

JC - 191

File Location: _____

Box Number: _____

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Details:

Moran and Anew Advice dated
9/2/07 regarding Jan Barrock
matter to Bishop Farnon



9 February 2007

The Very Reverend Dr Brian Farran
 Bishop of Newcastle
 Anglican Diocese of Newcastle
 PO Box 817
 NEWCASTLE NSW 2300

ABN 35 262 692 173

Contact
 Scott Puxty
 Partner
 spuxty@moray.com.au

Partner
 Scott Puxty

Our reference
 SRP:263634

Dear Bishop

RE: IAN BARRACK MATTER

We refer to your letter dated 11 January 2007.

As you correctly point out, the investigations to date indicate that there were clear process failures in the management of the Ian Barrack matter.

However in analysing these findings it would seem evident that:

1. there were probably no Diocesan protocols or processes in place to manage such matters;
2. Alternatively, if such protocols or processes were in existence, they were ineffectively implemented as the members of the clergy involved in the matter were unaware of their existence.

As a result, with the consideration of natural justice principles and the effluxion of time, apportionment of responsibility for this matter would be very difficult. Therefore we consider that there are insufficient grounds to take disciplinary or other action against any particular individual. We recommend counselling and re-education of the relevant persons involved, but this should be undertaken as part of the overall review of Diocesan protocols as outlined below.

This unfortunate matter does provide an opportunity for the Diocese to develop or revise (as the case may be) and then implement appropriate risk management protocols to manage similar matters in the future. It is essential that the implementation phase of this process involve all members of the clergy and key Diocesan staff. We can assist in the development of such protocols.

In managing the current matter, you have sought advice from the Director of Professional Standards as to the appropriateness of forwarding a letter of regret to the victim. Certainly if such communication is considered acceptable to the victim, from a legal perspective, such a letter (appropriately worded) would not create any admission of liability on the part of the Diocese. We are happy to assist in developing acceptable wording for such an apology if required.

LEVEL 1, 8 AUCKLAND STREET, NEWCASTLE NSW 2300
 PO BOX 1801, NEWCASTLE NSW 2300
 AUSTRALIA
 TELEPHONE +61 2 4911 5400 FAX +61 2 9232 1004
 DX 7808 NEWCASTLE
 WWW.MORAY.COM.AU

ALSO IN SYDNEY, MELBOURNE, BRISBANE AND CANBERRA

Notwithstanding such positive efforts for reconciliation, we caution that the victim remains entitled to commence legal proceedings against the Diocese until the expiry of the limitation period, which occurs upon his 21st birthday.

Should you require any further assistance in relation to any of the matters raised, please do not hesitate to contact our office.

Yours faithfully
MORAY & AGNEW

