

# **TOWARDS HEALING IN QUEENSLAND**

## **Final Report**

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## EXECUTIVE SUMMARY

### 1. Transitions

This Review was initiated by the Bishops and the CLRIQ as a stocktaking exercise at an important transition time for the work of *Towards Healing* in Queensland. The most significant change is that Dr Ken Robertson has indicated his intention to conclude his ministry as Director of Professional Standards in the first half of 2003. Dr Robertson has done a remarkable job in setting up the processes and managing them during the last six years. The response of the Catholic Church in Queensland to the issues of abuse and care for victims is quite different to the past, and great credit goes to Dr Robertson for his part in this.

Another important transition is that many people who have been most significant in the work of *Towards Healing* have been in those roles ever since 1996. There will be those whose terms expire and who do not want to continue.

A third important transition is that there has been a substantial growth in the numbers of cases this year. The lessons of this year demonstrate that the Church needs to have a capacity to deal with large numbers of cases coming within a short period as the result of bursts of publicity and that the Church may not have reached the end of its discovery of historic pedophilia.

### 2. This Review

The review process involved consultations with a diverse range of people, as well as attendance at a meeting of the PSRG and at the in-service day for contact people, assessors and others involved in the process. There was also a written survey of complainants and accused persons for cases which had commenced between October 1999 and October 2001. All others involved in the process were also surveyed.

Any review of this kind necessarily focuses on what is not working as well as it could be, so it is important to emphasise how much is being done well. The Church in Queensland, through the efforts of Ken Robertson, the PSRG, the Bishops and Leaders, and all those who play a role in the Towards Healing process, has done a huge amount to try to address the problem of abuse in this faith community and its effects. There is a great wealth of talent and expertise. But on any issue as difficult to deal with as this, there is more to be learned, and there is a need to ‘unlearn’ old ways of doing things which are not the best.

### **3. Multiple processes in Queensland**

It may be thought that there is one process for dealing with complaints of abuse in Queensland, and that the process is the one laid down in Towards Healing. In fact, the consultations suggested that there are a great number of different processes, some ostensibly within the Towards Healing framework, others independent of it. Some of those processes are paradigm examples of why Towards Healing was needed in the first place. The problem is a very serious one.

The first priority of the Church in Queensland in this period of transition in the work of Towards Healing must be to reassert its commitment to having one process, to follow that process and to ensure that the process is sufficiently expert and professional to warrant the confidence of all Church leaders and ministries.

There are five reasons why there are multiple processes in Queensland.

#### *a) Confusion about the role of lawyers and the option of a civil law process*

There appears to have been a different process entirely if the complainant is seeking some form of monetary redress beyond counselling. The notion has developed in Queensland that Towards Healing is ‘not about compensation’, and therefore if this is an aspect of the person’s claim, it is not a Towards Healing matter. In such cases, typically the matter is dealt with directly by the Diocese or Religious Institute. The Director of Professional Standards plays a conduit role, passing the letter or other communication over to the Church authority, but otherwise the processes laid down in Towards Healing are not followed.

As a consequence, no process has been consistently followed in dealing with these cases. A key issue is that the Church authority takes it on itself to determine whether it thinks the complaint is true without any process of independent investigation. A consequence of the approach of leaving it to lawyers is that complainants have very often received responses written by lawyers for the Church and addressing the complaint with no pastoral dimension. The lack of adherence to the published processes was a concern for complainants.

b) *Church authorities preferring their own processes*

A second reason why there are multiple processes is that certain church authorities tend to handle matters themselves if complaints are made to them directly whether or not the matter involves a claim for compensation.

The consequence is that the way the matter is handled depends on how the complaint originates. If it originates with a contact report under Towards Healing it is a Towards Healing matter, but if the complaint is made directly to the Church authority, it is not. Thus the one Church authority may have two different processes, with some cases being dealt with in accordance with the Towards Healing protocol if they were initiated that way, while others are dealt with by the Church authority, (or its lawyers) without reference to that protocol, and inconsistently with it.

c) *Lack of proper referrals*

Another reason for multiple processes is inconsistent handling at the point of first inquiry. There have been cases of calls coming into diocesan offices with complaints about abuse which have been referred directly to senior Church personnel without being addressed through the Towards Healing process.

d) *Lack of clarity about the relationship to internal disciplinary processes in agencies*

A fourth reason why there are multiple processes in Queensland is that Towards Healing sits alongside internal disciplinary processes. This possibility arises in professional ministry settings where there are other avenues for complaints, in particular, to senior managers.

While Towards Healing covers the territory of complaints of abuse against church personnel generally, it is necessary and appropriate that large ministry organisations have their own disciplinary processes for dealing with complaints as a matter of internal management of the organisation and supervision of its employees. There need be no conflict with Towards Healing in so doing, for Towards Healing contemplates the existence of such disciplinary processes.

It is a Towards Healing matter if the complaint is against past personnel or the complainant has a grievance against the Church authority and is seeking some response from the Church authority to his or her personal needs arising out of the alleged abuse. Complaints to managers about abuse by current church personnel which request only a disciplinary inquiry are not Towards Healing matters, but the disciplinary processes should be consistent with the principles of Towards Healing. In particular, the investigation should be by a qualified person who is not in a collegial or close supervisory relationship with the person accused of abuse. The Director of Professional Standards should also be consulted. If the complainant does not believe the matter has been handled appropriately by the management, then it becomes a Towards Healing matter.

*e) Multiple kinds of response to victims*

A final aspect of the problem of multiple processes is the range of ways of responding to victims. If there is no dispute about the claims of abuse, then the matter can be dealt with directly by the Diocese or Religious Institute following para 41 of Towards Healing. This should involve a facilitated meeting between the Bishop, leader or other senior representative, and the victim. Towards Healing provides guidelines for this process. There is excellent pastoral work happening with victims of abuse, but this is not necessarily happening within the Towards Healing framework. At least victims ought to be offered the possibility of a facilitator.

## **4. Dealing with the Problem of Multiple Processes**

The existence of multiple systems is leading to considerable problems in Queensland. There was almost universal recognition that this was a source of major confusion and unsatisfactory outcomes.

To address this, the reasons why the Towards Healing processes were established need to be better understood. Furthermore, it is important to clarify the relationship between Towards Healing and civil legal action. It is open to any complainant to go to a solicitor and to initiate or threaten legal action in pursuit of a claim for compensation. Many such claims are communicated to Church authorities in this way. The difficulties in pursuing this course of action are immense if the Church authority defends the matter on all available bases as it is entitled to do. It is in the interests both of the Church authority and most complainants to try to resolve grievances, address needs and respond to the pain of abuse without being locked in an adversarial process of litigation. That is what Towards Healing is all about. It is a pastoral response as an alternative to the more conflictual approach and compensation focus of litigation.

The response of the Church authority to a letter seeking compensation for past abuse ought to be to offer the processes of Towards Healing as an alternative to being locked in an adversarial legal process. If complainant indicates that the offer of such a process is being declined then it has to be dealt with as a legal matter.

The problem of multiple entry points could be resolved if all complaints which ought to be made under the Towards Healing process are referred to that process. A complaint, however expressed and to whomever it is sent, is a complaint which ought to be referred to the Towards Healing process if it expresses a grievance against a Church authority arising out of alleged abuse.

## **5. The Future of the Role of Director of Professional Standards**

There was a very widespread view that, as the Church's needs have evolved over recent years, the position of Director of Professional Standards should be made a full-time one, and

filled after advertisement by someone who has professional qualifications and/or relevant experience in dealing with victims of abuse. It is likely that the demands of the job will vary from one period to the next, and it is recommended that the role of the Director should be developed in a flexible way which allows for a variety of related roles to be performed within the one full-time position.

The Director should have three inter-related roles:

- (i) To fulfil the specific tasks allocated by the Towards Healing protocol;
- (ii) To be an expert resource person for the whole State, able to advise all ministry organisations, Religious Institutes and dioceses quickly when issues of abuse arise
- (iii) To be proactive in education and policy formulation.

The Director could also play a role, together with the QPSRG, in the implementation of *Integrity in Ministry* in Queensland.

The position of the new Director should be advertised after consultation on the job description with the QPSRG. Relevant professional qualifications in such areas as social work, psychology or counselling should not be seen as essential for appointment, although they are highly desirable. There is a risk of excluding people who may have a great deal of experience and who would be highly suited to the work, if the focus is on relevant academic requirements. The position should be open to a Christian from another faith tradition. The new Director should be given dedicated office space and support services. Catholic Education Offices should be asked to contribute to the cost of the Towards Healing process.

In order to establish a greater sense of shared ownership of the appointment and to establish better avenues of consultation and participation, it is recommended that the Bishops and Leaders appoint a Liaison Committee, to consist of two Bishops and two Leaders, or their nominees. The Bishops and Leaders may wish to add a representative of a Catholic Education Office also. Its functions ought to include policy issues, financial responsibility (including review of the auditor's report), and appointment of new members to the QPSRG as vacancies occur. If the recommendation for a Liaison Committee is accepted, it would be

very good to establish it as soon as possible in 2003 in order to facilitate the work of implementing other recommendations.

## **6. The QPSRG**

The QPSRG is a valuable resource for the work of the Church in Queensland. Between the members, there is a great deal of experience and expertise.

All appointments to the QPSRG should be made by the Liaison Committee. There should be no major changes to the composition of the QPSRG. The membership of the QPSRG is to some extent dictated by Towards Healing. There is a tension in Queensland between having diocesan appointments, which ensures some degree of geographic spread, and appointments based upon expertise, which ensures that the group is balanced in its professional make-up. The diocesan representatives play a very important role in the Queensland context and should continue. There should also be a representative of a Catholic Education Office. It would be valuable also to include non-Catholics in the work of the Committee. Individuals who are appointed to the QPSRG might fulfil two or three different appointment criteria at once. The Liaison Committee needs to balance the Committee accordingly. From 2004, all appointments should be on the basis that each person should be appointed for a three year term with up to one renewal of two years. A person could be reappointed after an interval of a year.

One of the key issues which emerged from consultations with members of the QPSRG is some uncertainty about its role and the best use of the valuable time of its members. It is recommended that the QPSRG should have the following roles:

- Providing general oversight of the work of Towards Healing in Queensland
- Developing policies and processes for the work of Towards Healing
- Ensuring that the letter and spirit of Towards Healing is implemented by all Church authorities
- Providing advice on issues related to professional standards to Bishops or Leaders
- Providing personal support and assistance to the Director
- Reviewing a summary of cases provided by the Director to the meeting

- Discussing difficult or complex cases as identified by the Director or members
- Determining when a case should be regarded as closed or when no further action can be taken
- Deciding on reviews of process
- Reviewing and keeping up to date the lists of contact people, accused's support persons, assessors and facilitators
- Ensuring appropriate induction processes for new participants in the work of Towards Healing, including new members of the QPSRG
- Developing and keeping under review, appropriate documentation of the roles of all those involved in the work of Towards Healing
- Ensuring ongoing training for all those involved in different ways in the work of Towards Healing
- Ensuring proper liaison with diocesan agencies and religious institute ministries
- Monitoring child protection processes and practices in all dioceses, religious institutes and ministries within Queensland and providing appropriate feedback and advice
- Providing advice on how to respond to Church communities affected by the revelation of abuse in the aftermath of the arrest or conviction of a prominent local Church figure
- Making representations collectively to individual Bishops and Leaders when the QPSRG has concerns about the way that a Church authority has handled a matter
- Advising Bishops and Leaders on the management of clerical sex offenders to ensure consistent practices across Queensland which are protective of the Church community
- Planning of education programs to help people understand issues about child abuse and sexual harassment in the Church community
- Playing a leading role in the prevention of abuse and neglect in the Church community
- Ensuring appropriate liaison with other relevant agencies such as the Police Service and Commission for Children and Young People

- Assisting the Director, the Bishops and the Leaders in developing an implementation strategy for Integrity in Ministry.

The QPSRG should develop a business plan for the next three years, with priority being given to a review of the lists of assessors and facilitators, a new educational campaign to make the Church community aware of what Towards Healing is, and liaison with Catholic Education Commissions, Religious Institutes involved in education, and Centacare, to ensure complete consistency of policy and practice and shared understanding of respective roles.

## **7. The Management of Cases**

There ought to be an assessment in all cases where the conduct complained of falls within the definitions of abuse in Towards Healing, where it is not appropriate that the complaint be dealt with informally (see Towards Healing para 38.3), and where the Church authority does not accept the substance of the complaint as formulated. Assessments are all about transparency. If the Church authority accepts the complaint because of its own knowledge of the circumstances, there is no need for an assessment. Assessments are very useful even where the accused person is dead, or has left the Church, or will not cooperate. Assessments may also be very useful in working out the magnitude or otherwise, of the risk of allowing a person to continue in ministry where abuse has been substantiated.

Other issues regarding the management of cases are addressed through the recommendations.

## **Conclusions**

A report of this kind by its nature identifies what needs to be done. It is apparent that there is a lot which needs to be done, in particular to overcome the problem of multiple processes which are inconsistent with Towards Healing. Having said these things, it is important to emphasise again how much is being done well. The Church has come a long way on an issue which reaches to the heart of its credibility. The next stage is an evolution from the present, not a revolution, and all concerned should have a positive and optimistic view of the work which lies ahead.

## RECOMMENDATIONS

### **Recommendation 1**

All communications to Church authorities expressing a grievance about past abuse, other than letters from lawyers indicating an intention to pursue civil litigation, should be treated as being made under the Towards Healing process rather than being dealt with by the Church authority directly.

### **Recommendation 2**

Church authorities receiving communications expressing a grievance about past abuse and threatening litigation or otherwise seeking compensation should invite the complainant to invoke the processes of Towards Healing as an alternative to defended civil litigation and should only treat the matter as being outside Towards Healing if the complainant refuses that invitation and indicates an intention to proceed with a civil claim.

### **Recommendation 3**

The Bishops and Leaders of all Church authorities in Queensland should ensure that where some investigation of the complaint of past abuse is needed, Church authorities rely upon the independent assessment processes of Towards Healing rather than conducting their own investigations outside of that process.

### **Recommendation 4**

The Bishops and Leaders of all Church authorities in Queensland should ensure that the pastoral and spiritual concerns should always remain the primary focus where lawyers and insurance companies are involved in making decisions about how to respond to complainants.

**Recommendation 5**

No claim concerning past abuse should be refused without an independent assessment of the claim, unless it is minor in nature and dealt with in another way in accordance with para 38.3 of Towards Healing.

**Recommendation 6**

Professional ministries such as Catholic Education and Centacare should review their internal complaints and disciplinary processes to ensure that:

- There is a clear distinction made between those matters which ought to be dealt with as an internal matter requiring a managerial response and those which should be treated as a grievance requiring a response under Towards Healing.
- When dealing with serious complaints about abuse or harassment, the disciplinary processes of the organisation involve investigation by appropriate people who do not have a collegial or supervisory relationship with the accused person.
- The internal processes have an appropriate pastoral dimension in their response to the complainant and accused person to prevent grievances arising.
- The Director of Professional Standards is made aware of the situation and his or her advice sought as appropriate.

**Recommendation 7**

All receptionists, switchboard operators and other personnel in Catholic organisations dealing with initial inquiries from members of the general public be given information about Towards Healing and instructions about how to deal with inquirers wanting to make complaints about abuse.

**Recommendation 8**

Church authorities which do not follow the letter and spirit of the processes laid down in para 41 of Towards Healing in responding to victims should reconsider the appropriateness of practices which depart from the agreed approach.

**Recommendation 9**

The Director of Professional Standards should be appointed on a full-time basis with a job description which includes, and gives priority to, the role identified in Towards Healing but also includes an additional role as a resource person for advice on child abuse issues in Queensland. The Director's mandate should include the provision of education and training throughout Queensland in matters of child abuse and professional standards.

**Recommendation 10**

In seeking to fill the position of Director of Professional Standards, the Church should seek to appoint a professional person with experience in the field of human services and who has an understanding of the trauma associated with child abuse and sexual misconduct.

**Recommendation 11**

The Bishops and Leaders should appoint a Liaison Committee to provide oversight for the appointment and renewal of appointment of the Director of Professional Standards, for the appointment of members of the QPSRG and to be the primary point of accountability for the Director in his or her professional work.

**Recommendation 12**

The Liaison Committee should appoint someone, whether one of its members or otherwise, to act as the supervisor of the Director of Professional Standards for employment purposes, and should make available to the Director, pastoral support in order to be able to 'debrief' and cope emotionally with the demands of the position.

**Recommendation 13**

The position of Director should be advertised, following consultation with the QPSRG on the terms of the advertisement, the process of selection, the criteria for selection and the advertising strategy.

**Recommendation 14**

The position of Director should be advertised so as to make it clear that the position is open to people who belong to another faith tradition, subject to the requirements of any relevant anti-discrimination laws in Queensland governing such an advertisement.

**Recommendation 15**

A Professional Standards Office should be established within the Catholic Centre or other such centre, sharing the secretarial and other resources available on an appropriate cost basis.

**Recommendation 16**

The Catholic Education Offices should be asked to make an appropriate annual contribution to the running costs of the Professional Standards Office.

**Recommendation 17**

The QPSRG should examine the need for the position of Deputy Director and what roles he or she should perform.

**Recommendation 18**

All appointments to the QPSRG should be made by the Liaison Committee to be established between the Bishops and the Leaders. This will ensure that the Bishops and Leaders have an equal voice in appointments and that they can consider the balance of expertise and gender on the Resource Group.

**Recommendation 19**

Appointments to the QPSRG should endeavour to include:

- Representatives of the dioceses.
- At least one priest and one religious
- A representative of a Catholic Education Office
- Non-Catholics
- People with backgrounds in child protection, the social sciences, civil and Church law and industrial relations.

The Group should also aim to achieve a reasonable balance between men and women and reflect the importance of lay people in the life and governance of the Church.

#### **Recommendation 20**

From 2004, all appointments should be on the basis that each person should be appointed for a three year term with up to one renewal of two years. A person may be reappointed following an interval of one year.

#### **Recommendation 21**

The Liaison Committee should consider the length of term of the existing members of the QPSRG and make ad hoc provision for extension of certain individual appointments, in order to ensure that there is not an undue loss of expertise or of continuity as a consequence of turnover in membership of the Resource Group.

#### **Recommendation 22**

The Liaison Committee, following advice from the QPSRG, should prepare a document for the endorsement of the Bishops and Leaders to articulate and affirm the roles of the QPSRG.

#### **Recommendation 23**

The QPSRG should develop a business plan for the next three years.

#### **Recommendation 24**

The priorities for the QPSRG should include:

- Review of the lists of assessors and facilitators, to ensure that there can be complete confidence in their independence and professionalism.
- A new educational campaign to make the Church community aware of what Towards Healing is.
- Liaison with Catholic Education Offices, Religious Institutes involved in education, and Centacare, to ensure complete consistency of policy and practice and shared understanding of respective roles.

**Recommendation 25**

The QPSRG should normally not be made aware of the identity of accused persons.

**Recommendation 26**

The Director and the QPSRG should review practices relating to the use of assessments.

**Recommendation 27**

Complaints raising nothing more than disciplinary practices which were accepted practice at the time, should be referred out from the Towards Healing process by the contact person in consultation with the Director.

**Recommendation 28**

The Director should ensure that the Church authority to which a complaint is referred is the one which had supervisory responsibility for the accused person at the time of the alleged offence.

**Recommendation 29**

There should be one file for each complaint, not one file for each Church authority responsible for responding to a complaint.

**Recommendation 30**

The incoming Director, together with the QPSRG, should develop a written policy on storage and security of Towards Healing files, and access to those files, in the light of the requirements of Church policy and the Privacy Amendment (Private Sector) Act 2000 (Cth).

## **TOWARDS HEALING IN QUEENSLAND**

### **1. Transitions**

This Review was initiated by the Bishops and the CLRIQ as a stocktaking exercise at an important transition time for the work of *Towards Healing* in Queensland.

*a) Dr Robertson's retirement*

The most significant change is that Dr Ken Robertson has indicated his intention to conclude his ministry as Director of Professional Standards in the first half of 2003. It will have been more than six years by that stage since Towards Healing came into operation. Dr Robertson has done a remarkable job in setting up the processes and managing them during that time.

The initiation of a system is always a very demanding stage. When Ken took over, there were no telephone numbers, contact people, assessors, support people and facilitators. Nor were there any systems, precedents and understood ways of dealing with these cases other than the work which had been done in 1994 by the Queensland Catholic Bishops' Conference. Most importantly, there was limited learning and experience with these issues at an organisational level, although there were numerous individuals around Queensland who were experienced in addressing the needs of victims and had a profound understanding of the problems. Ken Robertson and the QPSRG have put a substantial system in place over the last few years. The response of the Catholic Church in Queensland to the issues of abuse and care for victims is quite different to the past.

This is difficult work. People who engage the Towards Healing process are often distressed and angry. The Director, and others associated with the process bore no responsibility for the complainants' pain but bear the brunt of their expression of that pain, whatever form it may take. When Ken was appointed, perhaps no-one understood how time-consuming this work could be. Mrs Robertson has also been a great support in this work and her important role as a partner to Ken in this ministry demands full recognition. The Church owes an enormous debt of gratitude to them both, the more so since they have offered themselves, and their home facilities, for so long, going far beyond the call of duty.

*b) Changes in the QPSRG*

Another important transition is that many people who have been most significant in the work of Towards Healing have been in those roles ever since 1996. There will be those whose terms expire and who do not want to continue. In any event, it is healthy for any organisation that there is turnover and renewal. An organisation which does not gain fresh

energy, ideas and impetus gradually loses its effectiveness. It is important also that a sufficient range of people in the life of the Church gain an understanding of the processes through service on the QPSRG and contribute their experience to its work.

*c) The growth in numbers of cases*

A third important transition is that there has been a substantial growth in the numbers of cases this year. Perhaps this is a temporary phenomenon, associated with the publicity surrounding an interview with Archbishop Pell on 60 Minutes, the subsequent allegations against him, and other events which have brought this issue into the national consciousness. Through them, more people have become aware that the Church has a process for dealing with these issues, and there has been an impression given that the Church has a compensation scheme which mimics the civil justice system.

The lessons of this year demonstrate that the Church needs to have a capacity to deal with large numbers of cases coming within a short period as the result of bursts of publicity. The experience this year in Queensland also shows that the Church may not have reached the end of its discovery of historic pedophilia. A number of men are currently facing charges. The publicity surrounding such cases not only brings forward other victims of these men, but it also generates a need to respond to the concerns of the faith community as a whole, especially in parishes or communities where these men have ministered or taught. The discovery of a previously unknown case of serial sex offending among priests and religious causes ripples which extend far beyond those individuals most affected. The Church at its most senior levels has to be involved in trying to restore credibility, and to help the faith community of Church people in Queensland deal with a sense of betrayal and loss of confidence in the leadership of the Church. Towards Healing, then is not merely a program responding to individuals who have been hurt, but a program which is vitally needed to repair the damage which has been done to the mission of the Church.

## **2. This Review**

The terms of reference for this review asked me to examine a range of specific issues concerning the work of the Director and QPSRG.

*a) The processes of consultation*

The review process involved a range of consultations, with:

- the current Director
- the members of the PSRG
- the bishops
- leaders of religious institutes and a lawyer for one of the orders
- three directors of Catholic Education and the executive officer of QCEC
- leaders of Centacare, Brisbane
- The police
- The Esther Trust
- The Commissioner for Children and Young People

I was present at a meeting of the PSRG and at the in-service day for contact people, assessors and others involved in the process. That yielded a range of insights through informal conversations. I have also consulted with Angela Ryan, the Executive Officer of the National Committee of Professional Standards (and formerly a Director of Professional Standards in Victoria) and with John Davoren (the current Director of Professional Standards in NSW). This was to compare notes on processes and practices in other States.

There was also a written survey of complainants and accused persons for cases which had commenced between October 1999 and October 2001. All others involved in the process were also surveyed. I also reviewed the surveys sent from Queensland for the national review of Towards Healing in 1999 since these were coded by State. I also examined the last five completed files, and have offered written comments on those files to the PSRG.

This report proceeds by looking at the key themes and recommendations rather than by going systematically through all the questions in the terms of reference. Those questions will all be answered in the course of the discussion of the key themes and recommendations, but

in a way which brings out most clearly a plan of action for the future, rather than merely a description of the present or the past.

*b) The importance of the positives*

Any review of this kind necessarily focuses on what is not working as well as it could be, and what could be done better. That can create an impression that what is currently being done is deficient or riddled with problems. That would not be a fair impression at all. The Church in Queensland, through the efforts of Ken Robertson, the PSRG, the Bishops and Leaders, and all those who play a role in the Towards Healing process, has done a huge amount to try to address the problem of abuse in this faith community and its effects. There is a great wealth of talent and expertise. There have been some wonderful examples of how a pastoral response to the victims of abuse can displace anger, pour balm upon long-standing emotional wounds and bring about the beginnings of transformation in people's lives and perceptions of the Church. Of the 20 complainants who responded to the survey, 12 expressed themselves to be satisfied or largely satisfied with the response of the Towards Healing processes within Queensland, and had many positive things to say. One out of the three accused persons also expressed appreciation for the process.

But on any issue as difficult to deal with as this, there is more to be learned, and there is a need to 'unlearn' old ways of doing things which have become deeply entrenched, but which are not the best. This too was evident in the surveys. Where people were not satisfied, it was often obvious from their comments that the normal processes laid down in Towards Healing had not been followed. In particular, it is noteworthy that 7 out of the 8 people who were dissatisfied had not had assessors appointed to investigate their complaint, and a couple at least said specifically that they felt the process had not followed the principles laid down in Towards Healing.

If this Report is about renewal and growth in the next stage of the work of Towards Healing in Queensland, it is not a reflection on the competence or commitment of anyone up to this point. On the contrary, the Church can build and move on because there has been such a dedicated foundation laid since Towards Healing was issued in 1996.

One of the main themes of this Report will be in helping to explain, on certain issues, how Towards Healing is meant to work and why certain structures and processes were put in place as a national process. Understanding why those processes were developed will help to explain where practice in Queensland departs from that intent, and why it would be a good idea to renew a commitment to those processes.

*c) Terminology*

A note on terminology is appropriate. I have used the term “Church” as a collective noun to describe the whole Roman Catholic faith community, whenever I am not referring to individual Church authorities. There are those who would say that there is no such thing as the Church in Queensland if what is meant by this term is that there is one body or organisation governed by a hierarchical management structure. This may be so, but despite the complexity of the organisational structures, the Roman Catholic faith community is perceived as one body and needs to present itself to the public in a unified way. The term “Church” may be a more aspirational term than a truly descriptive one but its usage is nonetheless appropriate in this context.

### **3. Multiple processes in Queensland**

It may be thought that there is one process for dealing with complaints of abuse in Queensland, and that the process is the one laid down in Towards Healing. In fact, the consultations suggested that there are a great number of different processes, some ostensibly within the Towards Healing framework, others independent of it, some very well-thought out and professional, others ad hoc and inadequate. Some of those processes are paradigm examples of why Towards Healing was needed in the first place.

The problem is a very serious one. As a consequence of these multiple processes and the lack of consistency across all Church authorities, the Church’s response to issues of abuse is to some extent uncoordinated, unprofessional, fragmented, ineffective, and lacking in pastoral focus. This is not to say that good work is not being done. Very often it is. But it is

not being done consistently and in accordance with the processes agreed upon by the Bishops and Leaders of the Church authorities in Queensland (and nationally).

The first priority of the Church in Queensland in this period of transition in the work of Towards Healing must be to reassert its commitment to having one process, to follow that process and to ensure that the process is sufficiently expert and professional to warrant the confidence of all Church leaders and ministries.

How can it be that there are, in practice, multiple processes in Queensland? There are several answers to this.

a) *Confusion about the role of lawyers and the option of a civil law process*

One of the key themes which emerged from many of the discussions was that there appeared to be a different process entirely if the complainant was seeking some form of monetary redress beyond counselling. In such cases, typically what happens is that the complainant is advised to get a lawyer if he or she does not already have one, and the matter is dealt with directly by the Diocese or Religious Institute. The Director of Professional Standards plays a conduit role, passing the letter or other communication over to the Church authority, but otherwise the processes laid down in Towards Healing are not followed.

The reasons why this practice has developed are understandable. When Towards Healing was first developed in 1996, it did not say expressly that one of the outcomes of Towards Healing could be some kind of financial reparation. It also did not exclude that possibility. Rather it spoke in terms of meeting the needs of the victim. Despite the lack of express mention of the word ‘compensation’ in the original document, it was clear that this could be an outcome. However, discussion of such issues was focused upon how such payments might be useful in promoting healing for the victim rather than being based upon some standard of “damages”, paid on an ex gratia basis. In other states and territories, this was often, but not always, addressed by lawyers as a parallel process to the facilitated meeting between the Church authority. The church leader, for example, might agree with the victim that while they could talk about the victim’s experience of abuse and subsequent problems, it

might be better to leave the financial aspects to negotiation outside of that meeting. In all respects, however, the Towards Healing process was followed.

My understanding, from talking with various people, is that in Queensland, the notion developed that Towards Healing was ‘not about compensation’, and therefore if this was an aspect of the person’s claim, it was not a Towards Healing matter. This practice did not change when the revised Towards Healing was introduced in 2001. This revised version states as follows:

“41.1 In the event that the Church authority is satisfied of the truth of the complaint, whether through admission of the offender, a finding of a court, a canon law process or a Church assessment, the Church authority shall respond to the needs of the victim in such ways as are demanded by justice and compassion. Responses may include the provision of an apology on behalf of the Church, the provision of counseling services or the payment of counseling costs. Financial assistance or reparation may also be paid to victims of a criminal offence or civil wrong, even though the Church is not legally liable.”

As a consequence of the view that claims for compensation are not a Towards Healing matter, no process has been consistently followed in dealing with these cases, and certainly not the process outlined in Towards Healing. A key issue is that Church authorities take it on themselves to determine whether they think the complaint is true without any process of independent investigation.

In my discussions with church leaders and others, when it was explained that the claim, unless accepted on its face, and whether or not involving a claim for compensation, should be the subject of independent assessment, a lot of the complaints and difficulties melted away. For example one representative of a church authority complained that the contact reports were not sufficiently detailed to make a decision about the validity of the complaint. This might have been a valid criticism if all that the Church authority had to go on was that contact report, but if there is any doubt about the validity of the complaint, then the next stage ought to be an assessment which will then go into the complaint in detail. The contact person’s role is a pastoral one, not an investigatory one.

### Case Study 1

A complaint was made of serious physical and sexual abuse in a school setting many years ago. The complainant said that he found it very painful to talk about, and the details of the alleged abuse were rather vague. He was, however, quite explicit about the names of the men against whom he was making the allegations.

The contact report was referred to the Church authority. It responded by seeking a whole number of clarifications against whom in each incident, each allegation was being made and in what time period. The two accused persons had both left the Religious Institute. The Church authority asked the contact person to go back to the complainant and to get answers to the questions it set out in the letter, and after that there should be a full assessment. The complainant then refused to proceed with the assessment and the case was closed as a Towards Healing matter.

The request by the Religious Institute for further particulars in this case before a full assessment, was misconceived. It is not their job to investigate the case. If they did not accept the man's word for it without independent assessment, (and that is entirely valid) then there needs to be an independent assessment, not a process of repeat interviews before assessors are appointed. The task of clarifying the details of the complaints is one for sensitive and qualified assessors who would have the training and experience to get from this man the full account of his experiences.

The adoption of parallel processes involving lawyers was something with which people involved in the processes in quite different ways, felt uncomfortable. Leaders complained that they found themselves in the position of having to make their own judgments about the validity of the complaints without the benefit of the Towards Healing processes. The Director would have always organised an assessment had it been asked for, but in my conversations with leaders, this was not always apparent to them. Indeed one Religious Institute which handles a lot of matters by referral to its lawyers complained of the difficulty in getting assessments through the Towards Healing process when they wanted it.

Another consequence of the approach of leaving it to lawyers is that very often, complainants have received responses written by lawyers for the Church and addressing the complaint as a legal one with no pastoral dimension. The lack of adherence to the published processes was a concern for complainants.

### **Case Study 2**

A man made a complaint under Towards Healing concerning his experiences of abuse in a school run by a religious order. After being contacted and invited to fill out a survey, he wrote to me:

“Unfortunately I have experienced some quite large difficulties during this process, or perhaps lack of process is more accurate. It was my understanding that an assessor would be appointed to investigate the matter and then a decision would be made regarding the validity of my complaint. This did not happen and the matter was removed from the Towards Healing protocol by the [Religious Institute] without my consent or even consultation with me. The matter is currently with the order's insurers and their legal representatives and my advocate.”

In our subsequent conversation, it emerged that he had made a request for financial provision to meet specific needs that he had as a consequence of the abuse. Although he had received a compassionate response from the member of the Religious Institute dealing with the matter, he was very disappointed that the issue had been treated as being just one about money. For him, it was much more than that. Furthermore, he had an expectation that he would be dealing with the Church through an arms' length process, rather than dealing directly with the Religious Institute.

In this case, the Religious Institute did accept the truth of the allegations the complainant made, and for that reason there was no need to have an assessment. However, the complainant's perception was that the matter was handled entirely outside the Towards Healing processes, and was reduced to being an issue about money and insurance.

The spirit in which Towards Healing was written is one in which the concern is for victims' healing, and not merely the resolution of the grievance through a financial settlement. Complainants do not always find it so. This was expressed by a complainant who wrote:

“I have the distinct impression that the Church was eager to close the door on my case. The financial settlement, I found to be the final door for the Church. I still need to address the psychological issues...”.

A similar view was expressed by another respondent:

“I believe the whole process is ‘damage control’. That is, when a complaint is made the first thing that seems to happen is that the authorities think well this person might sue us so they do everything they can to prevent this. Let me say right away that no amount of money would undo the damage done to me and I am not interested in money.”

b) *Church authorities preferring their own processes*

A second reason why there are multiple processes is that certain church authorities tend to handle matters themselves if complaints are made to them directly whether or not the matter involves a claim for compensation.

The representative of one Religious Institute wrote to me indicating that they had run their own processes all of the time until 2001 before referring complainants to the Towards Healing process. A representative of another major Religious Institute indicated that it tends to conduct its own investigations when complaints are received directly, rather than relying on independent assessors under Towards Healing. He indicated that he saw his job as to protect the interests of the Religious Institute. That is a valid role to fulfil, but the Church has committed itself to pastoral outreach with the aim of healing and reconciliation, not just to a process for self-protection and the cheap compromising of potential legal claims. That is why a system has been put in place which is about more than money. It has a spiritual and pastoral dimension.

Officially, only the Archdiocese of Melbourne and the Society of Jesus have not agreed to participate in the Towards Healing processes so there seems to be a significant gulf between theory and practice.

One major reason for this is a lack of confidence in the professionalism of the Towards Healing process. The consequence is that the way the matter is handled depends on how the complaint originates. If it originates with a contact report under Towards Healing it is a Towards Healing matter, but if the complaint is made directly to the Church authority, it is not. Thus the one Church authority may have two different processes, with some cases being dealt with in accordance with the Towards Healing protocol if they were initiated that way, while others are dealt with by the Church authority, (or its lawyers) without reference to that protocol, and inconsistently with it. This is contrary to the agreement made at successive national conferences of Bishops and Leaders of Religious Institutes that there should be a single process.

I heard of numerous cases where, instead of the matter being dealt with under Towards Healing, the complainant dealt directly with the Church authority, sometimes with a reasonable outcome, sometimes without. In some cases, complaints have been rejected without any assessment. In others still, the lawyers for the Church authority have endeavoured to reach a conclusion, based upon the complainant's account or a contact report, about the truth of the matter. This can be a rather ad hoc process, as lawyers are not necessarily the most suitable professionals for conducting this kind of investigation. In other cases still, the insurance company has played the leading role in the determining the outcome.

Some internal investigations are highly unsatisfactory.

### **Case Study 3**

According to an account given to me by the Police Service, a complaint was made by a man directly to a Religious Institute concerning criminal offences allegedly committed by a named Brother in an educational context. The complainant indicated at that stage that he did not want to go to the Police. He named other victims. The Religious Institute responded in writing rejecting the complaint because it said there was no evidence. The complainant was so disappointed with this outcome that he resolved to go to the Police.

The Police investigated and without much difficulty identified ten witnesses on the basis of the same information that the complainant had given to the Religious Institute. The Brother was charged.

There were also concerns raised in my discussions about the way in which appropriate information is conveyed about continuing risk when complaints are investigated or dealt with directly by Religious Institutes. In one case, a complaint made against a former teacher in a Religious Institute school was handled by the solicitors for that Institute. The accused person was teaching at the time in a Catholic Education school and an interviewee complained that this information was not conveyed to the responsible manager in Catholic Education for months.

c) *Lack of proper referrals*

Another reason for multiple processes is inconsistent handling at the point of first inquiry. An example was given of a complainant who rang the diocesan offices seeking to make a complaint of abuse against a priest. Rather than being referred to the Towards Healing number, the complainant was put through to a senior church official who reportedly was dismissive of the complaint. After all, he knew the priest and the priest wouldn't do such a thing. While of course, I have not had the opportunity to ask that church official whether his response was accurately reported, the point is that the call should never have been put through to him in the first place. The caller should have been referred to the 1800 number.

A contact person who responded to the survey also identified inconsistent handling at the point of first inquiry as an issue. He or she wrote:

“When the process is followed it works well – but when a victim approaches a priest or Centacare first, the case can become complicated.”

d) *Lack of clarity about the relationship to internal disciplinary processes in agencies*

A fourth reason why there are multiple processes in Queensland is that Towards Healing sits alongside internal disciplinary processes. This possibility arises in professional ministry

settings where there are other avenues for complaints to be made, in particular, to senior managers. In my discussions with ministry leaders, I became aware of considerable confusion about what should be considered as the domain of the Towards Healing process. If the matter came through a complaint made under Towards Healing, then of course it would be dealt with as a Towards Healing matter. However, if the complaint was made directly to the management of the organisation, then, depending on the organisation, the matter might be handled, as a disciplinary matter, in a variety of different ways.

While Towards Healing covers the territory of complaints of abuse against church personnel generally, it is necessary and appropriate that large ministry organisations have their own disciplinary processes for dealing with complaints as a matter of internal management of the organisation and supervision of its employees. There need be no conflict with Towards Healing in so doing, for Towards Healing contemplates the existence of such disciplinary processes. Furthermore, the law may require a professional ministry organisation to have such specific and documented processes. For example, the Education (Accreditation of Non-State Schools) Regulation 2001 lays down specific requirements for schools to have such processes.

If a complaint is made against a professional employed within a ministry such as Catholic Education or Centacare, the organisation's response needs to be consistent with the requirements of the law governing termination of employment since an outcome of a serious complaint which is upheld may well be dismissal from that employment. If there is a failure to meet those obligations to the employee, the organisation may face an action for unfair dismissal.

The revised version of Towards Healing provides that when a complaint is made against a staff member of such an organisation, then the investigation of that complaint, and the disciplinary response which follows from a substantiated complaint, must follow the requisite procedures of that ministry organisation. There is therefore no conflict between Towards Healing and the internal disciplinary processes of the organisation. They are one process, as far as the investigation of the accusation and disciplinary response are concerned. The appointment of assessors under Towards Healing is the default option where there are

no other arms' length processes in place for the investigation of the complaint or where, in the case of priests or religious, the option of a canon law penal process does not appear to be the most appropriate or realistic way of dealing with the issue or would represent an unnecessarily heavy-handed approach. Canon law itself provides that penal processes should only be instituted when pastoral responses have failed (Canon 1341). Towards Healing then, should always govern the response to the victim who has made a complaint. The investigation of the matter and disciplinary response may follow the processes laid down by the employing organisation.

While this is how it is meant to be, it is not at all clear from my discussions with ministry leaders that this is how it is understood. What I found was parallel and alternative processes within organisations with the course of the matter depending entirely on how the complaint was initiated.

This may be illustrated by the internal procedure for dealing with complaints of abuse in Catholic Education in the Archdiocese of Brisbane. This Protocol is being discussed only because it is a large ministry with clear written procedures and which kindly made those procedures available to me. Its document is entitled "Response Procedures To Complaints of Sexual Abuse Against Current or Past Personnel" published in June 2000. It should be noted that this document is under review since it predates the revision of Towards Healing and therefore only applies to complaints of sexual abuse. It also predates the Education (Accreditation of Non-State Schools) Regulation 2001. It therefore only reflects understandings and practices from the time before Towards Healing was revised. Nonetheless, it well illustrates the practices and understandings which seem to be widespread currently.

The Brisbane Catholic Education protocol is a comprehensive, clear and well-written document. It provides, as is appropriate, for referral to the police of all allegations of a criminal nature, and how to address the situation if the police decide there is insufficient evidence to charge or there is no conviction. It understands the relationship between its processes and Towards Healing in the following way (p.2):

“Contact persons have been nominated by the Bishops throughout Queensland as persons who will receive allegations and refer them to the QPSRG. If an allegation is received directly by a contact person and not through an agency such as Brisbane Catholic Education, then the QPSRG will investigate the allegations, using at least two independent investigators. If an allegation is made directly to an agency approved to investigate such allegations, such as Brisbane Catholic Education, then the approved agency investigates. QPSRG is informed of the allegation, the action taken and the outcome of these actions.”

To a great extent, this is consistent with Towards Healing, for Towards Healing defers to the disciplinary processes of ministry organisations where they exist for the investigation of complaints against employees. However, it is also inconsistent with Towards Healing insofar as it purports to deal with past personnel. This is entirely the domain of Towards Healing. There are no disciplinary issues involved if the person against whom the complaint was made is no longer an employee, but there are pastoral and possibly compensation issues to be addressed in relation to the complainant. Towards Healing was established precisely to provide a means of dealing with such complaints.

Catholic Education does not need and should not have a parallel process for dealing with complaints against past employees. Its response should be integrated with Towards Healing by referring complainants who allege abuse by a past employee to the Towards Healing process, and by following that process in responding to the complainant.

What about complaints against present employees which are made directly to the school or management of the organisation? The investigation of that complaint can and should follow the disciplinary processes of the organisation, but should the response to the complainant involve Towards Healing? This all depends on the distinction between a *complaint* and a *grievance*.

Examples of complaints arising in the context of school education or welfare provision might be where:

- a parent complains to a school principal or an Area Supervisor about a teacher's heavy-handed physical handling of a child in a playground incident (for example in breaking up a fight), which she considers constituted physical abuse;
- a parent complains that a teacher has behaved towards a child in a way that the parent considers to be sexual;
- a client complains to the manager of a counselling service about inappropriate sexual advances towards her by a counsellor.

If the complaint is made to the appropriate manager about these behaviours, then there may be no further dimension to it than that the complainant expects the management to do something about it by exercise of its authority as the employer. It may well be in many such cases that the complainant does not have a grievance against the institution, is not seeking anything on a personal level, such as counselling costs, and only wants a response which deals appropriately with the ill-treatment or sexual misconduct as he or she perceives it to be. That is a complaint. The requested response is to deal with the alleged offender; there is not additionally, a request for the organisation to take responsibility for addressing the harm caused to the victim. It is not a request for the Church to help the complainant towards healing.

Where, however, there is a grievance, it becomes a Towards Healing matter. There is a grievance if the complainant is asking the Church authority to take some responsibility for his or her healing arising from the alleged abuse. Complaints of past abuse are almost always, but not necessarily always, expressions of a grievance. That is, a motivation for bringing the matter to the attention of the authorities is that the complainant is seeking some response to her or him, if only a proper apology, as a consequence of the abuse. A complaint, in other words, is a request that the management take action against the alleged offender who is in the employment of that organisation or otherwise under its management. A grievance is a request by the person for a response to *their needs* arising from the abuse.

There is also a grievance if the complainant does not believe the matter has been handled appropriately by the management. An adequate response to a complaint can prevent a grievance arising. If a complaint is properly investigated, and if substantiated, the

organisation responds compassionately and pastorally to the victim, then there will usually be no grievance, and no need to involve Towards Healing. Nonetheless, there are some very good reasons why it is often appropriate to involve the Director of Professional Standards and the QPSRG in deciding how to respond to complaints, for Church authorities ought to be able to call upon appropriate expertise in dealing with what are sometimes very difficult and complex situations which could lead to grievances if they are not properly handled.

Thus it is proper and necessary for ministry organisations which are substantial employers to have their own disciplinary processes and not to rely on the appointment of assessors under Towards Healing. Nonetheless, it is appropriate to review the adequacy of those procedures in the light of the principles and standards which are laid down in Towards Healing. This is beyond the scope of my terms of reference, and so I have not attempted to make any kind of comprehensive examination of this issue. Nonetheless I would suggest that these internal processes might need reconsideration in some instances. Three examples may suffice:

- (i) Leaders of one major ministry indicated that they would deal with a serious complaint of sexual misconduct against a staff member (not involving criminal wrongdoing) by making a judgment on the truth of the matter as line managers without any other process of investigation. While I have every confidence that such a matter would be dealt with very well by this leadership team, the lack of an apparent process for formal investigation involving people who are not directly in line management responsibility, and the lack of referral out to the Towards Healing process, would leave this ministry open to criticism for not responding adequately to the complaint if the line management dismissed a serious complaint without having an arms' length investigation. Whatever might have been acceptable a few years ago, we have learned too much about this problem to rely on our own judgments about colleagues in serious matters without calling upon people who are not affected by divided loyalties.
- (ii) The Brisbane Catholic Education process gives the Director a discretion to decide not to take any further action. That is, he or she may dismiss the complaint without initiating a formal investigation. This is an appropriate discretion, however, it is really

one which ought to be made in conjunction with the Director of Professional Standards as a safeguard. A similar discretion resides in the Director of Professional Standards when he or she receives a complaint, but the basis of it is very clearly spelt out. Para 38.3 of Towards Healing provides:

“The Director of Professional Standards shall determine whether the complaint concerns conduct which could reasonably be considered to fall within the definition of abuse in this document. If the complaint does not concern a matter which is to be dealt with by this procedure, or the behaviour complained of does not represent a serious breach of pastoral ethics and can properly be dealt with by correction and apology, he or she shall advise the complainant of other means of addressing the issue.”

- (iii) The current policy on dealing with child protection in Catholic Schools in one diocese, kindly sent to me by Catholic Education in that Diocese, dates from 1995. In relation to complaints against teachers, it refers to the 1994 protocol adopted by the Queensland Catholic Bishops’ Conference.

*e) Multiple kinds of response to victims*

A final aspect of the problem of multiple processes is the range of ways of responding to victims. If there is no dispute about the claims of abuse, then the matter can be dealt with directly by the Diocese or Religious Institute following para 41 of Towards Healing. This should involve a facilitated meeting between the Bishop, leader or other senior representative, and the victim. Towards Healing provides guidelines for this process.

There is excellent pastoral work happening with victims of abuse, with leaders demonstrating appropriate compassion for victims and responsiveness to their needs, but this is not necessarily happening within the Towards Healing framework. In particular, such meetings may not be facilitated or address the range of issues which are envisaged by the Towards Healing process.

There can be a particular problem with having one on one meetings between leaders and victims without facilitation in lieu of the processes laid down in para 41 of 'Towards Healing'. Church leaders might feel quite comfortable with one on one meetings with victims, and see no need for facilitation. But that comfort may not necessarily be shared by all victims. This is illustrated by the comment of one complainant in the survey:

“The premise for the meeting with church leaders needs to be made very clear to all involved, preferably with a written agenda that can be adhered to. A woman who has been abused by a religious should never be left alone in a room with males, particularly high ranking members of the hierarchy, as a matter of course.”

At least victims ought to be offered the possibility of a facilitator. A good facilitator can make sure that the victim is being heard, and ensure all the issues are being addressed, and help overcome the power imbalance which might be experienced by the victim. A professional involved in the work of facilitation emphasised the positive advantages of having a facilitated process:

“it seems that the role of Facilitator is being used much less than when the TH process first began and I have no idea as to the reason for this...I believe there are many aspects of TH where a few solid hours of listening and sensitive opening up of communication between victims and others could go a long way 'towards healing' much of the pain of those who agree to use this option.”

#### **4. Dealing with the Problem of Multiple Processes**

My perspective is that the existence of multiple systems is leading to considerable problems in Queensland. It was an issue which emerged in a great many conversations which I had with church personnel. There was almost universal recognition that this was a source of major confusion and unsatisfactory outcomes.

The lack of consistency across Queensland in the way cases are handled was a theme of a number of the survey responses. One put it very well:

“It seems that each individual Bishop or Religious Leader can put their own interpretation on the Towards Healing document and in some cases perhaps even choose whether it should be adhered to at all...Each of the persons involved in my work with TH understood that the document and the process were not just ‘a guide’ but were there to be followed and they were all very critical and hurt that in their cases the process was not followed according to the document they were given.”

It certainly seems to be the case that adoption of the Towards Healing process is rather less than universal. How then, can the Church deal with the problem of multiple processes?

*a) Understanding the reasoning behind the Towards Healing procedures*

First, Church authorities need to accept that there is a problem with having multiple processes. If that acceptance is not there, then different individuals and organisations will continue to ‘do their own thing’. This is the greatest obstacle to change. There are very good reasons why the Church leadership developed the processes and principles of Towards Healing, but if these are not understood or accepted, then Church authorities will see no reason to change their existing practices to bring them into line with the expectations of Towards Healing. It is beyond the scope of this report to try to explain the rationale for every aspect of the Towards Healing process, but examples of key aspects are the following:

(i) The need for an independent investigation process

This is essential as an indication of good faith and transparency. If the Religious Institute or Diocese investigates for itself and does not submit to a process which is more arm’s length, then all the advantages of independence and transparency, as well as having a national and consistent response are lost. Of course, there is great value in a Diocese or Religious Institute doing its own assessment initially of whether it is prepared to accept the truth of the complainant’s account without the need for further investigation. Towards Healing contemplates in particular that if the accused person can be asked for a response to the complaint then this should occur, and only if there is a significant discrepancy between what is alleged and what is admitted, is there a need to proceed with an independent assessment.

However, it was apparent that in some cases complaints, especially when received directly by a Church authority, are being rejected directly by a Church authority without an independent assessment. The fact that a complaint is not initiated under Towards Healing but by direct complaint to the Church authority does not obviate the need for the processes of Towards Healing to be followed in dealing with such complaints.

(ii) The need for a victim-focused response

It is an understandable response for a Church authority, faced with a complaint against a staff member, to address the issue as one about the staff member. That is half the story. Towards Healing also asks that the Church address the needs of the victim.

b) *Working out the relationship between Towards Healing and civil legal action*

It is open to any complainant to go to a solicitor and to initiate or threaten legal action in pursuit of a claim for compensation. Many such claims are communicated to Church authorities in this way. The difficulties in pursuing this course of action are immense if the Church authority defends the matter on all available bases as it is entitled to do. I am not in a position to give detailed advice on the exact position in Queensland, so the following comments are general ones. Nonetheless, the issues are fairly similar all over the country.

*The Limitation problem:* If, as is usually the case, the complainant is outside of the period laid down in the Statute of Limitations, (which is usually within three years after turning 18 or otherwise becoming aware of the ‘injury’) then he or she must first seek the Court’s dispensation to commence such proceedings outside the limitation period. This is a significant obstacle.

*The correct defendant problem:* It can sometimes be a very complex matter to determine which Church authority to sue. If a diocese is not incorporated, then the action needs to be taken against the relevant Bishop personally. This option is not open if the Bishop has died. Another problem is that the assets of a Church authority might all be bound up in trusts, but there is no point in suing the trustees, as they had no connection to the abuse.

*The liability problem:* The only sure ground on which to bring a claim for negligence is if it can be shown that the church leader knew of the offender's propensity to abuse, failed to take action to address it, and the plaintiff was abused *after* the church leader had an opportunity to prevent the harm and failed to do so. The issue of vicarious liability for the actions of staff is an issue before the High Court at the moment in relation to schools, but at present, there is not general vicarious liability for the actions of abusive priests and religious.

*The evidential problem:* The plaintiff must prove both the fact of abuse and that the claimed harm was a consequence of the abuse. Proving abuse is not at all easy without corroboration, and the causal connection between proven incidents of abuse and problems in adult life may be far from easy to establish.

For these reasons, and also other factors involved in the difficulties of pursuing litigation, it is in the interests both of the Church authority and most complainants to try to resolve grievances, address needs and respond to the pain of abuse without being locked in an adversarial process of litigation. That is what Towards Healing is all about. It is a pastoral response as an alternative to the more conflictual approach and compensation focus of litigation. If the Church authority reacts defensively to a complaint of abuse and sees the complainant as an adversary rather than as a hurt person in need of help, then a downward spiral of the relationship is inevitable. The Church does not want to be in an adversarial relationship with genuine victims of abuse for whom Christ died. It wants to offer a reconciliatory and compassionate response while not admitting legal liability.

How then should the Church authority respond to a letter, perhaps from a lawyer, perhaps from the complainant directly, seeking compensation for past abuse? The response ought to be a polite but simple one, in which the Church authority offers the processes of Towards Healing as an alternative to litigation. The process could be briefly explained in a standard letter, and the complainant invited to pursue the matter under Towards Healing. The letter would need to explain that if the complainant wishes to pursue civil action, then he is of course entitled to do so, but the Church authority will also be entitled to invoke the relevant legal defences to such a claim.

Of course, if the complainant does decline to pursue the Towards Healing process, and does commence or threaten to commence, civil legal proceedings, then the lawyers for the Church authority will need to make a risk assessment of the chances of losing the civil action if it does proceed to trial, as they would in any case involving actual or threatened litigation. Offers of settlement may well be made on risk assessment grounds, but otherwise, all complaints whether specifically naming compensation or not, should be referred to the Towards Healing process unless the complainant indicates that the offer of such a process is being declined and that he or she wishes to pursue the action as a legal claim.

*c) Dealing with the problem of multiple entry points*

The system would work smoothly if all complaints which ought to be made under the Towards Healing process are referred to that process. A complaint, however expressed and to whomever it is sent, is a complaint which ought to be referred to the Towards Healing process if it expresses a grievance against a Church authority arising out of alleged abuse. There are some cases when all that the complainant is seeking is disciplinary action against the alleged offender, but where a grievance is articulated against the Church authority, then this aspect needs to be seen as a matter to be dealt with in conformity with the procedures of Towards Healing.

This requires that Church authorities which receive letters from people complaining of abuse in the past refer them automatically to the Director of Professional Standards and liase with him, treating it as a Towards Healing matter. Where letters arrive from lawyers, then they should be answered in the manner indicated above, inviting the complainant to utilise the Towards Healing process. When people ring in to diocesan offices wanting to make a complaint, they should be referred to the 1800 number. That is, whenever there is a communication from someone wanting to make a complaint of past abuse in the context of a church ministry, they should be encouraged to go to the police, in the case of criminal matters, but if they don't want to go to the police or the matter involves non-criminal conduct, then they should be referred to the Towards Healing process.

The following set of recommendations addresses the issues arising from the problem of multiple complaints processes in Queensland.

**Recommendation 1**

All communications to Church authorities expressing a grievance about past abuse, other than letters from lawyers indicating an intention to pursue civil litigation, should be treated as being made under the Towards Healing process rather than being dealt with by the Church authority directly.

**Recommendation 2**

Church authorities receiving communications expressing a grievance about past abuse and threatening litigation or otherwise seeking compensation should invite the complainant to invoke the processes of Towards Healing as an alternative to defended civil litigation and should only treat the matter as being outside Towards Healing if the complainant refuses that invitation and indicates an intention to proceed with a civil claim.

**Recommendation 3**

The Bishops and Leaders of all Church authorities in Queensland should ensure that where some investigation of the complaint of past abuse is needed, Church authorities rely upon the independent assessment processes of Towards Healing rather than conducting their own investigations outside of that process.

**Recommendation 4**

The Bishops and Leaders of all Church authorities in Queensland should ensure that the pastoral and spiritual concerns should always remain the primary focus where lawyers and insurance companies are involved in making decisions about how to respond to complainants.

### **Recommendation 5**

No claim concerning past abuse should be refused without an independent assessment of the claim, unless it is minor in nature and dealt with in another way in accordance with para 38.3 of Towards Healing.

### **Recommendation 6**

Professional ministries such as Catholic Education and Centacare should review their internal complaints and disciplinary processes to ensure that:

- There is a clear distinction made between those matters which ought to be dealt with as an internal matter requiring a managerial response and those which should be treated as a grievance requiring a response under Towards Healing.
- When dealing with serious complaints about abuse or harassment, the disciplinary processes of the organisation involve investigation by appropriate people who do not have a collegial or supervisory relationship with the accused person.
- The internal processes have an appropriate pastoral dimension in their response to the complainant and accused person to prevent grievances arising.
- The Director of Professional Standards is made aware of the situation and his or her advice sought as appropriate.

### **Recommendation 7**

All receptionists, switchboard operators and other personnel in Catholic organisations dealing with initial inquiries from members of the general public be given information about Towards Healing and instructions about how to deal with inquirers wanting to make complaints about abuse.

### **Recommendation 8**

Church authorities which do not follow the letter and spirit of the processes laid down in para 41 of Towards Healing in responding to victims should reconsider the appropriateness of practices which depart from the agreed approach.

## 5. The Future of the Role of Director of Professional Standards

Interviews with a wide range of individuals indicated that there is very widespread appreciation for the work that Dr Robertson has done. This is reflected also in many of the responses of the victims in surveys. In particular, I should record the appreciation expressed by the Bishops.

Having said this, there is also a widespread recognition that the nature of the job has changed as well as grown over recent years and that Dr Robertson cannot be replaced, on his retirement, with someone else who is appointed under the same terms and conditions. It has not been a part-time job and should not be done from home. There was a very widespread view that, as the Church's needs have evolved over recent years, the position should be made a full-time one, and filled after advertisement by someone who has professional qualifications and/or relevant experience in dealing with victims of abuse. The level of support for this development of the role seems to be considerable.

### a) *A full-time position?*

Does the job require a full-time person for the foreseeable future? Is there any risk that such a person would be under-utilised at certain times and is this the best model for the development of the role? These are important questions in determining how best to utilise the Church's resources.

The Towards Healing process has certainly experienced a massive increase in demand this year, following the 60 Minutes program in which Archbishop Pell was confronted with allegations that he had responded inappropriately to complaints by the nephew of Gerard Ridsdale. While there is no firm evidence of what led to the increase in calls, it appears that the publicity surrounding this program and its aftermath led to a greater awareness that the Church was paying voluntary compensation to victims. One of the effects of this publicity is

that many more complaints are now being received which are expressed in terms of compensation.

Figures kindly provided by Myolene Carrick on behalf of Centacare illustrate the extent of the increase in demand in Queensland since the 60 Minutes program. Calls to the Help Line were as follows:

1998	15 calls
1999	35 calls
2000	32 calls
2001	35 calls
2002	21 calls up until June 115 calls since June (since Archbishop Pell's appearance on 60 minutes)

The same pattern is apparently evident all over the country. Ms Carrick observes that the experience at Help Line is that most of the response has been after some media coverage whether that be print or television, and after a person of the church has been convicted.

Ms Carrick notes also that while in the early years a lot of the calls were about abuse occurring in the last 10 to 20 years, since June 2002 a lot of the calls have been from older men abused as far back as thirty or forty years ago. This is confirmed by Dr Robertson, who noted that of the last 31 cases as at July this year, 29 had occurred twenty or more years ago, and 20 had occurred at least 30 years ago.

The massive increase in calls in 2002 may not be replicated in the next two or three years but we are not well placed to predict the number of complainants who might come forward in the future. The events of this year have caught us all by surprise. Such increases in awareness could occur in the future. The arrest and charging of one priest or religious or schoolteacher, and the publication of the matter through the Queensland or national media can lead others to come forward to talk about events that they may have kept hidden for decades. Indeed, the discovery that there have been other victims can be the validation which encourages people to break their silence.

Nonetheless it is likely that the demands of the job will vary from one period to the next, and my recommendation is that the role of the Director should be developed in a flexible way which allows for a variety of related roles to be performed within the one full-time position. While it may be convenient to draft a job description in terms of giving half of the time to the work of Towards Healing, I think it is preferable to frame the job in terms of giving priority to the work of Towards Healing and to fit other tasks around it. There is no shortage of work which the right person could be doing. Indeed, it was suggested to me by more than one Church leader that the role of the Director of Professional Standards should be extended to deal with issues of professional standards in disability services and aged care going beyond the confines of abuse issues as defined in Towards Healing.

Focusing, for the time being, on the work of Towards Healing, ideally, the Director should have three inter-related roles:

- (i) To fulfil the specific tasks allocated by the Towards Healing protocol;
- (ii) To be an expert resource person for the whole State, able to advise all ministry organisations, Religious Institutes and dioceses quickly when issues of abuse arise in school settings, parishes or other contexts;
- (iii) To be proactive in education and policy formulation.

The second and third of these roles need to be shared with the QPSRG and the diocesan professional standards groups (see below).

(i) The expert resource person

There is a great deal of expertise, of various kinds, throughout Queensland, but it is not evenly spread throughout the State, and in different situations, different kinds of experience can be needed. Large organisations, as might exist in Brisbane, typically see less need for such advice and expertise than small organisations or dioceses. Consultations with numerous people indicated the value of having an expert resource person who can be available immediately or at short notice to advise on crises which occur, or to help bishops and leaders respond to difficult pastoral situations involving allegations of abuse. One aspect of being a resource person is being able to suggest the best person to ring when particular

expertise and experience is needed. A professional, full-time Director of Professional Standards could be available to consult with:

- Professional ministry organisations such as schools, dealing with complex situations when complaints of abuse arise.
- Bishops and leaders, dealing with difficult issues concerning abuse and the pastoral response to it in their spheres of authority.
- School principals, needing help with the pastoral response to the revelation of historic abuse when there is no resident priest. In some rural communities where paedophile priests have served, the school principal may represent the senior Church figure in the parish or area, who has to deal with the pastoral aftermath when abuse issues emerge in church communities.
- Police, who need an identified liaison person to ensure clear lines of communication and full co-operation when investigations are being conducted. This is especially important if inquiries involve more than one Church authority as may occur if teachers move from institute schools to Catholic Education schools or if priests have moved between dioceses.

(ii) The proactive work

The present Director indicated that the QPSRG has had little opportunity to be proactive in recent years, and there is much work which still needs to be done. Examples of what the Director could usefully do, depending on the level of demand in the job at any given period are as follows:

- Conduct one to one meetings with all new bishops and leaders to discuss the problems of abuse and to explain the workings of the QPSRG. Changes in key personnel occur in any organisation, and require recurring informational strategies to ensure that people are well-informed (and not mis-informed!) about their roles and responsibilities. A booklet written for bishops and leaders at the time of the revision of Towards Healing was intended to fulfil this purpose, but having such a booklet does not guarantee it will be read. The Director could have as one of his or her tasks the role of sending such a booklet to each new leader and following it up with a personal meeting.

- Organise/speak at training and awareness days. The future must lie in prevention and early identification of abuse issues. The Director could provide valuable training about issues of abuse to groups of lay people within dioceses, and to staff in ministry organisations.
- Provide training in seminaries and to religious institutes.
- Ensure full compliance with the blue card system.
- Identify situations as early as possible, where healing of a Church community is likely to be needed, and respond to that need. This will be the case in situations where parishes or other church communities are likely to be adversely affected when news breaks that a priest or teacher connected to the parish or school has been charged with sex offences against children.
- Meet regularly with victims' organisations such as the Esther Trust to ensure responsiveness to complaints and concerns.
- Liaise with representatives of other Churches and Christian organisations in Queensland to promote best practice in child protection and in responsiveness to complainants.
- Monitor the situation of those who have been found to have committed serious offences and to ensure that throughout Queensland there is a consistent and satisfactory approach to ensuring that offenders do not have opportunities to use their clerical status for further episodes of abusive behaviour.
- Help restore confidence in the current work of the Church by communicating to the parents of children in Catholic schools and organisations today, the steps the Church has taken to prevent child abuse by its personnel.
- Try to promote positive stories in the media demonstrating how the Church is trying to respond boldly and compassionately to the issue of abuse.

A further issue is the implementation of *Integrity in Ministry* in Queensland. It appears that it does not have a practical presence in the life of the Church in Queensland for lack of an implementation strategy. This could be a task most sensibly performed by the Director in consultation with the QPSRG.

This range of functions does indicate that the right person could be occupied full-time even if, as one might expect, the present level of ‘demand’ in terms of new complaints under Towards Healing falls off.

#### **Recommendation 9**

The Director of Professional Standards should be appointed on a full-time basis with a job description which includes, and gives priority to, the role identified in Towards Healing but also includes an additional role as a resource person for advice on child abuse issues in Queensland. The Director’s mandate should include the provision of education and training throughout Queensland in matters of child abuse and professional standards.

#### b) *The qualifications for appointment*

There is a seemingly universal view that the next Director needs to be someone with professional qualifications and experience in the field of working with victims of abuse. The aspiration is that the person appointed should be seen as having relevant expertise and should be in a position to demonstrate leadership in the work of responding to the problem of abuse in the Church community. The response from one Religious Institute was typical of the general consensus:

“In view of the complex and long-standing issues with which Towards Healing must deal, we see it as highly desirable that persons appointed to the role of Director be qualified and expert in the field of human services (e.g. psychology, social work), preferably with an understanding of out-of-home care abuse and trauma matters.”

I agree with this, but would advise against seeing relevant professional qualifications in such areas as social work, psychology or counselling as essential. In my view, they are highly desirable, but it would be a mistake for the Church to ignore people in its midst who may have extensive practical experience in dealing with this issue but whose qualifications are theological rather than having an academic qualification in one of the helping professions.

The key issue is having a high level of experience and sensitivity to the issues. Formal qualifications are a secondary consideration.

#### **Recommendation 10**

In seeking to fill the position of Director of Professional Standards, the Church should seek to appoint a professional person with experience in the field of human services and who has an understanding of the trauma associated with child abuse and sexual misconduct.

#### *c) The manner of appointment*

One of the issues raised by the Terms of Reference concerns the appointment process for the Director and the PSRG. Dr Robertson's initial appointment is understood to have been made by the Bishops and was subsequently ratified at the joint meeting of the Bishops and CLRIQ. This appointment has been continued on the Bishops' initiative and ratified in the same way for as long as Dr Robertson has been willing to serve. No doubt this met the needs of the Church at the time as a way of getting things moving quickly once Towards Healing had been agreed upon. There seems to be agreement however, that in future, the CLRIQ ought to be given a more active role in the process, and that the appointment of the Director should result from a process in which the Bishops and Leaders are equal participants. There is also a need for the Director of Professional Standards, like any other professional, to have clear lines of accountability and to have appropriate support, supervision and review.

In order to establish a greater sense of shared ownership of the appointment and to establish better avenues of consultation and participation, it is recommended that the Bishops and Leaders appoint a Liaison Committee. It ought to be sufficient if it consists of two Bishops and two Leaders, or their nominees. The Bishops and Leaders may wish to add a representative of a Catholic Education Office also. The model for the Liaison Committee could be New South Wales. The Liaison Committee meets every three months, and its functions include policy issues, financial responsibility (including review of the auditor's

report), and appointment of new members as vacancies occur. Performance reviews are also organised by the Liaison Committee.

Similar issues about appointment arise in relation to the QPSRG (to be considered below). In New South Wales, the Liaison Committee makes a recommendation to the two Conferences. This seems a rather cumbersome approach unless the organisational norms of the Church require it. It would be better for the Liaison Committee to have direct appointing authority by delegation from the joint meeting.

If the recommendation for a Liaison Committee is accepted, it would be very good to establish it as soon as possible in 2003, and preferably in advance of the joint meeting in March so that it can begin the processes necessary to appoint a new Director, with a view to speedy implementation of the recommendations accepted by that joint meeting.

#### **Recommendation 11**

The Bishops and Leaders should, as soon as possible, appoint a Liaison Committee to provide oversight for the appointment and renewal of appointment of the Director of Professional Standards, for the appointment of members of the QPSRG and to be the primary point of accountability for the Director in his or her professional work.

#### **Recommendation 12**

The Liaison Committee should appoint someone, whether one of its members or otherwise, to act as the supervisor of the Director of Professional Standards for employment purposes, and make available to the Director, pastoral support in order to be able to 'debrief' and cope emotionally with the demands of the position.

A further issue concerning appointment is how it should be advertised. Finding the right person also means ensuring that there is a proactive strategy to make the position known in circles beyond the easy reach of Catholic publications.

### **Recommendation 13**

The position of Director should be advertised, following consultation with the QPSRG on the terms of the advertisement, the process of selection, the criteria for selection and the advertising strategy.

#### *d) Should the position be open to someone who is not a practising Catholic?*

One of the questions being considered more widely, and at a national level, is the place of non-Catholics in addressing issues of abuse in the life of the Church. There are some who would argue that the Church would demonstrate better its integrity and openness if its processes were managed by people who are not beholden to the authority of the episcopate of the Catholic Church. In my view, there are certainly situations where bringing in someone from a different faith community is essential, and other Churches would do the same. Any particularly difficult or sensitive inquiries, such as the recent Pell case, need to be conducted by people who are, and who are also perceived to be, independent.

I would certainly recommend that the appointment of Director be open to someone who is not a Catholic. In my view, it is essential nonetheless that such a person shares and is motivated by the same Christian values which unite us in faith, for this is at the heart of the Towards Healing process. Whether it is in some way preferable to have a non-Catholic is in my view an open question. Such an appointment would certainly enhance the credibility of the process as an outreach rather than a defence mechanism. On the other hand, the Director also has an important internal ‘audience’ for his or her work. Knowledge of the processes, people and culture of the Church is a not inconsiderable asset which is more likely to be found in a practising Catholic. It is also important that the Director has the trust of the Church’s leadership. There are people who have had an active role in dealing with these issues in the past or who have such a role at present who should be strongly encouraged to apply. There is no reason, for example, why outstanding candidates for the position should not come from the existing membership of the QPSRG.

My inclination would be to suggest that the Church adopts no stance on the question whether it would be desirable to appoint a non-Catholic but seeks the best person for the

job, taking into account the various qualities and characteristics of all the applicants. Ultimately, the question of whether the Church might be better served by a person from a different faith community is a question that can only be answered by looking at all his or her attributes, not only the question of faith tradition.

#### **Recommendation 14**

The position of Director should be advertised so as to make it clear that the position is open to people who belong to another faith tradition, subject to the requirements of any relevant anti-discrimination laws in Queensland governing such an advertisement.

#### *e) Financing, office space and support*

There is a clear need, given the scale of the operation in Queensland, for the new Director to be given dedicated office space and support services. Inevitably this means greater expenditure than at present, for the Robertsons have effectively been subsidising the cost of the operation through their personal generosity in allowing their home to be used. There seems to be widespread agreement that as Dr Robertson's term comes to a close, office space needs to be found, not least because the Church needs to give attention to such matters as the storage and security of files, and the issue of access to those files in the light of the Commonwealth's Privacy Amendment (Private Sector) Act 2000.

Certain interviewees also considered there was a need for secretarial back-up to the Director so that if he or she is away, the caller can speak to a person during normal business hours, not to a machine. Some interviewees expressed difficulties in making timely contact on professional standards issues given the way currently the system relies on the personal availability of one person, the Director, without a back-up system.

The most resource-efficient way of resolving these issues would be for space to be found in the Catholic Centre or the offices of a church agency, and for the receptionist services of that organisation to answer calls to the Office of the Director if they are not answered directly by that office. Secretarial support could be shared.

I don't think it is an objection that this situates the work of Towards Healing too close to the church agencies. Towards Healing is a Church initiative and there seems to be no need to disguise it.

**Recommendation 15**

A Professional Standards Office be established within the Catholic Centre or other such centre, sharing the secretarial and other resources available on an appropriate cost basis.

Funding is of course a matter for the Bishops and Leaders. At present, costs are shared in a 55%/45% ratio. In New South Wales, the Catholic Education Commission makes a 25% contribution. Under the present arrangements, the problem of multiple processes means that the Catholic Education Offices do not use the general processes of Towards Healing all that much. However, as these problems and overlaps are sorted out, it can be expected that more of the work of the Director, including proactive and advice work, will be generated by the Catholic Education Offices and the smaller ones might certainly benefit from the availability of the Director's advice when dealing with problems which arise in school settings.

The alternative is a user pays system, but I am not inclined to recommend it at this stage. The priority ought to be to get people using this system rather than having inconsistent multiple systems, and a user-pays approach might discourage this.

If the Catholic Education Offices contribute to the cost of the Office, they may wish to be represented also on the Liaison Committee. As noted above, this ought to be a matter for the Bishops and Leaders to decide. The argument against the inclusion of a representative of a Catholic Education Office is that Catholic Education comes under the authority of the diocesan Bishop and therefore its interests can be represented on the Liaison Committee episcopally, just as the views of Religious Institute schools can be expected to be represented by the Leaders. The reason why recommendation 11 above includes only representatives of the Bishops and Leaders is that Towards Healing is a document jointly adopted by the Bishops and Leaders nationally. Thus while there would be no reason at all why the Liaison Committee should not include a representative of Catholic Education, in the absence of

such agreement, it is better for the Liaison Committee to reflect in its membership the bodies which have direct responsibility for establishing and implementing the Towards Healing process.

**Recommendation 16**

The Catholic Education Offices should be asked to make an appropriate annual contribution to the running costs of the Professional Standards Office.

*f) The role of the Deputy Director*

Towards Healing provides that there may be, but need not be, a Deputy Director. If there is one, then he or she should be appointed by the Bishops and Leaders, not elected by the Resource Group:

35.3.2 The Bishops and Leaders of Religious Institutes for each State may nominate a Deputy Director who may exercise any of the responsibilities which are delegated to him or her by the Director.

As a starting point, it would be useful for the Resource Group, in consultation with the present Director, to articulate the need for a Deputy Director and what roles he or she should perform. With the workload currently involved in Towards Healing, there seems a very good case for having a Deputy Director, but it is not clear that she is currently being called upon to fulfil particular tasks or that she has defined responsibilities. If the appointment has not been made in the manner required by Towards Healing then it could be regularised at the March meeting.

**Recommendation 17**

The QPSRG should examine the need for the position of Deputy Director and what roles he or she should perform.

## 6. The QPSRG

The QPSRG is a valuable resource for the work of the Church in Queensland. It contains a range of people who are knowledgeable and dedicated to their work. Between the members, there is a great deal of experience and expertise. There are nonetheless a lot of problems to be addressed, including issues about appointments to its membership, its role in relationship to the Director of Professional Standards, the need for a business plan, and the issue of confidentiality.

### *a) Appointments*

#### (i) Who appoints?

Currently, appointments are made at the yearly joint meeting of the Bishops and Leaders. However, this tends to be a ratification of decisions made elsewhere, and at a different time of the year. There is no formal system for deciding the issue of appointments to the QPSRG and it may be that as a result of the way that processes have evolved, the CLRIQ does not have a sufficient voice in that process.

#### **Recommendation 18**

All appointments to the QPSRG should be made by the Liaison Committee to be established between the Bishops and the Leaders. This will ensure that the Bishops and Leaders have an equal voice in appointments and that they can consider the balance of expertise and gender on the Resource Group.

#### (ii) The balance of appointments

While I recognise that there are differences of opinion on this, I recommend that there be no major changes to the composition of the QPSRG. The membership of the QPSRG is to

some extent dictated by Towards Healing. That document takes an expert group approach rather than a representational approach. The text reads as follows:

35.2.1 The Resource Group shall consist of at least one priest and one religious and a suitable number of other persons (no more than ten), both men and women, of diverse backgrounds, skilled in areas such as child protection, the social sciences, civil and Church law and industrial relations. Members of the Resource Group shall be appointed by the Bishops and Leaders of Religious Institutes.

There is currently no-one on the Resource Group with expertise in industrial relations, and this is a gap which it would be desirable for the Church to fill at the earliest convenient time.

There is a tension in Queensland between having diocesan appointments, which ensures some degree of geographic spread, and appointments based upon expertise, which ensures that the group is balanced in its professional make-up. Perhaps the main issue is whether there should continue to be diocesan representatives. This effectively means that five members are nominated by the Bishops and these nominations are based on where they live rather than the expertise which they bring. Despite this, the present PSRG membership does contain a diverse group of people with a balance of expertise, which suggests that the apparent contradiction between a representational approach and an expertise approach to appointments can be overcome. In any given group, there may be individuals who fulfil more than one criterion for appointment.

Around the country, different patterns have been established. In New South Wales, the membership of the group is mainly derived from the greater Sydney region. In Victoria, the separate scheme in Melbourne means that the city/country issues do not arise. Other States do not have such large population centres outside the capital city. Each state has a different history and different needs.

The representational approach does provide many practical benefits, particularly for the regional areas beyond Brisbane and the Gold Coast. It ensures that the work of the QPSRG is not dominated by Southern Queensland perspectives, and it keeps the other dioceses in

touch with the work of the QPSRG in a direct way. Members can also report back to the diocesan groups, and link up the local initiatives with the statewide work of the Resource Group. For these reasons, I would conclude that the diocesan representation fulfils a useful role and should remain.

This raises an issue, however, about the composition of the diocesan groups. These groups are active in the four dioceses outside Brisbane. While they were set up to advise the diocesan bishop, there seems no reason to limit their membership in such a way that they cannot also include representatives of the religious institutes. If they were to evolve naturally in this way, then they would function as a kind of regional subcommittee of the QPSRG rather than merely as diocesan committees. It has been suggested that it would be very valuable if the Brisbane area committee were activated again.

Another issue concerning composition is the place of the Catholic Education Offices and Centacare. I consider it highly desirable that there should be someone from each of these organisations on the QPSRG. This happens to be the situation at present, but not necessarily by design. Given the central importance of the work of Catholic Education Offices in contemporary child protection, and the expertise they can bring, as well as the need to foster better linkages between the QPSRG and the education sector, I recommend that there be a representative of a Catholic Education Office on the QPSRG. He or she might well meet other selection criteria as well. It would also be desirable for the Liaison Committee to bear in mind the Religious Institute schools and Centacare in considering the balance of appointments.

The final issue is the inclusion of non-Catholics on the committee. There is great value in sharing expertise between the faith communities, and non-Catholic members, through their contacts, could open up linkages to other people who could assist the work of Towards Healing in various ways. The inclusion of non-Catholics would also help challenge tendencies towards an inward-looking culture, or too ready an acceptance of ways of doing things which are less than optimal. There are plenty of those in any organisation, but especially old organisations.

### **Recommendation 19**

Appointments to the QPSRG should endeavour to include:

- Representatives of the dioceses.
- At least one priest and one religious
- A representative of a Catholic Education Office
- Non-Catholics
- People with backgrounds in child protection, the social sciences, civil and Church law and industrial relations.

The Group should also aim to achieve a reasonable balance between men and women and reflect the importance of lay people in the life and governance of the Church.

#### (iii) The term of appointments

All members of the QPSRG have a term of appointment (normally three years in the first instance with a one or two year renewal possible). This seems to be more a matter of informal practice than formal constitution, and the issue of how many times a person can be reappointed does not seem to have been settled. It is only now, of course, that these issues are arising.

In principle, it is highly desirable to ensure rotation by having limitations on reappointment. This helps to ensure the continual renewal of groups, and the trade-off in loss of experience is that knowledge of the processes and practices is more dispersed. A system of having a three year appointment with up to one renewal of two years would be very close to current practice in Queensland and would, in my view, provide the right balance. It is important however, that a formal rotational system should be introduced in such a way as to ensure that retirements from the QPSRG are not grouped together with a resultant loss of valuable expertise all at once, particularly as there will be a changeover of Director in the next few months.

### **Recommendation 20**

From 2004, all appointments should be on the basis that each person should be appointed for a three year term with up to one renewal of two years. A person may be reappointed following an interval of one year.

### **Recommendation 21**

The Liaison Committee should consider the length of term of the existing members of the QPSRG and make ad hoc provision for extension of certain individual appointments, in order to ensure that there is not an undue loss of expertise or of continuity as a consequence of turnover in membership of the Resource Group.

#### *b) The Role of the QPSRG*

One of the key issues which emerged from consultations with members of the QPSRG is some uncertainty about its role and the best use of the valuable time of its members. When Towards Healing was first developed in 1996, the functions of managing Towards Healing were given to the Resource Group and a Convenor was appointed to head this work. However, very quickly, a different model emerged in practice, with the larger States appointing paid Convenors who did most of the work. The revisions to Towards Healing in 2001 recognised the desirability of this, as well as the reality of it, by turning the Convenor's role into the role of Director of Professional Standards.

This has led to some loss of certainty about the purpose of the QPSRG. Is it mainly advisory, in which case on what matters should its advice be sought? How can the right balance be found between efficient case management, and consultation with the PSRG on cases? A number of members of the group felt that their time was not best utilised going through each case and that, especially where there are a lot of cases, this could be very laborious.

The role of the QPSRG needs to be more specifically articulated, but it is important first of all to make the point that the role of the Resource Group does not merely mirror that of the

Director. Because the Director's main role is managing cases does not mean that the Resource Group's main role is managing cases.

I suggest that the QPSRG should have the following roles:

- Providing general oversight of the work of Towards Healing in Queensland
- Developing policies and processes for the work of Towards Healing within Queensland
- Ensuring that the letter and spirit of Towards Healing is implemented by all Church authorities in Queensland
- Providing advice on issues related to professional standards to Bishops or Leaders
- Providing personal support and assistance to the Director
- Reviewing a summary of cases provided by the Director to the meeting
- Discussing difficult or complex cases as identified by the Director or members
- Determining when a case should be regarded as closed or when no further action can be taken
- Deciding on reviews of process
- Reviewing and keeping up to date the lists of contact people, accused's support persons, assessors and facilitators
- Ensuring appropriate induction processes for new participants in the work of Towards Healing, including new members of the QPSRG
- Developing and keeping under review, appropriate documentation of the roles of all those involved in the work of Towards Healing
- Ensuring ongoing training for all those involved in different ways in the work of Towards Healing
- Ensuring proper liaison with diocesan agencies and religious institute ministries
- Monitoring child protection processes and practices in all dioceses, religious institutes and ministries within Queensland and providing appropriate feedback and advice

- Providing advice on how to respond to Church communities affected by the revelation of abuse in the aftermath of the arrest or conviction of a prominent local Church figure
- Making representations collectively to individual Bishops and Leaders when the QPSRG has concerns about the way that a Church authority has handled a matter
- Advising Bishops and Leaders on the management of clerical sex offenders to ensure consistent practices across Queensland which are protective of the Church community
- Planning of education programs to help people understand issues about child abuse and sexual harassment in the Church community
- Playing a leading role in the prevention of abuse and neglect in the Church community
- Ensuring appropriate liaison with other relevant agencies such as the Police Service and Commission for Children and Young People
- Assisting the Director, the Bishops and the Leaders in developing an implementation strategy for *Integrity in Ministry*.

In general terms, the QPSRG ought to have the major role in carrying out the prevention strategies articulated at the end of Towards Healing, in particular, the following:

- 44.1 Each Church authority shall ensure that all Church personnel are made aware of the seriousness of abuse. They should be warned of behaviour that is inappropriate or which might be misunderstood as involving improper behaviour.
- 44.2 Each Church authority shall ensure that those working with children and young people are made aware of the issue of child abuse and are given information concerning processes for reporting disclosures of abuse. They should also be given information on how to conduct children's and youth ministry in such a manner as to reduce the risk of child abuse occurring.
- 44.3 Church bodies, especially those involved in providing care for children, shall have in place procedures, consistent with good child protection and

industrial relations practice, for verifying the suitability of persons for employment or for participation as volunteers. They shall obey all applicable laws concerning employment screening and the prohibition of certain convicted persons from employment involving children.

At this important stage of the work of Towards Healing, it would be useful for the Bishops and Leaders to articulate and confirm the functions of the QPSRG in the light of the above list so that the Resource Group has a clear mandate and job description.

**Recommendation 22**

The Liaison Committee, following advice from the QPSRG, should prepare a document for the endorsement of the Bishops and Leaders to articulate and affirm the roles of the QPSRG.

c) *The need for a business plan*

Following the formal articulation of the roles of the QPSRG, it would be highly desirable for the QPSRG to develop a business plan for what it wants to achieve in the next three years. Planning for this could begin immediately, since it ought to be an aspect of the Committee's ongoing work. Ideas which emerged from our discussions included the standardisation of letters for a variety of circumstances, and the development of a procedures manual documenting the detailed implementation of Towards Healing in the Queensland context. These would be very helpful to an incoming Director.

**Recommendation 23**

The QPSRG should develop a business plan for the next three years.

On the basis of comments made to me by various interviewees, a number of priorities suggest themselves for the immediate future.

(i) Review of the lists of assessors and facilitators

It is of the utmost importance that the variety of stakeholders, including complainants, accused persons, and Church authorities, have confidence in the independence and professionalism of those who play key roles in the process, in particular the assessors. This confidence is not universal at present, and there is a perception that some of the assessors may be too close to those who appoint them or to those they are investigating.

While I cannot comment on the validity of these complaints, such lists should always be kept under review and the pool of people available to serve the Church in this way needs continual renewal. In particular, the QPSRG should consider appointing people who are not Catholics to the list, if there are not some already. There can be no better sign of independence of the investigation.

(ii) Develop a new educational initiative

A number of interviewees considered that Towards Healing is poorly understood in the Church community. There is always a need for education about such matters to occur on a continual basis. The appointment of a new Director is the perfect time to conduct such a new educational campaign, of a scale similar to that which would have been needed when Towards Healing was introduced.

(iii) Liaise with Catholic Education Offices, Religious Institutes involved in education, and Centacare, to ensure complete consistency of policy and practice and shared understanding of respective roles

It is clear that the linkages need to be much better with major ministries which may appropriately have internal policies concerning child protection or sexual harassment, and which may receive complaints about past abuse directly. A high level meeting, or a series of meetings with different agencies, would be appropriate. This could for example, involve the Director and a sub-committee of the QPSRG, meeting with all the Directors of Catholic Education and with the leaders of those Religious Institutes with significant involvement in running schools.

### **Recommendation 24**

The priorities for the QPSRG should include:

- Review of the lists of assessors and facilitators, to ensure that there can be complete confidence in their independence and professionalism.
- A new educational campaign to make the Church community aware of what Towards Healing is.
- Liaison with Catholic Education Offices, Religious Institutes involved in education, and Centacare, to ensure complete consistency of policy and practice and shared understanding of respective roles.

#### *d) Confidentiality*

The QPSRG is different from the PSRGs of other States in that the names of the accused persons are made known in discussion of the cases. Certain members of the QPSRG seemed quite wedded to this practice, considering that it aided discussion. Others were concerned about the practice. In other states, first names are used and the details given on a non-identifying basis. Towards Healing is silent on the issue of how meetings should be conducted.

In my view, this issue needs to be considered from the perspective of those with most to lose from their identification: the accused persons. The Church, even in as geographically spread a situation as Queensland, is like a very large family in which people tend to know one another in person or by reputation. It is very difficult to know something embarrassing or untoward about a person in the work of the QPSRG and to put it out of one's mind. Even if we may be unaffected by the knowledge of the allegations made (and indeed the conclusions reached about those allegations) that is not to say that the accused person will not be adversely affected if he or she knows that people know.

I am entirely unpersuaded that the benefits of knowing names outweigh the disadvantages, and the maintenance of anonymity has not harmed the work of the PSRG in other States. As

a general principle, the sensitive handling of complaints requires that only those who have to know the identities of the relevant people should do so.

**Recommendation 25**

The QPSRG should normally not be made aware of the identity of accused persons.

## 7. The Management of Cases

The survey responses, the analysis of files and observations from attending the QPSRG meetings raise the following issues about case management.

a) *The use of assessors*

As noted above, one explanation for the dissatisfaction of those complainants who responded to the surveys was that there had been no assessment of their complaints. By assessment here, I mean independent investigation, as understood in the 2001 edition of *Towards Healing*. One complainant wrote:

“I am not satisfied with the way the Professional Standards Resource Group handled my complaint regarding a priest from my own Diocese. The process was cut short as soon as the priest responded to the complaint. I was basically told that in cases like this it ends up with a lot of ‘he said/She said’ and never gets resolved. I was expected to just walk away and forget what this priest had done to me. There was no attempt to ascertain the truth of my complaint...I was given no right of reply to his response and any witnesses I may have had were ignored.”

The allegation concerned, inter alia, sexual misconduct and while other allegations made might have fallen outside of the boundaries of *Towards Healing* it is not clear why this matter was not responded to further.

The main reason why, it seems, assessors are not utilised has been discussed above. Many cases are diverted to be dealt with directly by the Church authority because they involve claims of compensation, but the Church authority also would benefit greatly from having an independent assessment of the veracity or otherwise of the allegations. No such complaint should ever be denied without an assessment, unless it is diverted in accordance with the terms of para 38.3 of *Towards Healing*.

There ought to be an assessment in all cases where the conduct complained of falls within the definitions of abuse in *Towards Healing*, where it is not appropriate that the complaint be dealt with informally (see 38.3), and where the Church authority does not accept the substance of the complaint as formulated. Assessments are all about transparency. Of course, if the Church authority accepts the complaint because of its own knowledge of the circumstances, there is no need for an assessment. Even still, I would advise against accepting complaints where some kind of financial reparation is involved, without having some form of investigation. A victim advocacy group has warned that there are a very small number of unscrupulous people who are manufacturing such complaints, taking advantage of the pastoral approach adopted in *Towards Healing*.

Assessments are very useful even where the accused person is dead, or has left the Church, or will not cooperate. If there are doubts about the complaint, then the report of an independent assessor can justify its rejection. In the 1999 national survey, one Queensland Religious Institute complained that it had been asked to pay for counselling for a complainant when its records showed the complainant was not in the care of those sisters at the time the alleged circumstances were said to have occurred.

Independent assessment may also be important to persuade the insurance company of the validity and seriousness of the complaint. Assessments may also be very useful in working out the magnitude or otherwise, of the risk of allowing a person to continue in ministry where abuse has been substantiated.

#### **Recommendation 26**

The Director and the QPSRG should review practices relating to the use of assessments.

b) *Filtering cases*

A number of cases brought to the meeting which I attended involved claims of corporal punishment. While sometimes, the complainants attribute devastating effects to this, such claims would normally be outside the scope of Towards Healing because the definition of abuse is:

“Behaviour by a person with responsibility for a child or young person which causes serious physical pain or mental anguish without any legitimate disciplinary purpose as judged by the standards of the time when the behaviour occurred.”

It might provide for a speedier response to such complainants if they are filtered out on receipt, preferably by the contact person in consultation with the Director. I understand that the Church authority normally responds sympathetically and offers limited counselling as a pastoral response. This could happen more quickly in these cases if they are diverted in this way from the beginning. They should not be included in case statistics.

There will be cases where there is a doubt about whether the alleged behaviour falls within the definition of abuse, and on such matters the Director may wish to consult the PSRG or some members of it. If the behaviour could not have had a legitimate disciplinary purpose, then it is a Towards Healing matter. In cases where the behaviour does seem to exceed the boundaries of legitimate disciplinary practice, the Director may wish to deal with the matter on an informal basis under para 38.3 of Towards Healing. Towards Healing is for the more serious cases of physical, sexual and emotional abuse, not cases of discipline which we might regard as excessive.

**Recommendation 27**

Complaints raising nothing more than disciplinary practices which were accepted practice at the time, should be referred out from the Towards Healing process by the contact person in consultation with the Director.

c) *The identification of the responsible Church authority*

Where the complaint is against a priest but the abuse happened in a children’s home or other facility run by a religious institute there seems to be some confusion about the responsible

Church authority. There appears to have been a tendency to pass the complaints to the religious institute as the responsible Church authority.

It is important that the Church authority responsible for the accused person should be clearly identified and that the matter should be handled accordingly.

**Recommendation 28**

The Director should ensure that the Church authority to which a complaint is referred is the one which had supervisory responsibility for the accused person at the time of the alleged offence.

*d) Complaints against more than one Church authority*

At present, there is one file for each church authority, not one file for each complaint. A claimant, particularly if working through a lawyer, may name more than one religious entity in order to maximise the options for getting one to accept responsibility. The structure of the Church can be very confusing to people.

Where a person claims abuse, say, in two schools run by two different authorities, it is better than a co-ordinated approach is taken to responding to the person's needs. In some cases, a joint facilitated meeting may be appropriate. Otherwise, there is a risk of a fragmented response.

I think it would be preferable to have one file for each case, with the Director working out the appropriate authority or authorities to respond. If more than one Church authority clearly has a responsibility, then it is best to identify the primary authority with whom to liaise from a case management perspective. Both authorities will of course need to be involved in the process at some level.

**Recommendation 29**

There should be one file for each complaint, not one file for each Church authority responsible for responding to a complaint.

e) *Cases involving the Archdiocese of Melbourne and the Society of Jesus*

These organisations have their own complaints procedures and it is better just to refer cases to them within their jurisdiction rather than maintaining the file because they originated in Queensland.

## 8 Other issues

- A number of people, especially from Help Line, identified that there were problems with out of date lists of contact people, with the consequence that they make calls to people who used to be on the list but are no longer.
- One Bishop identified the need for a national canon law tribunal to be established. It is too difficult for each diocese or Church authority to set up on its own since relevant experience is non-existent in Australia and relevant expertise is limited. The Vatican is clearly pushing the Church to respond to these cases canonically, and despite all the difficulties in so doing, a penal process needs to be an available option in appropriate cases.
- One respondent to the survey indicated that she could say little because of the secrecy clause in her settlement. Towards Healing is now clear on this. Secrecy can be imposed on the terms of the settlement (especially financial terms) but should not prohibit anyone from telling their story. This needs to be communicated to all the lawyers advising Church authorities.
- A number of respondents raised the issue of pastoral care of complainants who take the matter to the Police. We strongly encourage them to do so, but if they do so, then there may not be any pastoral response under Towards Healing at least until that legal process is concluded.
- It was suggested that complainants should always receive a letter acknowledging their complaint and indicating how it would be dealt with. A number of complainants and contact people also identified lack of communication about the progress of the case as an issue.

- A number of contact people said that they would like feedback on the result of the process. They put a lot of effort into the early stage of it but then feel out of the loop.
- One member of the QPSRG observed that when the Bishop or Leader appointed to liaise with the Resource Group attends a meeting for a brief period, there is no agenda and the time could be better utilised if the meeting were more structured.
- A significant number of interviewees expressed concern about the management of clerical sex offenders who have been released from prison. The Bishops need to be aware that there is a lack of confidence that appropriate arrangements are in place to ensure that clerical sex offenders do not abuse their position again. Even if conditions have been attached to their life within the Church, it is not clear that these conditions are being adhered to. The Bishops may wish to seek advice from the QPSRG and diocesan groups, specifically on this issue. Alternatively, the issue could be raised as a national problem, since, as one Bishop noted, it is hard to keep track of non-active priests once they leave the diocese.
- There is a need for more guidance about what is an appropriate level of compensation when ex gratia compensation is being considered. In many cases, this issue is dealt with by Catholic Insurance and consistency of approach is promoted by its involvement. However, some Church authorities are, apparently, not insured by CCI in relation to older claims of abuse and so there is a gap in coverage. This also leaves the Church authority without appropriate advice on what is reasonable or appropriate by way of ex gratia payment. The solution to this problem may be at a national level. It would be most helpful if CCI were able to provide advice to non-insured authorities, perhaps on a fee for service basis, when such issues arise.

Finally, specific response should be made to items within the Terms of Reference which have not been covered in the foregoing. Section 2 of the Terms of Reference concerns the performance of the present Director of Professional Standards. As I have indicated earlier, Dr Robertson has made an enormous contribution to the work of the Church in establishing the system in *Towards Healing*. The issues which have emerged about the adequacy of that system have been discussed above. In general terms, the survey responses indicate that all the participants in the process feel that they have received good training and support. The

exceptions to this are people whose roles have been more occasional. In my view, Dr Robertson has established practical ways to deal with the size of the task in Queensland. It is evident that there is an excellent degree of liaison with the Bishops.

The issue of storage of files is a matter which will need attention when Dr Robertson comes to hand over to his successor. The issue has been considered by the National Committee for Professional Standards and there has been an agreement not to destroy any documents for the time being. The Privacy Amendment (Private Sector) Act 2000 (Cth) is also highly relevant to the issue.

#### **Recommendation 30**

The incoming Director, together with the QPSRG, should develop a written policy on storage and security of Towards Healing files, and access to those files, in the light of the requirements of Church policy and the Privacy Amendment (Private Sector) Act 2000 (Cth).

## **9 Conclusions**

A report of this kind by its nature identifies what needs to be done. It is apparent that there is a lot which needs to be done, in particular to overcome the problem of multiple processes which are inconsistent with Towards Healing. Having said these things, it is important to emphasise again how much is being done well. The Church has come a long way on an issue which reaches to the heart of its credibility. The next stage is an evolution from the present, not a revolution, and all concerned should have a positive and optimistic view of the work which lies ahead.

Prof. Patrick Parkinson

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