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## APPLICATION TO REGISTER INTEREST TO BE HEARD AT THE ROYAL COMMISSION INTO THE INSTITUTIONAL RESPONSES TO ALLEGATIONS OF CHILD SEX ABUSE

Following the opening address by Justice McClellan on Wednesday 3 April in Melbourne we would now like to register our interest in forwarding our Submission to the Royal Commission and participating in a public hearing for the purpose of “bearing witness” to the abject systemic failure of several institutions including Catholic Church, State Police, State Welfare and State Government in responding to the abuse of more than 30 children with an intellectual disability at a Special School in Adelaide in the 1990s and since.

We have already written to both the Prime Minister on 13 November 2012 and an email to the Secretariat on 24 November regarding Terms of Reference and received a reply from Minister Jenny Macklin dated 6 February 2013. We are uncertain whether our details have been recorded to appear before the Commission but would now emphasise our wish to do so.

Although the abuse occurred at the school between 1986 and 1991, families were not told about the abuse for further 10 years when the long-hidden abuse was accidentally revealed to parents. The detail of our Submission focuses mainly on the period between 2001 and 2005, during which time we sought answers.

Our son LG was one of the children abused at St Ann’s School for Intellectually Disabled Children by the school bus driver. Our story was featured in a *Four Corners* programme in September 2011, “*St Ann’s Secret*”. As a result of this television programme, further revealing and damning information came to light which demonstrates that attitudes and responses have not changed in the past 20 years, despite claims to the contrary.

Our records that we can produce and speak to are meticulous and comprehensive.

It is not our intention to describe details of the abuse or the perpetrator but instead to expose the woeful and inadequate institutional responses we encountered as we endeavoured to confront the Catholic Church, State Government and Government agencies over a number of years in search of truth and accountability on behalf of our son.

Nor will we address our family’s harrowing personal journey during this period of time, as we cared for our increasingly distraught son, whose health continued to spiral downwards as a result of past trauma. Suffice to say his story ends in tragedy. LG died in RED.

The following points provide a brief outline of our issues:

### 1. The Catholic Church

- In 1991 when the School was informed by Police that the bus driver had abused children at the school, families were not told. We discovered in 2011 (20 years later!) a letter from Church lawyers instructed Catholic Ed and the School not to tell parents. No attempt was made to establish just how many children were affected.
- In 2001 parents stumbled over the information and sought answers. So began four years of obfuscation. We were told *Towards Healing* would be implemented. It never was. We chose not to pursue civil litigation knowing that all we could achieve was monetary compensation.

We sought truth and accountability from authorities. Still this eludes us. The Catholic Church's response proved to be ineffectual and serves the institution rather than the victim and family. For four years we attempted to engage in their *Towards Healing* process at their invitation, but were stone-walled on every level. Over the ensuing four years they gave four different reasons why they did not implement this procedure in our case including the disability of our son. They determined a monetary "gift" would be sufficient, without any prior discussion with us. No offer of dispute resolution or mediation has ever been offered.

It is clear from correspondence to us and in the media that the Church considered distribution of the "gift" would settle the matter.

- A so-called "Inquiry" purported to be headed by Brian Hayes QC was undertaken but the word "Inquiry" is fundamentally misleading. Although the Catholic Church promoted this as an independent inquiry, the Hayes Report is based only on material provided to the QC by lawyers acting for the Catholic Church. At no time did Mr Hayes interview anyone and on his own admission in the report, did not test the veracity of any statements provided to him. The report did not mention the children at all nor did it make any recommendations. It is our opinion that it was only legal advice provided to the Archbishop by a QC in the event of litigation and does not constitute an independent inquiry. No one since has examined the contents of this "Inquiry" Report. We have made our own detailed analysis of the Report, if only someone would read it!
- In 2011 the *Four Corners* programme reported that Adelaide's Archbishop Wilson considered that his "Inquiry" was adequate and there was no need to hold a further inquiry, in spite of *Four Corner's* revelation that a letter was withheld from the inquiry, written by lawyers representing the Church advising the school and Catholic Education to keep this matter confidential.
- In an article in *The Australian* following the *Four Corners* programme a church spokeswoman said that the programme "*was based on old material that was no longer relevant as the church had moved forward in its policies and procedures*". There were policies and procedures in place in 2001; the church chose not to implement them.

It is clear the Catholic Church considers its response, and we, are now history and are of no further interest to them. All done and dusted!

## 2. The Police

- Photographs of two or three children (the number is uncertain) were found by Police in 2001 who then contacted the school. Once the perpetrator fled there was little effort made to investigate further. (Out of sight, out of mind!) Apart from the photographs, police did not see the need to inquire about other children in the school who had daily contact with the bus driver. He was eventually apprehended in 1993 but skipped bail and escaped to Queensland. Police closed the file in 1998 when a decision was made not to extradite the perpetrator from Queensland owing to a slim chance of prosecution because of the disability of the children and the cost involved. It was only in 2001 when parents pushed for the story to be published, that Police brought the perpetrator back to SA to be brought to justice.
- Assistant Commissioner of SA Police Grant Stevens, told *Four Corners* in 2011 that these circumstances would not occur now. "*I understand that there was a consideration of the fact that the children involved as victims were mentally disabled and whilst that was a decision that was made at that point in time, it certainly not one that would be made now.*" Why?

Sgt Sue Lock of the Sexual Crimes Investigation Branch told *Four Corners* in 2011 that Police are now well-trained to interview people with a disability to pursue a conviction in Court, however, at this very moment in 2013, there is a SA government inquiry into another failure of authorities to inform parents that a staff member had been arrested and charged for sex offences of a child in after-school care in 2010. The case has been brought to Court twice and thrown out because the prosecution could not provide clear evidence from children with a disability.

We consider that there is no evidence to show that anything has changed in Police practices in 10-20 years concerning dealing with children with a disability.

- Although Police met with families in 2001, they held their own internal inquiry into what happened and why Police did not proceed with a thorough investigation at the time. The results of this inquiry are unknown apart from the fact that “mistakes were made”. No details of the internal inquiry have been revealed to us. When *Four Corners* sought an FOI application from Police in 2011 regarding results from their internal inquiry there was simply no response and no justification why.

We have no assurances that these mistakes have been addressed. We are not confident that “mistakes” will not happen again.

- Chief Justice John Doyle told the ABC in August 2011 that there is not much that Courts can do unless changes are made in legislation. No changes have yet been made. Where is justice in our legal system for children with a disability?

### 3. Family and Community Services (currently Families and Communities)

- Although the Principal at St Ann’s contacted FACS in 1991 to report details of abuse of a couple of children there is no record of a proposed Child Protection Panel meeting to discuss the issue with the Department. No written records of any kind have been found.

No further follow-up of children at the school occurred by the Department or the school. We inquired of the Minister whether any notes existed of the circumstances. The response was vague and unsatisfactory.

- In October 2001 we met with the CEO of the Department to receive a response to seven specific questions we asked about their involvement. A written response prepared for the Department by Crown Law was read to us by the CEO and apart from describing “standard practice” the response was vague and lacked detail. We were none the wiser.
- Questions put to current CEO of Families and Communities by *Four Corners* in September 2011 were not satisfactorily answered. The Department considered the children to be safe from further harm and stated that families were “heavily involved” with the school and Police. No. In fact information about the abuse was kept from parents for another 10 years. We knew nothing. Many children including our son, should have been followed up and given support at the time so that future trauma could have been avoided. We might still have LG with us today if we knew of the abuse earlier.

Therapists dealing with victims have confirmed that in their opinion earlier intervention would probably have avoided the long-term trauma they now face.

- *Four Corners* also sought a written response from the Department regarding questions put to them for the programme in 2011. No response.

#### 4. State Government

- In August 2003, 12 months after the Catholic Church began its Inquiry, we requested our local MP ask a question of the Premier Mike Rann in Parliament regarding the progress of the Inquiry and whether the Report could be tabled in Parliament for independent scrutiny when it was completed. During the next 10 months Dr Duncan McFetridge requested seven times that the Inquiry Report be tabled on its completion. When it was finally released in June 2004, two days after the damning Anglican Inquiry Report, Dr McFetridge asked again and was told by the Premier that there was no need as it was now a public document.

In spite of the Premier's claims that the Report was now a public document, there was no public scrutiny of the Report. No politician saw it, no journalist reviewed it, no member of the public mentioned it and certainly no independent legal entity gave it any consideration. In fact Mr Hayes himself cautioned against public distribution,

*"... I have not embarked upon any fact finding enquiry, nor purported to determine the credibility or veracity of the information contained in the statements of evidence. Because of the obvious shortcomings in relation to this type of report, I strongly advise against indiscriminate or widespread publication of it."*

It is clear from Mr Hayes' following statement in the Report that the Inquiry was cursory to say the least,

*In addressing these issues I have been provided with a draft set of Terms of Reference which was initially prepared for a more wide ranging enquiry and I understand that I am to have regard, in a general way, to those Terms of Reference and in the course of this report, I will make reference to the general headings contained in those Terms of Reference.*

The Terms of Reference provided to us in August 2002 consisted of twelve points. Mr Hayes was given just three points to consider and in his understanding, were a Draft set.

- The Premier's response is in stark contrast to his response concerning the Anglican Inquiry Report that he demanded be tabled in Parliament immediately on its Release. Why the discrepancy? Why did he trust the Catholic Church so completely?

It is clear that Premier Mike Rann had complete trust in Monsignor David Cappo, Vicar General of the Catholic Church in Adelaide. Appointed in 2002 to chair the Labor Government's Social Inclusion Board he was also a member of the Economic Development Board. Further, on 19 April 2005 in an unprecedented move, the Labor Government announced the appointment of Monsignor Cappo to the Executive Committee of State Cabinet. He was one of two non-elected members to serve on the Committee.

Following the March 2006 election when the Labor Party was returned to government for a second term, Premier Mike Rann appointed Monsignor Cappo to a prominent position in Government as Social Inclusion Commissioner. This was considered to be a part-time position as he also continued to hold his position as Vicar General of the Adelaide Catholic Archdiocese. Premier Rann announced after the election win that not only would Monsignor Cappo oversee reform of the state's mental health system but his role would also extend to investigate the state's juvenile justice system. According to Michelle Wiese Bockmann in the *Weekend Australian* of 6-7 May 2006,

*The new job for David Cappo has not only entrenched his political clout but also raises questions about whether it is appropriate for a high-ranking Catholic official to*

*serve church and state...Liberal Catholic MPs have launched a stinging attack on a priest they believe is 'going in to bat for the government of the day.'*

From our perspective, the Premier's undoubted trust in the Vicar General and his complete acceptance of the Catholic Church's response to the contents of the Hayes Report from the St Ann's Inquiry, suggests that the government has 'gone into bat' for the Catholic church by accepting with equanimity the not-so-independent Report from the Catholic Church Inquiry.

All authorities conducted their own internal investigations and reached the conclusion that "*mistakes had been made*". Now they state that this matter is history and "*it wouldn't happen now.*" The failure of all agencies responsible for dealing with these events at St Ann's, has never been independently investigated by anyone. Even though we pursued each institution for answers without a satisfactory response, there has been no independent inquiry into the actions of the Catholic Church, Police, Welfare and Government all of whom failed in providing due diligence, transparency, openness and accountability. 20 years after these events we still have no answers.

Given our personal experience with the systemic failure of every authority in this matter and the comprehensive records we have kept over the years, we believe that we have a valuable contribution to make to the Royal Commission and therefore seek opportunity to appear before the Commission.

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**20 April 2013**