

David E. Curtain Q.C.

Henry Winneke Chambers
Level 22, 535 Bourke Street
MELBOURNE VIC 3000

Postal: C/- Clerk B
205 William Street
MELBOURNE VIC 3000

Phone: 9225 7017
Fax: 9629 8257
dcurtain@vicbar.com.au

Response to Royal Commission's Summons to Produce Documents S-VIC-80

1. As the chair of the Compensation Panel I have very limited documentation regarding its activities. I confirm there are no printed guidelines, protocols, policies or procedures in relation to its activities under my chairmanship.
2. Documents which exist, which I have had in my possession, but no longer have in my possession, consist of letters from an Independent Commissioner to each victim appearing before the Panel, supporting material for each victim, usually consisting of a record of interview between the Independent Commissioner and the victim, a psychiatric or psychological report (often from Carelink), victim impact statements and reports to police. In addition there is a claim forms for each victim and correspondence from me to the victim, the Archbishop and the solicitors for the Archdiocese of Melbourne, Corrs Chambers Westgarth.
3. At the conclusion of each matter that comes before the Panel, I forward these documents to Corrs Chambers Westgarth for safekeeping.
4. When I originally accepted a brief to act as Chairman of the Compensation Panel, I recall meeting with the outgoing chair, Justice Susan Crennan AC, who had just been appointed to the Federal Court. She explained to me the procedure that she had adopted and, to the best of my ability, I have followed it.
5. My practice with each victim has been as follows:
 - a. Upon receipt of notification from an Independent Commissioner, I write to the victim asking him or her to meet with me and the Panel for the purposes of assisting us in assessing the amount to be recommended to the Archdiocese as compensation under the Melbourne Response scheme. I always include my direct line and email address and frequently I have been contacted by victims either confirming that they will attend or raising questions about the process which I do my best to answer. My letter encourages them to bring a support person with them if they so wish.
 - b. Close to the time of the hearing, I make arrangements for the supporting material referred to in paragraph 2 to be distributed to each member of the Panel, and each member of the Panel reads all the material before the hearing.
6. At the hearing, it is my inevitable practice to do the following:
 - i. *Welcome the victim and thank him or her for attending.*

- ii. *Advise the victim that the hearing is confidential. I explain that by this I mean that anything that is said in the hearing will be kept confidential by the Panel, and no member of the Panel will discuss any of it either outside the room or with any other person.*
- iii. *Advise the victim that such confidentiality does not apply to him or her. I usually say that he or she is free to "shout it from the rooftops". I explain that although the Panel will keep matters confidential, the victim has no such obligation. I say that I do not suggest that the victim will want to do that, but it has been said that this process is the Church buying the silence of victims, and I emphasise that that is not the case.*
- iv. *I tell the victim that he or she has been found to be a victim of sexual abuse and that he or she does not need to prove anything before the Panel. I say that we understand that this process can be stressful and, whilst we need to be informed to make a recommendation of an amount to be offered for compensation, we wish to minimise any upset to the victim by having to relive past unpleasant experiences.*
- v. *I tell the victim that we have read the material provided to us, and identify each document we have read lest the victim has not seen it. On a rare occasion, the victim may not have seen, for example, a medical report, and if this is the case, we make it available to the victim at once and give the victim time to digest it.*
- vi. *After this, I tell the victim that if he or she wishes to say anything or add anything or withdraw anything from the material we have read, or correct any part of it, they should feel free to do so and if they wish anybody else to say something on their behalf, they are free to do so. Some victims choose to bring along a lawyer or other support person and we always offer the victim an opportunity for that support person to say something if they wish to.*
- vii. *I tell the victim that within a few weeks they will receive an offer from the Church of compensation, but nothing that is said within the Compensation Panel process is intended to suggest the victim accept or reject that offer. I then say that if the victim does wish to accept an offer, he or she will be asked to sign a release, although this has been modified slightly in the last few hearings because I understand that the Church is considering changing the limit of compensation, and possibly backdating the increase. I have said the same to persons appearing before the Panel since that arose.*
- viii. *I also tell the victim that unless he or she instructs me otherwise, the victim will receive a letter of apology from the Archbishop. I mention this because some victims have a strong desire to have nothing to do with the Church, and do not want to receive any correspondence from the Archbishop, while other victims tell the Panel that they would appreciate an apology.*
- ix. *I also tell the victim that counselling is available whether or not the victim accepts the offer of compensation. Some victims are already receiving counselling, and we sometime discuss whether or not this is beneficial. Some victims are reluctant to undertake counselling, and I usually say something to the effect that I have no particular experience in the field, but many victims find that counselling is of assistance to them, and they should at least consider whether or not they would like to try counselling. I tell*

them that counselling is not contingent upon them accepting an offer, and is available for as long as it is thought to be of benefit to the victim.

- x. We then hear from the victim and I ask some questions. The questions are not asked in an adversarial way, but rather to flesh out details and are often directed at the present status or life circumstances of the victim, if this is unclear from the material provided.*
- xi. Sometimes the victims have questions of the Panel, and I do my best to answer those. At the conclusion, I thank the victim and remind the victim that he or she has my contact details if any queries arise.*
- xii. After the victim, the Panel then discuss an appropriate amount to award the victim. The principles we adopt are as follows:*
 - 1. The maximum that can be awarded is \$75,000, but that is not reserved for only the worst of cases, rather for the more serious cases. For example, when some form of penetration has occurred, this is considered to be at the more serious end of cases. We have regard both to the nature of the abuse and to the effects on the life of the victim.*
 - 2. The Panel always reaches agreement about a figure although we may start from different positions.*
- 7. On completion of the hearing, I write to Archbishop Hart via his solicitors, advising him of the amount to be offered for each victim, and of any special instructions. For example, there are occasions when a victim has not told his wife that he was abused, and does not want mail addressed to his home. On other occasions, a victim has expressed a wish to meet the Archbishop and we have requested that through the solicitors in such correspondence.*
- 8. Upon completion of the making of the recommendation, the file is returned to the solicitors for the Archdiocese for safekeeping.*
- 9. I do not keep any records apart from electronic copies of letters I have written which are retained on my secretary's computer.*



David Curtain QC
11 July 2014