

PRIVATE & CONFIDENTIAL
REPORT TO COMPENSATION PANEL
RE EMMA FOSTER

I am satisfied that Emma Foster, ("Emma") born 6 November 1981 to Anthony and Chris Foster of [REDACTED] Oakleigh, was the victim of sexual abuse by Fr O'Donnell dec'd ("O'Donnell"). This abuse took place whilst Emma was a student at Sacred Heart Primary School, Oakleigh and O'Donnell was the Parish Priest of Oakleigh. Save to say that the abuse was for a significant period, it is difficult to be more precise (see below).

This is a difficult case which has extended over a long period, which at least in latter times has been contributed to by my delay in completing this report.

I first became aware of a potential complaint by Emma, because of references in the files of the Pastoral Response Office (Ms Helen Last) and other correspondence in relation to meetings with Archbishop Pell and so on. I wrote to Mr Anthony Foster ("the father") on 19 December 1996 following a telephone conversation and inviting him to communicate in due course. This occurred and I interviewed Emma on 17 March 1997.

At that time Emma presented as a tense but pleasant young girl. She told me that she had been abused by Fr O'Donnell. She did so in a reserved and somewhat halting way. I asked her whether what she had told the psychologists about the abuse was true, and she agreed that this was so. (I should add that at this time I had not seen the detailed reports of the psychologists.) I asked Emma whether she wanted to discuss the matter in further detail at that time, but she said she did not, but that she may want to discuss it in the future. I note that I asked Emma somewhat leading

questions at that interview, because it was apparent that she was not prepared herself to volunteer much. Consequently, I took the view that it was justified to prompt her somewhat, and because Emma's complaints were similar to other established victims of O'Donnell.

Following this interview I sought and obtained reports from various medical and other personnel who had seen Emma, and discussed the case generally with Prof Ball and Ms Sue Sharkey. They were at that time dealing with the case in relation to the substantial expenses which had been incurred by Emma's parents in relation to her treatment.

In addition to obtaining medical reports, I also interviewed Snr Const Domche (as appears below) and was satisfied that Emma had been the victim of sexual abuse, notwithstanding her reticence to describe the details thereof, and the absence of independent evidence of the facts of the assaults themselves. Thus at that time I lacked the certitude that arises for instance where an offender has admitted the relevant offence. Notwithstanding, having interviewed Emma, and reviewed the deal of evidence and opinions, I was satisfied that Emma was a victim within the meaning of the terms and conditions of my appointment.

On 16 October 1997, I visited Emma at her parent's home, but so far as interviewing Emma was concerned, the matter remained much as it was. She exhibited the same reticence and reserve at discussing her complaints, and consequently I did not pursue the matter. However in discussions with the parents, there were matters mentioned which seemed to provide further corroboration of Emma's complaints and I accordingly arranged for the parents to have further conferences with me which took place on 30 October 1997.

I set out hereunder, under relevant headings, the highlights of those conferences in the context of their providing corroboration of Emma's complaints, and, just as importantly, providing information upon which an evaluation can be made of the extent of her psychological difficulties produced at least to some significant part by the abuse of O'Donnell.

Copies of Emma's Diaries

This very reference underlines the necessity for the complete confidentiality of this report. It is also necessary in any interview with Emma to appreciate that the diaries were obtained by Emma's parents (and inter alia provided to me) without Emma's knowledge. Emma's mother explained - "She used to leave them around. She doesn't know I have photocopies".

Suffice to say that these diary extracts reveal the troubled mind of Emma, but also reveal that she is more articulate there in relation to the abuse than, she has been, for instance, in her discussions with me, and also with her parents.

The Trip to the Shower

Emma remembered O'Donnell taking her to a room in a school hall marked with 'shower' and "O'Donnell would sit her on his knee and hug her and that awful things used to happen in there." (Emma's conversation with Nurse Roydan of Monash Medical Centre 27 March 1996). Some time later Emma's father took her to the hall and walked with her towards the room marked 'shower', at which she became manifestly upset, and ran from the building. On 29 October 1997 I visited the 'shower' room. I was told that O'Donnell had a special key for this room.

Revelation of Emma's Abuse

The conviction of O'Donnell in 1994 was well and widely known in the neighbourhood of, and no doubt at the school. Accordingly, Emma would have known for a considerable time before she made her suicide attempt that O'Donnell had been convicted.

The parents had not the slightest inkling that Emma had been abused and this remained the position until, much to their shock and concern, Dr. Blandthorn told them when Emma was being discharged, that her condition was consistent with her having been abused. The parents naturally asked how can one be sure of that, and it was explained and so on. Blandthorn apparently asked could you have any idea of who it could be and both parents said no it's impossible, the only person really who had the opportunity would have been Anthony Foster himself or perhaps a grandfather of Emma or an uncle. Otherwise they were completely at a loss to attribute it to anyone. With what they readily agree was surprising oversight, they did not advert to the position of O'Donnell. They say that this was really quite incredible, because all one had to do was to think about it long enough, and he was the prime suspect. Here was a man convicted of paedophilia, who had been present at the school when Emma was. Chris Foster said that really she overlooked O'Donnell first because she thought that his crimes had been with boys, and secondly that she originally thought he did not have real access to Emma. Upon later reflection it became apparent that he had proximity to Emma because she was a student at the school he frequently visited.

I set out below extracts from the relevant medical and other reports.

**1. Report of Monash Medical Centre ("MMC") of 7 April 1997
(Annexure "B")**

This report was made to Mrs Foster and was in response to her detailed request in a letter dated 22 March 1997. (Annexure "A")

It is accordingly necessary to read the report from the Centre in conjunction with that letter. Reading the two documents in conjunction the following facts are established.

8 September 1995

Emma attended the emergency psychiatrist at MMC after her GP Dr Lappin recommended and made the appointment because of depression anorexia and a confessed failed attempt on her life some weeks earlier which gone unnoticed. She first attended the Monash Medical Centre on 9 September 1995.

12 September 1995

Appointment with Dr Larry Herman Child and Adolescent psychiatric unit of the Centre took place and Dr Herman also saw her on 20 September 1995.

"These were long assessments involving her parents and admission was considered necessary."

Dr Herman had recommended Emma be admitted as an inpatient at the unit for depression anorexia and the earlier suicide attempt.

25 September 1995

Emma admitted as an inpatient to Child and Adolescent Unit. Emma's depression worsened. In October 1995 while Emma was confined to bed in a "safe" room at the Child and Adolescent Psychiatric Unit MMC Dr Blandthorn "stated to my husband Anthony Foster and I that Emma showed all the symptoms of someone who had been sexually abused". On February 22 1996 Dr Blandthorn stated to Mr Foster that he believed Emma has been sexually abused and from her extensive self destructive behaviour at that time, he believed that she had been abused repeatedly.

When Emma was discharged from hospital on 5 December 1995 Dr Blandthorn stated his belief that Emma's condition was consistent with some form of abuse.

On 27 March 1996 Nurse Roydan Daniel was told by Emma that,

"She remembered a door with a sign saying "shower" on it in the Sacred Heart parish hall (Oakleigh). She remembered Fr. Kevin O'Donnell taking her in there alone. In the room (which is a store room) O'Donnell would sit her on his knee and hug her and that awful things use to happen in there. This would happen often and she didn't want to talk about it...."

On 28 March 1996 Maria Rigopoulos questioned Emma about her disclosure of the previous evening but Emma would not speak. After some time Maria read out what she had been told Emma had said to Nurse Roydan and Emma "nodded and vocalised in agreement to verify what was being said".

2. The Report of Dr Lappin - 11 July 1997 (Annexure "C")

Dr Lappin gives a history of his treatment of Emma and her referrals to specialist doctors and centres.

He relevantly notes as follows,

"Dr Blandthorn was uncertain of Emma's diagnosis but felt it was most consistent with some form of abuse...."

On 22 April 1996 she attended with her mother. Emma had grazed her wrist with broken glass. It was at this consultation that her mother had indicated to the doctor that Emma had been sexually abused by her former parish priest.

"Her illness has impacted to an enormous extent on her immediate family. Her condition has caused great anxiety to her parents and has disrupted any resemblance of a normal family life for the past two years."

Given that her mental state is directly caused by the sexual abuse that occurred between 1987 and 1993, I feel Emma and her family are well deserving of the highest compensation applicable to this devastating crime."

3. The Report of Monash Medical Centre of 5 December 1995 ("Annexure "D")

This was the "letter of discharge" of Dr Blandthorn provided to Dr Lappin. It contains a very detailed history of Emma's condition.

The final paragraph of that report reads as follows.

"At the time of discharge it is difficult to give a definitive diagnosis for this girl. Her eating behaviour has more features of being "on strike" than typical anorexia nervosa with her ability to eat normally in the medical ward being also atypical. She manages to appear bright and inter active with her peers for days on end which is uncharacteristically with a major depressive episode. Her visual hallucinations were most consistent with a combination of caloric/fluid depravation, sleep deprivation and volatile solvent inhalation whilst her "voices" were not suggestive of schizophrenia in their content or quality. The picture is most consistent with some form of abuse but the family are unaware of any such experiences and they are denied by Emma."

It will be appreciated of course that subsequently Emma made the disclosures referred to in paragraph 1 above.

4. Report of CASA dated 7 July 1997 (Annexure "E")

Emma was initially referred to the Sexual Assault Centre in April 1996. Relevantly that report contains the following.

"Emma began to develop symptoms of anorexia in 1995 soon after reading a newspaper article about Fr. Kevin O'Donnell on charges of sexual abuse. Emma has no clear memories of being sexually abused yet feels that she was. Both Emma's parents feel strongly that their daughter had been sexually abused by Fr. O'Donnell because of her disclosure, her

subsequent behaviour, and the fact that she had spent a lot of time alone with him.... In counselling Emma recalled an episode from her childhood when she was at school at the Oakleigh parish. Apparently she was given a drink a coke by Fr. Kevin O'Donnell taken to a shower room, made to sit on his lap and hugged. Apart from this incident, Emma felt that she could not recall any other details about the alleged abuse, although she felt there had been more.... Emma's behaviour in many ways seem consistent with that of a person who has been sexually abused, however in the absence of any specific memories of abuse, it is difficult to ascertain the cause of her behaviour. It is possible that if in the likely event Emma was abused by Fr. Kevin O'Donnell, her memory has become constricted as a means of coping with the severity of the trauma (a common defence mechanism used by people who have been sexually abused). In this case Emma may only be able to recover these memories when she is psychologically ready.

As stated previously, Emma does present with symptoms and behaviour consistent with someone who has been sexually abused and there is little doubt that these symptoms have had a very significant impact on her and the rest of the family. Given the time that she spent alone with Fr. Kevin O'Donnell, his record of abusing other young children in the shower under similar circumstances; the memory she has of being taken to a shower room with him; and her subsequent disturbed behaviour, it is suggested that it is possible she was abused."

5. Report of Dr Michael Schwarz - 17 April 1997 (Annexure "F")

This was a report made to the Vicar General and whilst it is helpful as a chronology of treatment and admissions, it does not deal with the details of matters relating to sexual abuse. I do not propose at this stage to engage further in an analysis of these reports because of my aforesaid satisfaction that abuse has occurred. It may however be necessary and useful for those engaged in Emma's treatment to be fully familiar with what has gone on in the past in relation to her statements regarding sexual abuse.

6. Senior Constable Domche

On 26 June 1997 Senior Constable Domche told me he had had a conversation with Emma Foster some weeks previously. Emma had

attended with her psychologist. Emma excluded the psychologist from the meeting with Senior Constable Domche and told him that she had not disclosed any details to the psychologist. She spoke to Domche about the degree of assaults, and said that there was touching on the vagina but would not elaborate. There was no digital or penile penetration. She stated that she was at school in Oakleigh and that O'Donnell would take her into the hall. Emma would not talk about it in detail though she referred to touching of inner clothing. Once again Emma was reticent but credible in relation to the fact of abuse having occurred.

7. Extract from Report of Sue Sharkey of Carelink

"It would appear that Emma's claims to having been abused by Kevin O'Donnell are true ... Emma's presenting psychological and psychiatric behaviours are consistent with serious abuse Because of Emma's age it may be many years before the real story is known, I don't believe that Emma should have to go through intense psychiatric assessment at this stage and hope that we can get adequate information, or at least read files from Monash Medical Centre and/or from Michael Schwarz's file."

The above then is the situation in relation to Emma Foster, and subject to her signing an application for compensation, I will refer her to the Compensation Panel.

Emma, I understand, will be seen by Carelink (Prof Ball and Sue Sharkey), and it will be important for them to advise as to the likely impact which the pursuit of the application for compensation might have on Emma. This appears to be one of the cases in which real care will have to be taken as to the way in which the case is presented to the Panel, particularly from the viewpoint of the fragility of Emma's personality.

Prior to providing this report, I gave a copy of it to Mr & Mrs Foster for their comments.

Should there be any queries arising out of the above, please advise.

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Peter O'Callaghan

29 April 1998