inquiries with the Professional Standards Office ("PSO"). Father McGloin has had allegations of abuse (I believe at least two separate allegations) made against him personally, which are being dealt with under Towards Healing. Michael is checking with the PSO in an effort to identify if the complaints to the PSO are "complaints relating to the service of Father Michael McGloin within the Sydney Archdiocese" or whether the alleged incidents took place during the period in which Father McGloin was posted to the Parramatta Diocese (in which case the material need not be produced).

On the assumption that the Notice to Produce has not been defeated, two points arise:

- 1 Should we produce material in the PSO's possession?
- 2 Should we make any inquiries with the Parramatta Diocese?

I don't think there is any great tactical advantage to be taken from arguing that the defendants do not have the authority to compel production of material in the PSO's possession. If the Notice cannot be defeated on grounds of relevance, and the relevant material is not privileged, then that material can be obtained by subpoena in any event. By producing under the Notice to Produce, we at least have the opportunity to review the material before the plaintiff.

While the same arguments may apply in respect of the second question, I think we may need to be a bit more cautious in this situation from the point of view of the proper defendant argument. By producing on behalf of the Parramatta Diocese, we are blurring the lines between the parties.

I will wait to hear what your thoughts are. Please let me know if you want me to chase down any of the material with either the PSO or the Parramatta Diocese (if possible).

Regards

**Brad Woodhouse**  
 Catholic Archdiocese of Sydney  
 Direct line: 02 9390 5316  
 Fax: 02 9261 8312

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