

ARCHDIOCESE OF ADELAIDE

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May 16, 2002

The Director
Parent Advocacy Inc
Port Adelaide Community Health Service
Corner of Dale and Church Streets
Port Adelaide SA 5015

Attention: Linda Clifford and Karen Rogers

Dear Linda and Karen,

St Ann's Parent Group

I acknowledge your letter of 24 April 2002.

In a spirit of ongoing dialogue with you I wish to make several points in response to your letter.

I want to assure you, that the Roman Catholic Archdiocese of Adelaide is committed to respond in justice and care to the parents and their children who are involved in this matter at St Anne's Special School. We are committed to implement the "Towards Healing" process; to an investigation of the events surrounding the response of the Church at the time allegations surfaced in 1991; to responding to the needs of those children who can be ascertained to have been directly affected by the alleged incidents at St. Anne's under discussion; to the provision of compensation to appropriate persons in a proper legal context. Archbishop Wilson has stated that this will be undertaken in a spirit of dialogue and support and we will not wait upon criminal proceedings in this matter unless we are constrained by law or by specific request from the Police to do so.

I can fully appreciate the frustration from many parents that the process is perceived to be taking much longer than they anticipated. We are working through the complexities of these issues in a serious and deliberate way and we are moving as quickly as practicable. I can only apologise if that gives rise to an appearance of delay.

From your letter I gather that you may be of the opinion that the Towards Healing process is there to be enacted across the board with every family at St Anne's. While an immediate response has been made to every family that has come forward in terms of initial support and advice, the formal process of assessment leading to facilitation is invoked (and can only be invoked) when a signed formal complaint is made to a

designated contact person as outlined in the Towards Healing document. As of this date Mrs Pauline Verity, acting as contact person, has received eleven formal complaints.

Where criminal matters are at stake, the process of responding to formal complaints can only occur when the police are satisfied in each situation that no interference with their investigations will occur. We have been having ongoing dialogue with the police so that their requirements are met and our Towards Healing processes are not inhibited any more than absolutely necessary. That dialogue has enabled us to identify four complainants whose complaints can now be processed without compromising the police investigation. Pauline Verity will now progress those four complaints as quickly as practicable within the Towards Healing process. Further complaints will be addressed by Pauline Verity when the police indicate to us that their investigations will not be compromised.

We invite you to encourage other families who may wish to proceed with a formal complaint to lodge one accordingly.

It is appropriate that I provide some further comment and information regarding the formal complaints which have been or which may be lodged.

The complaints, claims and needs of the various families will necessarily be different in many instances.

Those families or family members who assert that they have been directly affected by the alleged abuse may be entitled to make a civil law claim for compensation. Those civil law claims will involve issues of legal liability and assessment of damages and consequently will need to be handled through a legal framework.

We are most anxious that any civil law claims for compensation do not inhibit the Towards Healing process particularly in the area of Assessment and the incidental investigation of the facts in the course of that Assessment.

Therefore we propose that parents who lodge formal complaints in the Towards Healing process sign an acknowledgement to the effect that any matters of any nature whatever which evolve in the course of the Towards Healing process and which might be relevant evidence in a civil law claim for compensation are to be without prejudice to the rights and liabilities of the parties in those civil law claims. In other words, nothing which arises in the Towards Healing process may be used to advantage or disadvantage any of the parties in a civil law claim for compensation.

That acknowledgement will also make it clear that any benefits which are quantifiable in dollar terms paid or provided to a family or to any member of that family under the Towards Healing process will be taken into account in respect of any compensation awarded to that family or to any member of that family in a civil law claim (and vice versa). In other words, the same benefits or the monetary value of those benefits cannot be claimed twice.

I sincerely trust that you will appreciate that what we propose in that regard is both fair and very much in the interests of the families, as it will enable the Towards

Healing process to be conducted without delay or restriction. I invite your support in encouraging the relevant families to embrace that proposal to facilitate our ability to deal with all their claims and, in particular, our response to their needs.

Earlier information provided to me was to the effect that a lawyer had been instructed by some of the families to act for them in a class action. I now understand that preliminary discussions only have taken place with a lawyer. It is my belief that involving a lawyer at this time to assist parents dealing with issues around compensation is both important and helpful. You might consider encouraging the families to have their lawyer contact our own lawyer with a view to expediting the disclosure of the nature and particulars of any potential civil law claims which might be proposed to be made. Our lawyer is Tony Fuller whom you have already met and whose contact details I believe you already have.

Regarding the issue of an internal investigation, I would like to make the following points. Any internal investigation need not necessarily abide the outcome of any criminal proceedings against the alleged offender. It is intended by the Church that an internal investigation will not be inhibited unnecessarily by the process towards any possible criminal trial. An internal investigation has in fact already been partly undertaken over the last several months. There are, as you know, several different aspects of the events during the relevant period from 1991 to 1993 (as to what was known, what was done, what was not done and who was involved in all of those matters), which need to be investigated. As I mentioned, some have already been investigated as far as practicable and the others will be dealt with to complete the available record as soon as practicable. An external qualified person independent of the Church will be asked to undertake the task. That will involve a review of existing material and will lead inevitably to the gathering of more material as the investigator sees fit.

We have already taking advice from Queen's Counsel as to how the investigation might best be conducted with appropriate legal protection for all persons who might be involved in it.

An internal investigation has limited capacity to achieve an outcome which will satisfy all of the stakeholders in the process. Unlike a statutory inquiry or a Royal Commission, an internal investigation has no power to compel witnesses to give evidence, no power to take evidence on oath. The investigator and the witnesses are exposed to the potential risk of allegations of defamation and the consequential damages claims in instances where publication of comment invited and made in the course of the inquiry occurs outside the scope of the qualified legal privilege which otherwise attaches to the process. We are advised that qualified legal privilege is afforded to an internal investigation of this nature and to any person providing relevant information and comment to the investigator. That privilege does not necessarily extend beyond those people or to the publication of any information beyond the scope of those people.

The important point is that in spite of those difficulties, it is the intention of the Archbishop to pursue and complete the investigation.

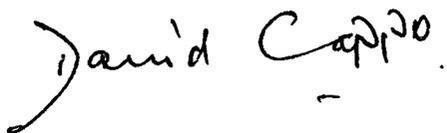
I can say quite categorically to you and to the parents whom you represent that Archbishop Wilson is committed to ensuring the Towards Healing procedures are fully implemented, that the needs of the families directly affected are properly responded to and that all claims for compensation by those found to be directly affected are addressed justly and in a spirit of care and compassion.

Also, I wish to repeat that we will not wait until criminal proceedings are concluded (unless prevented by law or by specific police request) before those issues are addressed.

I hope that this letter provides the parents whom you represent with a statement of position that is helpful to the process in which we are engaged.

I am confident that we can pursue further appropriate and constructive dialogue. I can assure you that that is the wish and the commitment of Archbishop Wilson.

Yours sincerely

A handwritten signature in black ink that reads "David Cappo". The signature is written in a cursive style with a large initial "D" and a long horizontal stroke at the end.

Father David Cappo
Vicar General