

IN THE MATTER of the Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission)

and

IN THE MATTER of an enquiry into the current policies and procedures of the Anglican Diocese of Melbourne in relation to child protection and child-safe standards, including responding to allegations of child sexual abuse

SUPPLEMENTAL STATEMENT OF THE ANGLICAN DIOCESE OF MELBOURNE

Introduction

The Anglican Diocese of Melbourne (**the Diocese**) has previously provided the Royal Commission a statement dated 11 December 2015 as requested in your letter of 2 November 2015. An amended statement was provided on 22 January 2016.

This statement is supplemental to those statements already provided and is intended to update the Royal Commission on developments in the Diocese since then in relation to child protection and child-safe standards, and responses to allegations of child sexual abuse.

At the conclusion of this statement, I confirm the accuracy of the statements previously lodged and this supplemental statement. I trust that you will find this approach to your request acceptable.

The Diocese has made significant improvements to our processes and procedures for dealing with Professional Standards matters in four particular areas:

1. Most significantly, the Synod of the Diocese has enacted a new *Professional Standards Uniform Act 2016*:
 - (a) The legislation provides for the formation of a separate company limited by guarantee independently to operate a common Office of Professional Standards (**the Scheme Corporation**);
 - (b) It provides for an independent and transparent complaints regime covering all clergy, lay ministers and volunteers;
 - (c) It provides for independent screening of clergy and prescribed lay persons in ministry or in service in the Church;
 - (d) The Diocese has promoted this uniform legislation for adoption by other dioceses in the Province of Victoria and beyond. The Synod of the Diocese of Bendigo has passed like legislation and has joined with the Diocese as the founding members of the Scheme Corporation. Wangaratta Diocese will follow in the New Year.
2. The Diocese has participated in and resourced the continuing work of the Anglican Church of Australia - General Synod Royal Commission

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Working Group (RCWG) with particular focus on the area of a national Church approach to Redress.

3. The Archbishop in Council of the Diocese has resolved to establish an interim redress scheme for survivors of child abuse, again with the Scheme Corporation to operate the redress scheme.
4. The Diocese is in the process of updating its 'Duty of Care' Handbook and incorporating it in a Parish Handbook to encompass State legislative changes, in particular, the minimum standards now imposed under the Child Wellbeing and Safety Act and other legislative provisions.

Dealing with each in turn.

1. Professional Standards Uniform Act 2016 (Melb):

- 1.1. Our initial submission (paragraphs 278-287 and attachments) detailed the background to the Provincial Working Group established to explore the potential for a common Professional Standards Ordinance across Victoria and beyond. This group has been meeting since late 2014.
- 1.2. The draft legislation and explanatory memorandum provided in the initial submission underwent further consultation and amendment prior to being presented to the Synod of the Diocese in October 2016. At that session, Synod adopted the Professional Standards Uniform Act 2016.
- 1.3. A copy of the legislation and explanatory memorandum as presented are attached as Appendix 1 and 2 respectively.
- 1.4. The dioceses of Bendigo and Melbourne are moving to form the Scheme Corporation envisaged by the legislation independently to operate a common Office of Professional Standards for as many dioceses and agencies that wish to participate. The company is to be registered under the Corporations Act 2001 and known as Kooyoora Ltd. Kooyoora is a word in the Djadja Wurrung language meaning 'mountain of light'. It gives its name both to Mt Kooyoora and the Kooyoora State Park west of Bendigo.
- 1.5. The initial members of the Corporation will be the Bendigo Anglican Diocesan Corporation Ltd and the Melbourne Anglican Diocesan Corporation Ltd. These were established in 2015 amongst other purposes, to provide an entity capable of being sued in matters of professional standards and / or negligence.
- 1.6. Under the legislation recently passed, the Melbourne Anglican Diocesan Corporation Ltd is assigned particular responsibility for Professional Standards across the Diocese, in line with its complimentary role as employer or appointor of Lay Staff and Clergy for the purposes of WorkCover. A summation of the Diocesan

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Corporation and its role in the governance of Diocesan activity was provided in the initial submission beginning at paragraph 19.

- 1.7. The explanatory memorandum (Appendix 2) provides a comprehensive overview of the legislation which has been enacted:
- (a) As with the prior professional standards legislation, the new Act is in addition to the Diocesan Tribunal Act 1963, which provides for the laying and hearing of charges for ecclesiastical offences against clergy. The Tribunal remains as a rarely used disciplinary sanction for the commission of a specific offence.
 - (b) The Uniform Act stands as a significant revision of the Professional Standards Act 2009. Like the prior legislation, its focus is on the question of 'fitness' which may be raised by an allegation of misconduct, with a view to the protection of the community and the maintenance of standards in the Church. It does not provide for punishment, that is to say the imposition of a sanction for the misconduct. It involves a discretionary judgement as to the person's fitness to engage in ministry or service.
 - (c) The Uniform Act provides for:
 - (i) a broad definition of misconduct. See clause 5;
 - (ii) an orderly process that affords procedural fairness;
 - (iii) greater flexibility in the disposition of a matter;
 - (iv) a more holistic approach to misconduct than that of a charge before a disciplinary tribunal; and
 - (v) the Archbishop in Council to approve such redress scheme operated by the Scheme Corporation as it may determine.

2. General Synod – Royal Commission Working Group:

- 2.1. The Diocese of Melbourne has been an active participant in the RCWG. Our involvement is briefly described in the initial submission (paragraph 275). My understanding is that the General Synod Office is making a separate submission to the proposed final hearing on the Anglican Church which will detail more broadly the efforts of the Working Group. Melbourne has been an active participant in terms of membership and advocacy for a national approach to Professional Standards and Redress.
- 2.2. Events at a Federal Government level in the announcement of a Federal scheme (subject to opt-in) has overshadowed progress on an Anglican national redress scheme and the RWCG awaits further engagement and consultation with Federal Government.
- 2.3. The Diocese had been in a range of discussions with other denominations and at various levels of State Government in line with our joint commitment to the 'Betrayal of Trust' recommendations. The

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Diocese awaits the State Government response to the Federal initiative.

3. Interim Redress Scheme:

- 3.1. Recently, at its meeting on 24 November 2016, the Archbishop in Council of the Diocese (**AiC**) approved in principle the establishment of an interim Redress Scheme for the Diocese and any participating dioceses.
- 3.2. Appendix 3 is a summary of the proposed Anglican Redress Scheme.
- 3.3. Appendix 4 are the proposed Terms of Reference for consideration by the AiC at its meeting on 15 December 2016.
- 3.4. The proposed scheme will cover claims of child sexual abuse occurring within the Diocese and also serious physical abuse related to the alleged sexual abuse. With the consent of the Melbourne Anglican Diocesan Corporation Ltd, it can also be extended to cover adult sexual abuse and adult physical abuse.
- 3.5. An applicant for redress will need to establish that there is a reasonable likelihood that:
 - (a) the abuse occurred;
 - (b) there was a relevant connection between the abuse and the Church in the Diocese. The Terms of Reference for the scheme offer greater guidance as to the required connection; and
 - (c) as a result, the applicant has suffered harm.
- 3.6. The Scheme proposes to offer a holistic approach to care and assistance of survivors. This will include financial, counselling and other care and support including where requested spiritual healing. Interim support will also be available.
- 3.7. The scheme will be operated by a company to be called Kooyoora Ltd, the Scheme Corporation, the Redress Manager of which will administer the process. That manager will in the first instance receive and respond to an application. Case workers will be appointed where appropriate.
- 3.8. Kooyoora Ltd will appoint the Redress Manager, any case workers and the member(s) of the Assessment Board and Review Board as appropriate.
- 3.9. Financial payments will be capped at \$150,000 (exclusive of counselling costs) and the Terms of Reference prescribed a matrix similar to that proposed by the Royal Commission. Reference is made to the schedule of benefits in the proposed Terms of Reference.

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- 3.10. A claimant would be expected to sign a Deed of Release, releasing the Diocese and its office holders from further claims and also the MADC from any further liability, in return for the provision of a lump sum payment or other redress measures.
- 3.11. Prior deeds of release would not be a bar to prevent an application for redress or reconsideration if there are reasonable grounds for declining to give effect to the prior release having regard for what is fair and reasonable in each case.
- 3.12. A set sum (yet to be fully determined) will be made available to ensure legal advice is obtained to inform claimants as to their options.
- 3.13. The duration of the scheme is as yet undecided and will to some extent relate to the proposed government scheme, although the way lies open to continue to operate the scheme beyond any government or central response.

4. Parish Handbook for Office Bearers:

- 4.1. As stated in the initial submission, the Duty of Care Handbook as a significant tool in the life of the Diocese that, alongside other educative documents and for a sets out expectations for behaviour and compliance within the Diocese.
- 4.2. The recent introduction of minimum child safe standards in Victoria has, alongside other legislative changes (including those associated with Working with Children Checks), prompted a revision of the Duty of Care Handbook and an expansion of its focus to encompass Professional Standards requirements alongside other care elements such as Occupational Health and Safety. We have decided to incorporate it in a Parish Handbook for Officer Bearers
- 4.3. These changes are not designed to diminish Professional Standards in any way, rather to normalise these requirements into the culture of our Diocese in much the same way as other regulatory requirements. By making professional standards requirements part of the accepted culture of the organisation the Diocese aims to make such matters 'everyone's responsibility'. The Diocese views this as an extension of the aims of the new Government legislation as this represents the most effective way to protect vulnerable persons, including children.
- 4.4. The revised handbook includes model policies for both electronic communication and privacy, such policies to be adopted by those parishes where no local policy exists and used as a minimum benchmark for those with existing policies.
- 4.5. The Diocese will also be more prescriptive as to the nature of roles where evidence of Working with Children Checks will be called for. The Handbook will reflect this and provide a stronger link between the role of Church Wardens, their responsibilities under the Church legislation such as the *Parish Governance Act 2013* (Melb), and

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secular requirements such as the minimum standards for child safe organisations. The revised handbook also provides a link between the mandatory Annual Risk Assessment process and consideration of minimum standards.

- 4.6. The Parish Handbook is in final draft form and the Diocese would expect to release the Handbook in the near future. The final form of the document can be provided to the Commission once available.

5. Conclusion:

- 5.1. The Diocese is grateful for the opportunity to outline the further steps that the Diocese of Melbourne has taken to further improve and develop our response to this important aspect of our history and of our continued contribution to the community that we seek to serve.
- 5.2. The Diocese strives to uphold high standards in respect to the protection of the vulnerable within our communities and the steps which the Diocese has taken, in response to the work of the Royal Commission seek to build on the culture of child safety that we now have.

6. Statement of accuracy and evidence:

- 6.1. As requested in your letter of 21 October 2016, we set out below a statement in support of both the initial submissions and this supplementary submission.
- 6.2. The statement made by me in the initial submission of the Anglican Diocese of Melbourne dated 11 December 2015, and as amended in January 2016 and in this supplementary submission accurately sets out the evidence that I am prepared to give to the Royal Commission into Institutional Responses to Child Sexual Abuse. The information in those statements and in the Schedule A and Schedule B documents is true and correct to the best of my knowledge unless otherwise indicated in the statements.

Grace and Peace



The Most Reverend Dr Philip Freier
Archbishop of Melbourne

7 December 2016

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Appendix 1	Professional Standards Uniform Act Adoption Act 2016 (Melb)
Appendix 2	Explanatory memorandum
Appendix 3	Summary of proposed Anglican Redress Scheme
Appendix 4	Proposed Terms of Reference of Anglican Redress Scheme