

**NICOL ROBINSON HALLETTS**  
 LAWYERS  
 ESTABLISHED 1890

Our ref: [REDACTED]

9 January 2007

CK [REDACTED]

[REDACTED]

Dear CK [REDACTED]

**The Church of England North Coast Childrens Home**

We write to update you as to the present situation in relation to your claim.

We would again request that this letter is treated in confidence and that its contents are not disclosed to any third party. As you will appreciate this letter deals with matters of strategy and would significantly damage your own and others claims if disclosed.

Acting upon your instructions we were eventually able to "encourage" the Church to conference matters.

The matters were therefore informally conferenced on 19 and 20 December 2006 in Grafton.

We have to say that we have been disappointed by the Church's continued stance in these matters throughout and sadly their stance continued at the conference.

A few days before the conference we spoke with the Church lawyers to discuss various arrangements.

During that conversation we were informed by the lawyers that the maximum offer that the Reverend Comben was authorised to make was in the sum of \$5,000.00 per claim. We were also informed at that time that the Bishop-in-Council in Grafton could authorise a "slightly higher figure".

We advised the lawyers that our clients would regard \$5,000.00 as an insult but that we would proceed with the conference. From that figure would have to be deducted costs etc .

We nevertheless agreed to proceed with the conference for two reasons: firstly, should the matter again become public we did not want the Church to be in a position to say that the claimants would not negotiate and secondly, the suggestion of \$5,000.00 could well have been mere posturing by the Church which is common, sadly, in many settlement negotiations.

We also felt it important that should proceedings be issued we would be able to advise the court that the claimants had done as much as they could to try and settle these claims.

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*Read all of  
this lot*

*Read this*

CK

Prior to the conference we again sought the involvement of the Primate, Archbishop Aspinall, as in our view the approach being taken by the Diocese of Grafton was completely out of step with other dioceses and as such the Archbishop should be called upon to intervene.

We also liaised with the Primate's Director of Professional Standards, Mr Rod McLary, and understand that the Primate had encouraged the Diocese to proceed with informally conferencing matters. Whilst the conference would in all probability have been arranged without the Primate, we felt it important, for a host of reasons, that the Primate become drawn into these matters. We also corresponded with the Archbishop of Sydney.

Present at the conference and conducting the conference for you was Simon Harrison and Daniel Sutherland. Our law clerk Gregory Lauritsen-Damn also assisted as did Bruce Ballment, who remained at our Brisbane office.

The Diocese was represented by Peter Roland of Foott, Law and Co, his junior lawyer and the Reverend Comben.

In our view the Reverend Comben conducted himself in a less than positive manner and indeed no more than five minutes into the conference he walked out saying he would not return. The reason he gave was our quite proper reference to the open communication the Reverend had had with one of our clients about the home being "an Anglican place" yet the Church still chose to argue throughout that this was not a Church home.

The Reverend's response, in our view, was out of proportion to what we had been putting to him in our opening statement.

We advised him that for the sake of keeping negotiations going we would not, during the remainder of the conference, raise the issue of his previous comments, having made the point in any event.

Throughout the meeting the Reverend kept making the point that he was "only an employee"!

He advised that any decision he made in terms of offers would have to be sanctioned by the Bishop-in-Council, which he advised was a committee of some 24 people and that they would not be able to re-convene until late February 2007.

He advised that the Committee would most likely vote against his recommendation that they try and settle matters. We advised that if that were the case then our clients would have to issue Court proceedings. His response was "bring it on".

To give you some indication of the Reverend's attitude throughout the course of the first day the Reverend was seated on one chair with his feet up on another chair.

In our view, none of the issues which we raised in terms of limitation periods, the role of the Church in the home and liability were replied to with any substantive argument from the Diocese.

CK

We adjourned the matter on two separate occasions to discuss progress with our team as the Diocese would wish their own.

After the first such break the Reverend, who was speaking with the Bishop of Grafton in a separate room, advised again that he could only offer \$5,000.00 per claimant. He later increased the offer to \$10,000.00 and that this was "all he could offer".

Eventually however the Reverend advised that he "could go to \$15,000.00 per claimant" and that he could not be contacted for the second day of the conference as he would be out of town and "un-contactable by mobile phone".

During a second recess we received a call from Mr Rod McLary in Brisbane who advised that he had tried to speak with the Reverend earlier but had been unable to contact him.

We advised the Reverend of the telephone call and he said that he would telephone Brisbane "later".

We now understand that he did then speak with the Director towards the end of the day and we agreed to meet the following day. The Reverend advised that he would be able to attend for the early part of the second day after all. He also advised, contrary to his previous advice, that the Bishop-in-Council's Executive Committee could be contacted by phone to agree settlements quite easily rather than wait for the February meeting!

Later that evening we also spoke further with Mr Rod McLary who said that he had spoken with the Reverend some 20 minutes earlier and had made it clear to him the views of the Primate. We do not believe it appropriate to repeat what the Director said to us but suffice it to say we were advised that at this stage the Primate's clear views had been communicated to the Reverend and "fully understood".

During the course of the second day of conferencing we were appalled at two offensive remarks that were made both by the Reverend and his lawyer during the course of that day. The comments related to the nature of "discipline in those days" and a suggestion that implied that any abuses that occurred had to be placed in the context of the fact that at least the children were given a home.

Our Simon Harrison walked out of the conference at that stage having communicated in forthright terms his disgust at the comments made. We sought and received unequivocal apologies from the Reverend and his lawyer.

The Reverend advised that because they believed the Diocese was not liable and that the Diocese was a "poor rural Diocese" (a phrase repeated over and over at the conference) that payments would have to be restricted.

The second day therefore ended with the Diocese offering the sum of \$750,000.00 for the entire group of 42 claimants to be divided into three bands of clients which ranged from mild injury and loss to the most serious.

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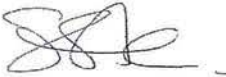
From this would then be deducted our own fees, any outlays and any repayments to the Health Insurance Commission.

On 8 January 2007 we spoke further with the solicitors for the Diocese and are awaiting revised offers. We will therefore be updating you more specifically in the course of the next week and ask that you kindly wait until we contact you during the week commencing 15 January 2007, when we will be in a better position to recommend the instructions you may then want to provide to us.

We anticipate that we will be advising some individual clients that they may wish to settle their claims, for other clients however they may take the view that formal litigation should be commenced and we will discuss both options in greater detail when we next write to you.

We appreciate that this is a very stressful time for you and we are genuinely grateful for your patience

Yours faithfully  
NICOL ROBINSON HALLETTS  
per:



**SIMON HARRISON** <sup>ES</sup>  
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