ROYAL COMMISSION INTO INSTITUTIONAL RESPONSES TO CHILD SEXUAL ABUSE

Public Hearing
(Day 17)

Level 17, Governor Macquarie Tower
Farrer Place, Sydney

On Tuesday, 19 November 2013 at 10.00am

Before the Chair: Justice Peter McClellan AM
Before Commissioners: Justice Jennifer Coate
Mr Robert Fitzgerald AM

Counsel Assisting: Ms Gail Furness SC
Mr Simeon Beckett
MR BECKETT: We commence today with the reading of the statement of [CA] dated 23 October 2013. I propose to read her statement.

THE CHAIR: Do you know where we find that?

MR BECKETT: Yes. It is in exhibit 3-1, volume 1, tab 1.

THE CHAIR: Thank you.

MR BECKETT:

My name is [CA] and I was born in 1945.

I lived in Lismore with my father, my mother and my younger brother, Richard, who was born on 21 November 1947. One day, when we were still very young, my mother gave Richard and me some money and then locked us in one of the rooms of the house. When my father got home from work, she had gone.

My father could not look after us, so we went to stay with relatives for about a year.

When I was about five years old, Richard and I were sent to live at the Church of England North Coast Children's Home in Lismore. When we first arrived, I remember feeling so frightened. Richard and I were clinging together in the dormitory, crying. I was horrified by the way they would push us around. I didn't understand what was going on.

I lived at the Home until I was about 14 and a half years old. During that time, I was physically, psychologically and sexually abused by staff and ministers at the Home.

At about 14 and a half years old, I was adopted out to a family. Richard was sent to live with the family I was placed with for a while, but he was sent back to the
Home after about two months. After that, I didn't see him for seven and a half years. We were not told this was going to happen and we could not say goodbye. Richard had thought that I had left him and I think he was quite resentful about that.

My father had not given permission for me to be adopted. I believe that he signed something to say we were not allowed to be adopted out, but the Home did it anyway.

When I was about 15 and a half, I started to do nursing at the hospital. I would work, then walk home to feed my adoptive siblings and do the washing and the cleaning, then I would return to work.

I spent my life working hard. I only ever had one holiday. When I stopped working, I started having dreadful panic attacks. I would wake up in the middle of the night, sure that someone was harming me. This would happen night after night. I couldn't understand what was happening. I guess, when I look back now, it was because I had nothing to focus on. Before I had been too busy, I could never think about my life and what happened to me.

It got to the point where I would go into the garage and stay in there all day. I would pretend I was not at home. I decided I couldn't live any more, so I thought I would have to hang myself.

I went to a psychologist to get help. She asked me if I wanted to go for criminal compensation for what had happened to me in the Children's Home. I was horrified. I felt that no-one was going to help me. I never went back to the psychologist.

I decided to write a letter to the Anglican Diocese of Grafton and tell them what happened to me at the Home. I wasn't seeking compensation. I just wanted to
tell them my story. I wanted to ask them, “Tell me now, what are you going to do about it?”, and “What do you do to look after people who were abused in the Home?” Annexed is a copy of the letter I sent to the registrar ...

I will read some short extracts from the letter. It is a letter of 20 October 2005 from [CA] to Mr Comben at the bishop's registry in Grafton:

Dear Mr Comben,

It is with a great deal of fear and pain I write this letter at last, to share and inform you of a life that I know replicates so many who were in care in the North Coast Children’s Home in Lismore.

Then down to the second-last paragraph on that page:

This is my sixth attempt to write and I have set this date as my last attempt. The panic is setting in. My heart is racing and I am trying to breathe through this, as the pain in my gut gets worse. After so many years to put the words to paper and share this account is a very difficult and daunting process.

Then the next page, the fifth paragraph:

There were so many conflicting emotions and standards. Pray in the church, special prayers in the home chapel to make us good and be grateful for the home we had and the food given. Then have the minister fondle your little body. He would hear our prayers in the dark dormitory at the top end of the home. A chair pulled to the chosen child’s bed and as all chanted the prayers, his hands would wander over the small budding body. His mouth on lips that had never known a gentle human touch, while his tongue would explore a mouth that needed to scream. We never told, for the beatings were to be feared more than the
violation of what we believed ourselves to be - worthless. Is it any wonder in later years we never knew what to do when someone reached out to us?

Over to the next page, the fourth paragraph:

On one occasion, the one that finally broke him. My brother, who was a very bad asthmatic whose lungs to this day are badly scarred, who contracted TB, refused to say the Apostle's Creed. He was beaten until his back was laid open and bleeding. Not once, but over and over. The scars to heal in welts, to this day visible and a constant reminder of the sheer brutality we lived under. No-one soothed his open wounds. No-one helped up from the floor. No-one covered the broken child. Why? Because no-one cared. I don't know how they explained that act of brutality. Someone must have seen his back.

Next page, the fourth paragraph:

Night visited with new fears. With the morning light bringing degrading punishment if you soiled your bed or vomited during the night. The toilets being what seemed a long way in the dark dormitory for a little child already filled with fear. The soiled sheet was wrapped around your head and body. The ammonia, or vomit from your own excrement burning your eyes and permeating your being. You were paraded to the laundry to wash your bedding and clothing and then drag your mattress to dry in the sun under the gaze and taunting of your fellow inmates.

Then the last page, STAT.0059.001.0016, the second-last paragraph, the last sentence:

I have touched the lives of incredible people, but the most amazing thing will be when I look in the mirror and see a beautiful, precious person who truly has
learnt to cherish who she is and not hide behind her fears and know absolute peace.

I am sorry that this has fallen on your shoulders. I wish you peace and with respect, ask one question. Imagine if you gave away someone you loved, the only person you had to love, would you be able to bear the pain.

Yours sincerely

[CA]

Then returning to the statement, from paragraph 15:

It was around this time that my brother, Richard, told me that he had gone to the support organisation, Bravehearts, who had put him in touch with a solicitor, Mr Simon Harrison from Nicol Robinson Halletts. Richard told me that the solicitor was going to look into what happened to him at the Children's Home.

Reverend Pat Comben, Registrar at the Anglican Diocese of Grafton, responded to my letter on 22 November 2005. He asked to meet with me to discuss the matter further.

Mr Harrison rang me in late November and spoke to me about the fact that he had been contacted by a number of people who were abused in the Home as children. I told him that I had arranged to meet with Reverend Comben to discuss my matter. He wished me well.

Not long after that - I am not sure of the date - I met with Reverend Comben and another lady, Mrs Catt, from the Anglican Church. Reverend Comben was lovely to me at the time. He told me that the Bishop was away but would be back the following week. Reverend Comben said to me, "I can say I have looked into your eyes and I know what you are telling me is the truth."
I will be in touch with you shortly."

I never heard anything further from him.
I know that two of the Ministers who abused
me were still alive at that time but have
since passed away.

My brother Richard had started legal
proceedings against the Anglican Church so
I decided to join him and the others who
came forward in relation to abuse at the
Children's Home.

Around that time Richard told me he had
been receiving letters from people who had
lived around the Children's Home during the
time we were there, who had stated that
they had heard the abuse and the hurt and
children screaming all the time.

I received a letter from my lawyer,
Mr Harrison, on 3 February 2006 advising
that his firm had notified the Church of
the various claims against it by myself and
other victims.

Whilst I initially felt that the Diocese
believed me and was prepared to assist me,
it appeared to me by that stage that they
were not as willing to help. I felt like
they were becoming more resistant as more
people came forward with claims of abuse.
To me, it seemed that the Anglican Church
began denying what had happened and I felt
that I was being accused of lying about my
experiences in the Home.

My lawyer, Simon Harrison, was negotiating
on behalf of the group of claimants with
the Diocese's lawyers from Foott Law & Co
for quite a long period. My recollection
is that I was told by Mr Harrison that
there would be a meeting in December 2006
between the lawyers for both sides, where
they would try to reach a settlement.

From memory, the lawyers were unable to
reach an agreement at that meeting, but
Mr Harrison told me that Reverend Comben
had been very rude in that meeting, and
said, in reference to the group of victims,
that we “should have been happy to have had
a roof over our heads”.

The negotiations continued for some months.
It seemed to me that it was going backwards
and forwards and backwards and forwards.
I was not really happy with the solicitors
and the way they were handling the case.

A settlement was reached around March
or April 2007. An offer was made to me and
to the other victims. The Church wanted us
to sign something that would stop us from
taking any further action against the
Church. I remember that the Church was not
accepting any responsibility at all.

I felt the offer and conditions were
unacceptable and did not feel that what
they called the “compassionate payment” was
genuine. I was devastated. Other people
decided to take what they could get.
I couldn’t believe people could take the
money for what was done to their life.
I felt that they wanted it all wrapped up
and forgotten about.

Richard and I both decided to reject the
offer.

Before the finalisation of the settlement,
we had received an anonymous letter. It
was terrible. It was around this time that
I understand that Richard had been writing
to the Church and had organised to meet
with Bishop Keith Slater of the Grafton
Diocese. The meeting was held on 3 July
2007. I went to the meeting with Richard
and my friend. Jenni Woodhouse, Chaplain
of the Sydney Anglican Diocese, was also
there.
I felt that Bishop Slater sat there like a disgusting person during the meeting. I had wanted him to listen to me. I showed Bishop Slater the anonymous letter I had received, which he read and then handed to Jenni. Jenni read it and I could see from the look on her face that she was horrified. Bishop Slater just looked at it like it was nothing to worry about.

After the meeting, Bishop Slater wrote to Richard and me, asking what he could do to assist us to move past the pain and distress.

I responded to Bishop Slater's letter on 27 July 2007 and told him that I felt it was hypocritical for the Church to deny responsibility for the Home and that I felt I deserved fair and just compensation.

Bishop Slater wrote back to me a couple of weeks later, telling me that what I was seeking in relation to the Church's care package in which he said I would betray the other victims and damage my integrity if I wanted more than the others. He offered me $22,000.

Simon Harrison had provided me with information about the settlement offer around this time. I felt that I could not morally accept the offer, as I didn't believe the Church offer was reflective of any genuine remorse.

I was disgusted by Bishop Slater's letter of 14 August 2007 and felt I had been intimidated and manipulated. I wrote to the Primate of the Anglican Church in Australia, Archbishop Phillip Aspinall, on 12 September 2007, telling how I felt about how I had been treated.

Archbishop Aspinall wrote back to me on 18 September 2007, assuring me that he was continuing to encourage the Grafton Diocese...
and Bishop Slater to resolve the matter promptly.

I was unable to write back to Bishop Slater directly until October 2007. I felt that my frame of mind was so impacted by his letter of 14 August 2007 that I would not respond appropriately. I felt that the letter was terrible. I felt that he was calling me a traitor, and I indicated that I could not accept the Care Package offered.

Bishop Slater responded to my letter of 8 October 2007 on 18 October 2007, saying that he had tried to "reach out" to me and had not intended to minimise my experience by making the offer.

I wrote back to Bishop Slater, telling him that I did not feel that his letter to me addressed in any way the assumptions he had made which had offended me. I was still upset that he was not making a sincere effort to apologise and acknowledge the harm caused by the Church.

Bishop Slater responded on 24 December 2007. In the letter, he says that he became "personally involved" to assist me to achieve closure. He also included an apology in the letter, which he said was offered to those victims who had previously signed deeds of release with the Church for abuse in the Home.

I felt that Bishop Slater's apology in his 24 December 2007 letter did not go far enough. It was a generic apology and showed no understanding of my own personal trauma or of the ruination of my childhood. I wrote back to Bishop Slater expressing my dissatisfaction with the apology.

In early 2012 I wanted the matter dealt with because I was getting sick. I wrote to Foott Law & Co and told them that
I wanted to accept the offer.

Mr Peter Roland, a solicitor at Foott Law & Co, wrote back to me on 27 February 2012. His letter stated that his firm had been advised in 2007 by my lawyers that they no longer acted for me and informing me that their file relating to abuse in the Home had been closed.

I felt that the letter from Foott Law & Co was dismissive. I wrote back to them on 10 March 2013.

I recall Foott Law & Co refused to offer me any financial reward and I did not receive any financial support until earlier this year [meaning 2013].

It has been very difficult to hear the Church deny that they were responsible for the care of the children in the Home and to have them fight us all the way through. There were letters to the editor in local newspapers which stated that the Home was not a bad place to live. They spoke about Matron O'Neill and the care she gave to the children. Matron O'Neill was really a wonderful woman, but the abuse I was talking about happened before her time there. I feel that the Church chose to ignore the period in which the abuse was happening, which was when Matron Martin was in charge.

I have been terribly affected not only by the abuse in the Home but by the way the Church have dealt with me. I became very sick, and I ended up packing up everything about the Children's Home because I felt that I couldn't deal with it any more. Later I had a stroke. I believe that all the stress contributed to it.

It's been difficult financially too. I am still waiting for the details to be finalised with regard to my claim, but
I recently received $5,000 from the Diocese
to assist me in the short term, to tide me
over.

That is the conclusion of [CA]'s statement.

I call Anne Hywood.

<ANNE ELIZABETH HYWOOD, sworn: [10.20am]

<EXAMINATION BY MR BECKETT:

MR BECKETT: Q. Ms Hywood, I wonder if you could state
your full name and occupation for the record, please?
A. My name is Anne Elizabeth Hywood. I'm currently
a project consultant. I most recently finished a role as
acting registrar in the Anglican Diocese of Grafton.

Q. You have provided your address to the
Royal Commission?
A. Yes.

Q. You might wish to speak a bit more closely to that
microphone.
A. Okay.

Q. I can see you have brought some documentation with you
into the witness box. Can you please identify what you
have with you?
A. I just have a copy of my statement and the annexures
and just some personal handwritten notes.

Q. Is that the statement of 23 October 2013?
A. Correct.

Q. Have you read that recently?
A. Yes, I have.

Q. Do you say it is true and correct to the best of your
knowledge?
A. I say.

Q. You have just mentioned that you were the acting
registrar at the Diocese of Grafton. How long were you the
acting registrar?
A. I was formally employed by the diocese in January
2013. Initially, it was anticipated it would only be for
a few months, as the incumbent was on leave. However, his leave was extended and the position continued throughout the year until October.

Q. And that was Mr Anthony Newby who was on leave?
A. Correct.

Q. You had had some experience, I understand, in the Diocese of Adelaide; is that correct?
A. Yes. Between 2003 and 2008 I was executive officer of the Anglican Diocese of Adelaide. That role, executive officer, is similar to the role known as registrar in the Diocese of Grafton.

Q. I think as part of your involvement there, you were involved in some professional standards matters in the Diocese of Adelaide. I wonder if you could tell the Royal Commission briefly what those were?
A. When I commenced my role in 2003 there were a large number of claims against the Anglican Diocese of Adelaide, primarily relating to alleged abuse by a former church worker, Mr Robert Brandenburg, who had been a leader of CEBS, Church of England Boys Society, and there was a group claim of a large number of people against the diocese relating to the actions of Mr Brandenburg and others.

Q. So you were there from August 2003. We have heard of the Professional Standards Ordinance that was adopted by General Synod in 2004 and elsewhere by individual dioceses. Were you involved in the adoption of that in Adelaide in about that time?
A. Yes. I think the Diocese of Adelaide also adopted it, as did Grafton, in 2004. There was a national body working on the development of a model ordinance that was recommended to all dioceses throughout Australia for adoption, and most dioceses adopted the ordinance as it was recommended or with some slight variation around that time.

Q. Is that body that you are referring to the sexual abuse working group of the General Synod of the Anglican Church?
A. Yes. I think there may have been another group, known as the professional standards commission, at that time.

Q. So it is one or other or both of those organisations?
A. Yes.
Q. The ordinance was introduced in 2004 in the Diocese of Adelaide?
A. I believe it was that year, yes.

Q. Was there an associated protocol that was also adopted in Adelaide?
A. Yes. Also recommended along with the national model for the ordinance was a protocol, which was more specific about the various roles that people should play in relation to the administration of the ordinance. It outlined the role and responsibility of the professional standards director and the role and responsibilities of members of a professional standards committee. It outlined the role of the head of the organisation, which could be the bishop of a diocese or the head of an Anglican school, and it also outlined the role and responsibilities of the registrar, executive officer, the person who fulfilled that role in each diocese.

Q. Do I take it, then, that the essential machinery of the professional standards system is established in the ordinance of each diocese - the Professional Standards Ordinance?
A. Yes, that's correct. And then I would say the protocol actually expands upon that and says how it should be implemented.

Q. I will take you to the provisions in a moment. Essentially the ordinance establishes a professional standards committee; is that correct?
A. Correct.

Q. And a professional standards director?
A. Correct.

Q. And a professional standards board?
A. Yes.

Q. They all have different tasks to perform?
A. They do.

Q. Then those matters are expanded on, to a degree, in the protocol; is that correct?
A. That's correct.

Q. In addition to that, a further document, which I think you have alluded to in your statement, was developed within
the Diocese of Adelaide. What was the name of that
document?
A. That document was called "Healing Steps". It was
developed and, by memory, I believe introduced late in
2004. When I say "introduced", it would have been adopted
for implementation by the diocesan council.

By the end of 2004, the diocese had been working hard
to try and resolve a number of claims and it was becoming
evident that the very legalistic process that was being
applied, with lawyers representing claimants and our
lawyers negotiating with them, was a very difficult process
for the survivors who were seeking support, and the diocese
wished to implement a more pastoral model of responding to
people. The primary objective of the development of
Healing Steps was probably to speed up the process by which
people could engage with the church to --

Q. Can I just interrupt you and ask you what were the
central tenets in terms of the way in which the church
interacted with the individuals in the process set out in
Healing Steps?
A. In Healing Steps?

Q. Yes.
A. The professional standards director was the key point
of contact and would take the person's statement and
arrange an investigation that the allegations were correct.
When they were satisfied that the allegations were correct,
they would support a recommendation that this person may be
eligible for a financial settlement.

When that was the case, we would arrange an
independent facilitator, someone who was not involved with
the church at all but who was paid by the church for their
services, to arrange a mediation.

There was a lot of effort made to give the person
making the claim a lot of power in how that mediation was
set up. They could say where they wanted it to be, who
they wanted their support person to be. If they chose to
have legal representation, they could.

Importantly, we tried to find a balance in that
mediation so that if they didn't have legal representation
for any reason, then the church would not have a legal
representative with them. We thought that it was very
important that there was balance and an opportunity for
there to be a conversation in the room.

They also identified who they would like to be there
representing the church. It was usually, in the case of
Adelaide, the archbishop.

Q. When you say "they", the claimant?
A. The claimant. They would say, "I would like to tell
my story to the archbishop. I would like to receive an
apology from the archbishop." That was usually the format
of the meetings. I would usually - I attended probably
about four or five in the period that I was executive
officer, and I would attend.

The person would have the opportunity to tell their
story. The archbishop would respond and would apologise at
that point and acknowledge how terrible their story was.
The archbishop would usually leave at that point and
I would discuss with the person the level of financial
settlement that might be appropriate.

Q. When you say "I", as executive officer, you --
A. As executive officer, I was authorised. There may
have been preparatory discussions beforehand where I would
have a sense of what the level of settlement might be.

Q. Then if there was agreement at that meeting, what
would occur?
A. If there was an agreement at that meeting, a deed of
release would be arranged. The deed of release did not ask
confidentiality on behalf of the claimant. They were free
to tell their story and talk about their involvement with
the diocese and the process. However, the diocese made
a commitment that it would not reveal anything about the
claimant's story or the process.

Q. We received some evidence yesterday from Mr Campion of
him being given something called a care and assistance
package that had been developed by the Sydney Diocese and
which Reverend Comben had provided to Mr Campion. Were you
aware of that evidence?
A. Yes, I heard that evidence yesterday.

Q. That particular document that was shown to Mr Campion
included a schedule, which set out different classes of
people and a monetary limit with respect to three classes.
I think they were $15,000, $35,000 and $75,000, depending
upon the severity of the abuse the person had suffered.
Did Healing Steps have something similar?
A. No, Healing Steps was not a capped financial scheme,
and a key reason for that was that the purpose of
Healing Steps was to try to encourage as many people to
settle their claim with the diocese through that process.

There was a view that if it was said that the maximum
that you could receive was $75,000, some people who had
received some indication that their claim might be worth
more than that would feel that they didn't wish to enter
into the Healing Steps process, and, in a sense, the church
felt that we would then be forcing them to litigate. So it
was open and, in my experience, through the Healing Steps
mediation process we settled some claims for amounts of
$30,000 and some claims in the hundreds of thousands of
dollars. There was no capped - at all.

Q. Is it appropriate to make an analogy between that care
and assistance package and the Healing Steps; do they
perform essentially the same function but in different
ways?
A. I think there is another area where they are
different, in addition to the financial capping. That care
and assistance package, I think, identifies that it's
possible to have a conversation or sit and meet with church
representatives, but it isn't a fundamental part of the
process. It doesn't prohibit it, but it isn't
a fundamental part of it. And I think it is really
important that church leaders sit and listen to people's
stories. The story we heard yesterday from Mr [CK] was
incredibly harrowing and moving, and church leaders need to
hear those stories.

Q. I wonder if the witness could be shown exhibit 3-3,
annexure 1. This is the policy bundle. If it could be
brought up on the screen as well, please. Ms Hywood,
I wonder if you could open that volume to tab 1?
A. Yes.

Q. Is that a Professional Standards Ordinance you came to
be familiar with when you became the acting registrar at
the Diocese of Grafton?
A. Yes, it is.

Q. Did you form an opinion as to whether it was similar
to the model ordinance and the one you had worked under in Adelaide?

A. I didn't read it or compare the documents. I assumed it probably - I don't - I cannot say if the Diocese of Grafton made any amendments to the model.

Q. Just let me take you through some of the key provisions, if you could assist the Royal Commission. On the first page there, clause 2(1), there is a definition of "Church body"; do you see that?

A. Yes.

Q. It says it:

... includes a parish, school, any body corporate, organization or association that exercises ministry within, or on behalf of, the Church.

What's your understanding of the words "exercises ministry"?

A. That would be seen to be a church entity - I suppose that's just another way of saying "church body" - that is recognised as an Anglican organisation. It may have "Anglican" in its name or may have a legal connection to the diocese in which it operates.

Q. "Ministry", as I understand it, is a very wide word meaning render aid or service. Is that your understanding and the church's understanding of what the word "ministry" means?

A. Yes, that is a broad definition. I think the definition of "ministry" in the church is clearly the obvious one of ministering to people and serving and aiding the people, but it is also exercising the authority of the church as well. It is being a representative of the church in some form, like a school. An Anglican school is an extension of the ministry of the church in that regional area.

Q. Even though it is providing education?

A. Yes. It is still exercising the ministry of the church.

Q. Then the ordinance covers "Church Worker". That's a defined term there that includes "clergy" or "a person employed by a Church body" and then other persons
"performing a function with the actual or apparent authority of a Church". So it is a reasonably wide definition; would you agree?
A. Yes, it is. Probably "with the actual or apparent authority of the church" - the actual authority would often mean a reference to whether that person was licensed by the bishop. The bishop licences clergy, but a bishop may also licence a layperson. There may be a lay youth worker operating in a parish, and that person may hold a licence from the bishop. So that would be reference to the actual authority of the church, to be a licensed person.

The apparent authority would be perhaps more open to some discussion, but say there was a person working in a parish who clearly was leading some group but for some reason wasn't licensed by the bishop, it would still be identified that they were operating with the apparent authority of the church.

Q. I will just ask you about that, because there is some evidence that we have with respect to the licensing of clergy and the term "licence to officiate" or "permission to officiate". Are you saying that there is another category of licences for laity; what are those licences called?
A. Every diocese would have different categories.

Q. In the Diocese of Grafton?
A. In the Diocese of Grafton, there is a category called licensed lay ministers, or lay readers, I think - licensed lay ministers, in the Diocese of Grafton, and they are people that are licensed by the bishop to conduct elements of leading worship.

Q. Over the page there is a defined term, "examinable conduct". What is your understanding of what that term means?
A. It is conduct that should be examined in accordance with this ordinance, meaning that it is - well, it goes on to say it's conduct which might call into question the fitness of a church worker to hold office or hold a licence.

Q. What are the sorts of matters that would impact upon the fitness of a church worker?
A. Whether there had been any reports or suggestions that they had potentially interacted inappropriately with
children or other vulnerable people.

Q. What about charges for criminal offences, and so forth?
A. Oh, absolutely, yes.

Q. Then if you wouldn't mind, if you could just go to clause 8, which is on page 525, the professional standards committee is established. They are appointed by the Bishop-in-Council?
A. Correct.

Q. The Grafton Diocese says that there are at least three members and that the director shall be one of those members. So the director is not the chair of the professional standards committee. Why is that?
A. I think the director provides more a role of servicing the committee. The director is the first point of contact for people making complaints and therefore is the person who would be preparing the agenda and bringing information to the committee.

I also think probably the intention is that the chair is someone who is independent of the actual workings of the professional standards process, as the professional standards director is.

Q. Going through to clause 20, the PSC's powers and duties are set out there. You have given some indication of some of those. It sets out there that it includes the implementation of the protocol:

   to act on information in accordance with
   the provisions of this Ordinance ...
   ... arrange for the conciliation or
   mediation ...
   to investigate information ...

Does that include examinable conduct?
A. Sorry?

Q. Clause 20(1)(f) says that one of the duties is to investigate information in a timely and appropriate manner.
A. Yes. So the information would go to a professional standards director - it may be a complaint of inappropriate behaviour or examinable conduct - and then the professional standards committee would arrange for that to be
Q. I think we see from the definitional clauses that "information" includes alleged conduct and alleged inappropriate or unreasonable conduct by a church worker; is that right?
A. Correct.

Q. Over the page, subclause 20(2) sets out both the power and - I want to ask you about this - the duty of the PSC. How do you understand that the PSC has a duty to do the matters set out there?
A. I think their duty is to ensure that all information is treated seriously and examined and resolved to the best that it can be resolved.

Q. For example, if we look at (2)(a):

conduct wherever it is alleged to have been engaged in by a Church worker resident or licensed in the diocese, or engaged by a Church authority ...

Do you see that?
A. Yes.

Q. Do I take it from that that your understanding is that the professional standards committee had a duty, in fact an obligation, to exercise its powers about conduct with respect to somebody who is licensed in the diocese?
A. Absolutely.

Q. Then there are other situations there as well, are there not, which engage other jurisdictional matters? For example, if it was a historical matter - that is to say, the person had been licensed in the diocese but no longer was licensed in the diocese - they would have an obligation to exercise their powers?
A. Absolutely. Any information, whether it is historical or current, should be referred to the professional standards committee through the professional standards director.

Q. What about the situation where the conduct did not occur in the diocese but the claimant resided in the diocese?
A. We would encourage that claimant to make contact with
the professional standards director in the diocese in which they live, who would then liaise on their behalf with the professional standards director of the diocese where the abuse or whatever took place and would assist them go through whatever processes were relevant for that diocese.

Q. Who would have the obligations in that situation to effectively accept responsibility for that particular claim? Would it be the diocese in which the person resided or the diocese in which the conduct occurred?
A. The diocese in which the conduct occurred.

Q. You would agree that there is nothing that seems to indicate that from this particular clause - well, I'll ask is there anything in this particular clause that leads you to that assumption?
A. No. That assumption comes from my experience in working in this area, where it is the situation that the diocese in which the abuse or conduct occurred is responsible for dealing with any claims arising from that conduct.

Q. Just moving on to the director of professional standards, or often called PSD, clause 21 sets out the establishment of the director, and his or her functions at clause 22; is that correct?
A. That's correct.

Q. Then if I could take you to the professional standards board. If you move ahead to clause 35, it is on page 533. Is the professional standards board expected to have the same membership as the professional standards committee or a different membership?
A. No, it has a different membership. The professional standards board is a disciplinary board, like an internal tribunal. Often the membership includes quite senior members of the legal fraternity.

Q. I think we see from clause 37 that the function of the board is to inquire into and determine a question or questions referred to it pursuant to section 54. If we go then to section 54, it seems to pick up those issues of fitness of a church worker that were being investigated by a professional standards committee; is that right?
A. That's correct. So it is really after the professional standards committee has determined that the allegations are correct and that the person against whom
the allegation has been made has questions to answer, it would be referred to the professional standards board.

Q. Then what is the process that they undertake, just briefly?
A. I have been involved in one board process. The person who has a case to answer is invited to make statements. In the case I was involved in, that person chose to have legal representation. The board would consider all the information before it, the allegations. The person making the claim would have an opportunity to make statements as well. The board would then determine a recommendation to the bishop - in the case of clergy, whether someone's licence should be removed; or in the case of a church worker, who may be a lay youth leader or something like that, whether they should be prohibited from being involved in church work.

Q. Clause 69 sets out the powers that the board has, which I think encapsulate some of the things that you have referred to there. Subparagraph (e), I think you referred to, a recommendation by the board that the licence or authority of the church worker be revoked.
A. Mmm-hmm.

Q. That the contract of employment be terminated, where that is the nature of the relationship between the church and the person. It also includes, I think, at (k) a recommendation that the church worker should be deposed from holy orders. That's one of the matters that the board can recommend; is that correct?
A. They can recommend.

Q. But they don't make the decision?
A. No.

Q. Who makes that decision?
A. I think there is another clergy tribunal process, so they would recommend that that person would then go through another --

Q. A separate process had to occur?
A. I believe so, yes.

Q. Have you ever been involved in that process?
A. No.
Q. I wonder if you could assist us with the timing of reference of matters to the professional standards board. I think we have seen a process by which the professional standards committee receives a claim through the professional standards director?
A. At that stage, you would call it a complaint. Someone contacts the professional standards director to tell them of abuse they suffered, and the professional standards director should immediately bring that to the attention of the professional standards committee.

The committee may meet on a regular basis, so they might put that on the agenda for the next meeting, or they might think it is so urgent that they would need to call a special meeting to address it more quickly than that.

There would be a process that the committee would want to investigate it, to be assured that the allegations are correct and should be taken further. Then it would depend on the complexity of the matter how quickly they could come to a resolution around that.

Q. Do I take it, then, just simply put, the process is that the claim would be referred to the professional standards director as the first port of call?
A. Absolutely.

Q. And that he or she would then consider a number of matters - and I will come to the various parts of the protocol, but such things as acknowledgment, counselling, reporting to the police?
A. Correct. The very first thing the professional standards director must do is provide immediate pastoral care and support for the person who has come forward, and a diocese would normally just give a blanket approval to the professional standards director to immediately arrange some level of counselling. It may be an initial 5 to 10 sessions, to be reviewed after that.

If the professional standards director thought that the person was in financial difficulty that was directly related to a result of their experiences within the church, they may recommend that that be remedied in some way. In my experience, someone was in a very difficult living situation - this was in the Diocese of Adelaide - and the professional standards committee recommended that we pay the removalist costs to move that person to somewhere where
they and their children would be safer.

So you can deal with those immediate — the professional standards director could recommend that those immediate needs be dealt with. But, of course, I would just like to say --

Q. Can I just interrupt you briefly. On that particular issue, obviously you are speaking from your experience within the Diocese of Adelaide. Do you have experience of the way in which that particular association between a professional standards director and a claimant works in other dioceses apart from Adelaide?

A. I have been involved in a claim that was managed by the professional standards director in the Diocese of Sydney, and I understand that was similar. But the dioceses are all operating under the protocol, similar or the same protocol, and as the protocol says, those matters are the responsibility of the professional standards director.

Q. So after that initial period where you have ascertained the level of need for counselling — and we haven’t got to the stage of facilitation, which I think you referred to earlier — you would expect the professional standards director to then report to the professional standards committee?

A. I would just like to say what you prompted, which was of course any criminal action, the professional standards director must report to the police. That is also one of the very first things that they must do.

Q. Then what is the next stage?

A. When the professional standards committee has resolved that there is a case to answer, the abuse occurred, the person has been damaged, there are really two prongs. There is that sort of disciplinary process. If the abuse is not historical, if it is current and it is by someone who is currently operating within the church, it is terribly important that the bishop receives a recommendation that that person should be removed or — often someone is temporarily stood aside while an investigation is occurring.

Then the other side of — the professional standards committee does not have the authority to provide a financial settlement. While they might approve some
immediate financial assistance, they can only recommend
that the diocese may consider a financial settlement, and
then that moves up and is dealt with by the bishop and the
registrar and the Bishop-in-Council at that time.

Q. At that stage, it sounds like you are at a reasonably
mature stage of the process, in the sense that the diocese
is aware of the nature of the allegations and has done
perhaps some preliminary investigation of that if it's not
satisfied of the quality of the evidence; is that correct?
A. Yes. For example, in Adelaide, they may choose to
engage a private investigator, who would take another
statement from the person making the claim. Those private
investigators were people selected because they felt that
they would be able to deal with some of the vulnerability
of the survivors coming forward.

Q. I just want to ask you about the disciplinary part of
the equation. You have referred to interim measures taken,
risk assessment measures, if you like. At what stage would
the matter switch, if you like, into disciplinary mode, in
the sense that consideration be given to whether the
particular licensed member of clergy or the church worker,
however you describe them, is to be subject to
a disciplinary process? Where does that fall?
A. I think it is when the professional standards
committee has resolved the matter and made a recommendation
to the bishop. They may say that it is the view of the
committee that this person's licence should be revoked or
this person should not be allowed to work with young people
in the church. Then it would be up to the bishop of the
diocese to implement that.

Q. So the professional standards committee can't refer
something itself to the professional standards board; it
has to go through the bishop?
A. I would have to review the ordinance to remind myself
of that.

Q. In your practice, do you remember?
A. It probably - no, I wouldn't - I would have to review
the ordinance.

Q. Just to round that off, the next document in
exhibit 3-3, tab 2, is a document titled "Protocol for
Dealing with Complaints of Sexual Abuse", approved by the
Diocese of Grafton in 2004. Do you see that?
A. Yes, I can.

Q. Was that the protocol that was in operation when you were acting registrar at Grafton?
A. Yes, it was.

Q. I wonder if you could turn to page 12. There are page numbers at the bottom right-hand corner of the pages. You will see clause 14 is entitled "What the Director of Professional Standards does". Do you see that?
A. Yes.

Q. If we go through to clause 14.6, it says:

Reporting to State Authorities.

I presume that's a reference to include reporting to the police any matters that arise?
A. Yes, it specifically makes reference to a child and - I am sorry, I'm not familiar with what the professional standards director's obligation is if an allegation is about abuse or some criminal act against an adult. I'm not sure what the responsibility is there.

Q. Then at 14.8 we have something called "Pastoral Support". It indicates:

Appoint of a Pastoral Support Person to make contact with and provide Pastoral Support to the victim. Appoint a different Pastoral Support person to Provide Pastoral support to the Alleged Perpetrator ...

I wonder if you could tell the Royal Commission what a pastoral support person does?
A. I probably should have made reference to that as one of the early tasks in the professional standards director's role. The professional standards director would try to identify someone who they felt could assist, walk alongside the complainant during the process. They would talk to them about who that person should be. They would ask them very specifically about whether that person should or shouldn't be associated with the church.

Many people who have a claim against the church would not feel comfortable with a support person who was involved in the church. So the professional standards director
should have a group of people they can call on that they
would match to meet the needs of that person. That person
would - you would expect them to explain the processes that
they were going through and, if an investigator had been
asked to go and make another statement, to sit with them
during that process.

At the same time, say a person who had had an
allegation against them - the professional standards
director does something similar for the same purpose, so
they may have some support during the process.

Q. So what you have described as a pastoral support
person, at least in terms of the victim, has a relatively
limited role to guide the person through the procedure?
A. That would be correct.

Q. Under the ordinance and the protocol; is that correct?
A. Yes, and if, for any reason, they had to attend
a mediation, to sit with them and be with them, and also
potentially to speak on their behalf, if they were
uncomfortable doing so; if it moves to a Healing Steps
situation, to negotiate with the church the conditions of
the mediation.

Q. Would such a person be involved in providing an
apology, for example, on behalf of the church?
A. They would - they could request to the church that the
person was seeking an apology, and they may represent to
the church what that person would like to see in the
apology. They are a spokesperson for the person making the
complaint.

Q. Then if we go on to 14.11, it says "make
a recommendation to the Professional Standards Committee
about any need for internal assessment". Is that like the
investigation?
A. I think that's right. So it could be that they feel
that the information that they have received, just on face
value, the professional standards director may determine is
most likely to be true and that it can progress without
further investigation.

Q. Then we have at 14.12 "Counselling", as you already
alluded to I think earlier on, as to the arrangements that
may be made by the professional standards director to
provide counselling in fairly short order to a claimant?
A. That's right.

Q. Then there is an exploration of something called "Redress" under 14.13. Over the page, page 16, the kinds of redress are set out there. They include therapy, financial assistance, acknowledgment and apology, historical record, and so forth. Do you see that?
A. Yes, I do.

Q. So they are the kinds of matters that you would expect the committee to explore with the claimant to provide them with redress as part of the claim process; is that correct?
A. The committee probably wouldn't meet directly with the claimant. The key contact would be that professional standards director, who may, say, come and report to the committee that the complainant would be seeking ongoing counselling, has identified the need for some financial assistance, wants an apology. Sometimes people don't want a financial settlement, but they might say, "It would help if someone paid for me to retrain." So sometimes the financial support is not a cash settlement but something specifically paid for on their behalf.

Q. Then there is a paragraph just at the end of those dot points that says:

If the Professional Standards Committee recommends that redress be offered, check with the general manager/registrar ... that funding is available.

Is that a reference to the process you told us about earlier, namely, that once you get to the issue of finances, it needs to be referred to the registrar?
A. That's right, and there needs to be the normal authorities that any organisation has that an amount of money can be paid and authorised by the appropriate people.

Q. Would you please go to page 22, to clause 21. You will see that the clause is entitled "What the General Manager/Registrar does". We have just been through what the professional standards director does. Now there are some matters here with respect to the registrar. The role seems to be a reasonably limited one. We see that at 21.3 - liaising with the property and finance board. I presume that is with respect to the financial settlement?
A. That's right. Every diocese would have a different
group that would have control over the funds, so the
protocols in each diocese would be slightly different, but
the important thing is that the general manager, registrar,
executive officer, until this point, until the professional
standards committee has made its recommendation, has had
nothing to do with the complaint process at all. The
ordinance and protocols have been drafted so that the
leadership of the diocese is at arm's length from the
complaints process, so that it is the professional
standards director and the professional standards committee
who liaise with the complainant, who investigate their
situation and then make recommendations to the bishop and
to the registrar and the Bishop-in-Council about what
should happen next.

When I was the executive officer in Adelaide, I did
not attend professional standards committee meetings.
I would not have known what was on the agenda. I would not
have known what complaints were in the process. We
actually located the professional standards director's
office outside of the registry building and the files were
kept very separate. It was very important.

Q. Are those sorts of arrangements typical, in your
experience, of other dioceses operating under the ordinance
and the protocol?
A. I can't say, but I know that we took that very
seriously in Adelaide - the confidentiality. Even though
clearly I was a senior person in the organisation, I would
not have known what complaints were being dealt with by the
professional standards committee.

Q. One of the roles that are set out there is that the
registrar is responsible for instructing external lawyers.
I wonder if you could assist us with that part. Obviously
one of the issues in this matter is the operation between
the protocol and litigation processes as well. What is
your understanding of, at that stage, if the diocese
decides to instruct external lawyers - what happens to the
process being undertaken by the professional standards
director and the professional standards committee?
A. What would have happened is that the complainant would
now have engaged their own lawyers to make a claim. There
would be no reason for the diocese to instruct lawyers
unless they were responding to a legal claim from someone
else. So if the complainant had been through the
professional standards process and said, "Given everything
that has happened to me, I believe I'm entitled to
a financial settlement and I have engaged a lawyer to
assist me", it would be reasonable for the diocese to
engage lawyers to be able to respond directly to the
claimant's lawyers.

But in my situation in Adelaide, where Healing Steps
was in place, we would encourage the complainant to go
through that process, still with the support of their
lawyer - very important. Everyone is entitled to have
legal representation.

Q. I'm sorry, I will just stop you there. So you would
involve the lawyers in the professional standards process
within the Diocese of Adelaide?
A. At that point, I don't quite - to me, it shifts from
being the professional standards process, as dealt with in
the ordinance and the protocol, to now being the settlement
of a claim. But, yes, it is still part of the overarching
professional standards process.

Q. Is it the case, say, for example, we have talked about
financial settlement, but also things like acknowledgment
and apology are part of the professional standards process?
A. That's right.

Q. Where a claim has been made by a claimant through
lawyers, are those matters continued with?
A. Yes.

Q. What happens to the negotiation of things like an
apology and an acknowledgment?
A. Sometimes the claim comes before the connection with
the professional standards director. Someone may make
contact with the diocese to say, "I've just come to terms
with the abuse that happened to me some time ago", or you
may receive a lawyer's letter representing someone and
saying that they wish to take action.

We would then ask the professional standards director
to make contact with the person so that they go through
this process and then rely on the professional standards
committee to provide advice that there is substance to the
allegation and that the claim should be responded to.

Q. Finally, clause 22 sets out what the bishop does. He
or she is to oversee the protocol and ensure it is working
properly, to take disciplinary action and to receive
regular reports from the professional standards committee.
That seems like a reasonably superior role, in the sense
that the bishop is at the top of the hierarchy there. Am
I wrong in saying it seems like a reasonably limited role
in the professional standards process?
A. Again, it was designed that it is important that the
bishop is at arm's length until the end of the process. It
is important that the bishop is very familiar with the
ordinance and the protocol and should hold the registrar
and the professional standards director to account to
ensure that the protocol is being followed appropriately.
So the bishop should be ultimately responsible for making
sure that the protocol is complied with.

Q. I think you say in your statement that you began at
the Diocese of Grafton in the first week of January 2013?
A. I began in the role of acting registrar. I had been
engaged as a consultant in early 2012 to work with the
diocese on matters relating to the governance of Anglican
schools. So I was in and out of - I live in
Port Macquarie, which is three hours' drive from the
registry in Grafton, so I was only intermittently working
out of the registry office in 2012 and focused specifically
on working with the Anglican schools. But I commenced -
after Mr Newby went off ill, I was asked if I would take on
the role of acting registrar, and at that stage we thought
it would only be for a few months.

Q. Essentially, before that, you hadn't been involved in
any professional standards matters at the diocese?
A. Not at all.

Q. You say at paragraph 36 of your statement that the
committee effectively had not been active in recent years.
I wonder if you could expand upon that. How did you come
to discover that that was the position when you took over
the role as acting registrar?
A. I was involved in - I assisted Mr Newby prepare for
the annual synod of the Diocese of Grafton in September
2012. All of the committees of the diocese are required to
provide a report to the annual synod, and I was surprised
to see, as I prepared the papers, assisted him preparing
papers, that the report from the professional standards
committee said that they really had only had one matter to
deal with, and I think I asked Mr Newby, "Are there not
more professional standards issues in the diocese?", and he
said, "Oh, there were the ones to do with the North Coast Children's Home, but they were resolved a few years ago."

Q. So it was only the one current matter before the professional standards committee?
A. Yes, and that surprised me, because I would expect many dioceses would have a number of matters that they were dealing with at any one time.

Q. Were you told at that stage, in January 2013, about any contact with Tommy Campion?
A. I was aware of Mr Campion because he was - I think in December 2012 he had written to Bishop Slater and I was familiar with that letter. In fact, Bishop Slater had sought my advice in how he may respond to Mr Campion. That was a letter where Mr Campion wrote and said that he thought the diocese should put a printed public apology in a number of metropolitan newspapers.

Q. Were you aware of the background - having now reviewed it thoroughly, I think, and heard Mr Campion's evidence yesterday, were you made aware of the history of his particular complaints?
A. I would have asked about the history and would have been advised that he was someone who had been a member of the larger group that had chosen not to settle until some time later and was still dissatisfied with the information he had been provided about the diocese's duty of care at the children's home, and this had been an ongoing issue for him, and that he had continued to write and make contact with the diocese about that matter.

Q. Were you surprised at all that it was the bishop that was handling the matter, rather than the professional standards director?
A. Look, at this stage, in the context of it being a matter that was resolved and that Mr Campion had eventually accepted a settlement, the fact that he was still trying to seek answers to a specific issue, I thought that it was probably reasonable that he continued to write directly to the bishop, as it was the bishop that he sought the answer from.

Q. There is a sheet in front of you with a number of pseudonyms. The Royal Commission has made an order for the use of those pseudonyms, so I am just going to ask you about the first three of those. Do you recall being told
in January 2013 about a claim by [CA]?
A. Yes, I think I was informed that Mr Campion's sister, [CA], also was continuing to make contact with the diocese. I was informed that she had chosen not to accept a financial settlement.

Q. When was that communicated to you?
A. Probably early January. All of this coincided with me starting to have a look at the files that were held in the office. So I'm not sure if I was informed of that or I read it myself in reviewing the files.

Q. Was the matter that was before the professional standards committee [CA]'s matter?
A. I don't know.

Q. Did the chair of the professional standards committee tell you that [CA]'s claim was being considered by the professional standards committee?
A. No. The chair of the professional standards committee at that time did not communicate to me about any of the claims, and I wouldn't have expected her to do so, because it should be confidential.

Q. What about [CB] or [CC] - were you aware of those claims?
A. I first became aware of the claim from [CB] in early January 2013, when Archdeacon Ezzy brought in a letter from [CB] to my office. Archdeacon Ezzy was the commissary at that time. Bishop Slater was away, and Archdeacon Ezzy was fulfilling the role of commissary, which is leading the diocese in the absence of the bishop. The bishop had gone away and had left some correspondence for Archdeacon Ezzy to deal with.

One of those pieces of correspondence was a letter from [CB] that was 18 months old, and Bishop Slater had requested Archdeacon Ezzy to review a draft response that he had prepared and potentially to send that while the bishop was away.

Q. Send it to whom?
A. To [CB]. So Archdeacon Ezzy brought this in to me and expressed concern that he didn't think Bishop Slater's draft response was really suitable to answer a letter that was such an old letter and was really concerned that here was someone who had a complaint against the diocese, who
hadn't been responded to earlier.

Q. Just let me clarify some matters. Michael Elliott was the professional standards director when you started as acting registrar; is that correct?
A. Correct.

Q. He was located in Newcastle?
A. The diocese of Newcastle.

Q. He was providing services to the Diocese of Grafton; is that correct?
A. That's correct.

Q. Now, I understand that at about this time, the Bishop-in-Council letter called for a review, an audit of sexual abuse in the diocese, in preparation for the Royal Commission?
A. That's correct. The general secretary of General Synod of the Australian church had sent out to all dioceses in Australia suggesting that in preparation for the Royal Commission, a review was undertaken of all existing claims and complaints to see if they had been managed appropriately, in preparation.

Q. I think that's at AH-5 of your statement. What was the arrangement with Michael Elliott? Was he the one who was going to undertake that audit?
A. The Bishop-in-Council in November 2012 resolved that the professional standards committee, of which Michael Elliott, the professional standards director, was a member, should undertake that audit.

Q. What occurred, from your memory, as to the undertaking of that audit?
A. They resolved that in late November, I think, and then that's when Mr Newby went off ill and the position of registrar was, in effect, vacant for a while. So I don't think the professional standards committee were officially advised that Bishop-in-Council in November had asked them to undertake that audit. But in January, when I commenced, I met with the Reverend Lenore Moules, who was the acting chair of the professional standards committee, and advised her of the need for this audit to commence.

Q. Were you surprised that such a substantial resolution of the Bishop-in-Council was not referred to the
professional standards committee in those two months?
A. It would be usual for a letter or memorandum to be
drafted and sent to them immediately, but I would say
because of the fact that the registrar had gone off ill at
that time, and Christmas, it probably didn't happen.

Q. In any event, did you come to have some knowledge of
or conduct that audit yourself?
A. What I asked was what work had been done to date, and
Mrs Sue Mclachlan, who is compliance officer in the
diocese, had identified and found all the files that she
could relating to professional standards matters in the
registry and had them securely held ready to give to the
professional standards committee. What surprised me about
that was that professional standards files were held in the
registry and were not with the professional standards
director.

Q. Why did that surprise you?
A. Because of the confidentiality of the matters and the
fact that these matters should be dealt with at arm's
length from the leadership of the diocese, I was surprised
to find that there were files held in the bishop's office
and in the registrar's office.

I wasn't surprised that there were files relating to
the legal negotiations regarding settlement of the group
claim; that would be normal, that they would be held in the
registry. But what I identified was that complaints that
had come in, particularly from Mr [CB], that should have
been referred immediately to the professional standards
director had not been and had been managed by the bishop,
the registrar and the diocesan advocate. Therefore, the
protocol had not been followed.

Q. First of all, what did you do about the professional
standards files that were kept in the registry, apart from
those that related to the litigation?
A. I reviewed them to some extent to familiarise myself
with some of the issues and I identified a number of issues
of concern, but what was most important to me is that they
were immediately sent down to the professional standards
director and arranged for them to be boxed up, and
I personally transferred - drove to Newcastle and handed
them to the professional standards director.

Q. What did you do about the file with respect to [CB]?
A. That went to the professional standards director. And I also, I think it was in January, sent a memorandum to Michael Elliott saying that I had identified a number of matters that should have been referred to him for action and was now doing so.

Q. I will come to that in a moment. I wonder if you could just describe briefly the nature of the arrangement between the Diocese of Grafton and Michael Elliott? Was he a full-time professional standards director?

A. Michael Elliott was engaged as professional standards director by negotiation with the Diocese of Newcastle from 2009 onwards. My understanding - it would be normal for a diocese to engage a full-time or part-time person. The Diocese of Grafton, I think, felt that - I have been advised that the Diocese of Grafton felt that it didn't warrant engaging someone on an ongoing basis, so they arranged to access the services of Mr Elliott, but on an hourly rate, so that every time he did work on a matter relating to Grafton, that would be charged at an hourly rate and charged back to Grafton, rather than paying a set fee for his services.

Q. Do you understand why that arrangement was entered into in that way?

A. I have only been advised, and it's hearsay, that there was a view that there wouldn't be sufficient matters that would warrant engaging him for any longer period of time and that it would be more cost effective to just pay by the hour.

Q. In your evidence earlier today, you talked about the importance of the independence of the professional standards director and the professional standards committee. How would that sort of hourly basis arrangement affect the independence of the professional standards director, or how did it affect Michael Elliott's position?

A. I don't think it - we always say the professional standards director is independent, but they are paid by the church. But that's why the protocols are so important. Even though they may be on a salary or may be paid as contractors, they still need to be independent from the church leadership.

So I don't think the fact whether he was paid on an hourly rate - what it demonstrated to me is that the diocese hadn't made a full commitment to the professional...
standards process. Just by having a professional standards
director engaged on an ongoing basis to me demonstrates
that a diocese has a real commitment to ensuring the
professional standards processes are conducted properly.

Since then, the diocese has engaged Mr Elliott on
a different arrangement. There is a memorandum of
understanding which I negotiated with the business manager
of the Diocese of Newcastle where the Diocese of Grafton
now pays a set rate of $20,000 per annum for the services
of Mr Michael Elliott.

Q. Perhaps I should have put the question a little
differently. Was the arrangement with Mr Elliott with
regard to his services as professional standards director
one where he needed to seek approval for his work, even
though it was costed out on an hourly basis? Did he have
to come to the registrar or to the bishop to seek approval
to do certain elements of his job?
A. I'm not aware of that. One of the things that
concerned me was that there were communications throughout
the diocese that if anyone had any professional standards
matters to report, they should report them to the
registrar, and I don't believe that's correct. I believe
people should be encouraged to report them to the
professional standards director in the first instance.

So I think the issue is not that he may have had to
seek approval to take action but that he wasn't receiving
the information, potentially, that he should have received.
The letters from [CB] and [CC] went straight to the bishop
and the registrar and were not referred on to the
professional standards director.

Q. Until you referred them to him?
A. Until I referred them. Both those letters detailed
sexual abuse, and the protocol requires that that
information is immediately referred to the professional
standards director. So in January this year, when Mr Ezzy
showed me a letter that had been written 18 months earlier
advising of this abuse, I was very concerned that it hadn't
been referred to the professional standards director.

I should say that [CB] had received an initial
response, but what was outstanding was a response to
further correspondence.
MR BECKETT: I wonder if that is a suitable time.

THE CHAIR: We will take the morning adjournment.

SHORT ADJOURNMENT

MR BECKETT: Q. Ms Hywood, just before the break, you were referring to an email and a draft letter to Mr [CB]. I wonder if annexure GE-10 could be put on the screen, please. If we could have the whole page, if possible. Ms Hywood, I wonder if you could have a look at that document. Is that the email that you were referring to earlier?

A. Yes. I mentioned before that Archdeacon Greg Ezzy had brought me in a copy of a letter and draft response that Bishop Slater had prepared. The letter was from [CB]. Archdeacon Ezzy advised me that he had sent an email to Bishop Slater expressing his concerns about the draft response that Bishop Slater had prepared.

Q. Is that the email that you were led to believe had been sent by Archdeacon Ezzy to Bishop Slater?

A. Correct.

Q. I will come back to that in a moment. Annexure GE-11, I am wondering if that is the draft letter that was annexed to the email. If that could be brought up as a whole document as well, please.

A. Yes, I believe that was the draft that had been provided to Archdeacon Ezzy for his review.

Q. Did you understand at that time when Mr [CB] had written his letter to the bishop?

A. Yes, I understood that he had - I think he had made contact initially in 2011, and that, as this draft says, it was a response to Mr [CB]'s last email to the bishop.

I was aware of Mr [CB]'s initial letter to the bishop that he sent in 2011. What concerned me greatly was that Mr [CB] had started his letter, as many survivors do, by saying, "It has taken me three years to get the strength to write this letter to you." And when I reviewed the file of correspondence relating to [CB], the bishop had not responded to that letter personally, even though it had been addressed to him, but the diocesan advocate, Peter Roland, had been instructed to write to him to say that the claim would not be accepted by the diocese.
Q. Just in terms of the letter that is in front of you at the moment, you will see that the bishop is saying in his letter to Mr [CB] that he will ask the professional standards committee to review his claim. Do you have any concerns about that and whether that was the appropriate way in which to proceed?
A. I do. It must be referred to the professional standards director, not to the committee. It might just be a language issue, but it is important that these matters are referred to the professional standards director. Mr [CB]’s original letter in 2011, 18 months earlier, should have gone to the professional standards director at that time.

Q. Just returning to GE-10, you will see that in the email from Archdeacon Ezzy to Bishop Slater on 3 January 2013, Archdeacon Ezzy is saying that he is "uneasy about the draft response for the following reasons", and he sets out a number, including that the referral:

... will have the potential to infer that we have been derelict in our duty of care to this victim of abuse and will probably be perceived by [CB] and any media outlet or Royal Commission enquiry who get hold of the story that we are protecting our rights rather than dealing compassionately with a victim.

Do you see that?
A. I do.

Q. Was that expressed to you by Archdeacon Ezzy?
A. We had a conversation around his concerns. My response to that point he has made is there is nothing wrong with referring it to a committee. That is our protocol, that it is referred, that any complaint of sexual abuse is referred to our professional standards director to be dealt with by the committee. But I understand why Archdeacon Ezzy held that view, because there was a history in the Diocese of Grafton of these things being dealt with directly by the bishop and the registrar.

Q. What happened as a result of this email chain - was the letter actually sent, as far as you know?
A. No, I believe Archdeacon Ezzy didn't support the
letter being sent and that draft response we looked at was not sent, and I immediately collated all the information on Mr [CB] and sent it to the professional standards director for action.

Q. If we could come to annexure AH-8 to your statement, it is a letter dated 21 January 2013. Do you have that?
A. Yes.

Q. That's a two-page letter. On the second-page, it has your name, but we don't seem to have a signed copy. Was this letter signed and sent to Mr Elliott?
A. Yes, it was.

Q. So notwithstanding the position taken by the archdeacon, you took steps to refer both [CB] and [CC] to Mr Elliott; is that correct?
A. That's correct.

Q. What else were you intending to do by this letter?
A. I asked him - halfway down the page that is on display at the moment, I say:

   Can you please take appropriate action in your capacity as Professional Standards Director in relation to these two matters.

To me, that was the most important issue.

Q. You indicate, I think, in the second-last paragraph on that page that [CB] had first written in March 2011 and [CC] in 2010 or early 2011. What do you understand the status was of both of those particular complaints as at January 2013?
A. I had identified - I had found their files, and both those people had written directly to the bishop and both had received a letter in response from Foott Law & Co, advising that the diocese did not intend to respond to their claims of abuse at the North Coast Children's Home in the same way they had responded to those who were part of the group claim, and I saw no foundation why that should be the case, and that concerned me greatly.

   I also felt it was a pastoral failing of the bishop, in that these people had struggled to write their stories to him personally and thought how damaging it was that they just received a letter from a solicitor in response.
Q. You also enclosed a summary of 41 claims that you had found; is that correct?
A. That's correct.

Q. Is that the document at AH-6 to your statement?
A. That's correct.

Q. You say that that document is a summary of 41 claims against the Diocese of Grafton in relation to physical, psychological and sexual abuse, and you say that it identifies that 20 of those claims specify allegations of sexual abuse. Why were you referring that, given that you had been led to believe that those matters had been closed? Why were you referring that to Mr Elliott?
A. I sought confirmation that if 20 of the claims relating to abuse at the North Coast Children's Home related to sexual abuse, they had all been referred to the professional standards director and that the appropriate protocols had been complied with.

When I had just asked about the history of the claims to do with the North Coast Children's Home, I was told - and this was by Mr Newby, who may not have been fully briefed on the matter, but I was informed that the claims related to physical and psychological abuse, not sexual abuse, and that there was no need for them to be dealt with in accordance with the ordinance and protocol because the ordinance and protocol in the Diocese of Grafton only address matters of sexual abuse.

Q. Did you raise with him - sorry, that was Mr Newby?
A. Mr Newby.

Q. Did you raise that issue with Mr Newby once you had located this particular schedule?
A. No, I located this document after he was on leave, so I didn't discuss it with him. I was very concerned, having been informed that the matters related to physical and psychological abuse, to find that at least 20 of them specifically mentioned sexual abuse, and I was concerned whether they had been dealt with in accordance with the protocol.

Q. Just going to the first page that is in front of you at the moment, evidence has been given to the Royal Commission that this is a schedule that Mr Comben put
together in September 2006. On the left-hand column is the name - that's the name, as I understand it, of the victim or the former resident of the home?
A. Correct.

Q. Their sex, date of birth, residency - that is, when they were resident in the home, as I understand it?
A. Correct.

Q. Then the alleged abuse is set out in short form in that column, under that name, so that indicates whether they were sexually abused or not; is that correct?
A. Correct.

Q. Then the alleged perpetrators are set out there in a further column?
A. That's right.

Q. If we could just go through that document - it was of a number of pages?
A. A number of pages?

Q. Yes.
A. Yes.

Q. This document contains a number of pages. At the end, there is a summary, I think, starting on the second-last page. We see at the bottom of that page that is currently on the screen now, page 0063, the analysis says, under the total number of claims, there were 41, and for sexual matters, there were 20. Was that the basis upon which you determined that there were 20 matters that involved sexual abuse?
A. That's correct.

Q. If I could have the next page, too, please. Then, on the next page, "Alleged abusers", it sets out there the number of complaints against former clergy or current clergy, staff members and other associated people?
A. That's right. The number of times they were mentioned in people's statements, abusers.

Q. Did you have access to the statements, the statutory declarations that were provided to the diocese by Mr Harrison as part of the group claims?
A. I believe they would have been in the files that I had located. I chose not to go and read all those statements.
It was quite a large number of documents. So I relied on this document as a summary of those statements to indicate to me that there was sexual abuse perpetrated at the North Coast Children's Home, which I needed to be assured had been investigated properly.

Q. You conveyed this information to the professional standards director, Mr Elliott, on or about 22 January. What was his response when he received your letter?
A. He was very angry. He had been professional standards director since 2009. It was clear that the letters from [CB] and [CC] had been received by the bishop and the registrar in 2011 and they had not been referred to him.

Q. Did you say anything further about his position as a result of coming to that knowledge?
A. I said to him that I was really keen to work with him to try to fix these problems. His initial response - he was so angry, he really started questioning whether he could work with the Diocese of Grafton, whether they were fully committed to the professional standards process, and I encouraged him that we needed to respond to these people appropriately and encouraged him to continue.

Q. You said at the end of paragraph 50 of your statement: He seemed as furious as I was and I had to convince him to help sort out the files.

Why were you furious?
A. I was particularly furious. I had worked very hard in my role as executive officer in the Diocese of Adelaide on a number of sexual abuse claims and matters and working with others to develop Healing Steps. I had been elected as a member of the general standing committee on the national church, the Anglican Church of Australia, and had dedicated a lot of my time, effort and energy to ensuring that the Anglican Church in Australia had appropriate protocols. And I really believed after 2004, when the dioceses throughout Australia adopted these ordinances and protocols, that this type of problem wouldn't happen again.

I was also very conscious of the forthcoming Royal Commission and the fact that one diocese in the northern region of New South Wales, who hadn't followed the protocol, if it was brought to the attention of the Royal Commission, as it has been, would reflect badly on
all the good work that is being done in other dioceses throughout the church in Australia to try to get this stuff right. It's very difficult to get this stuff right, but the easiest thing to do is to follow the protocols that we set for ourselves.

Q. You have told us about [CB] and [CC]. What was the position with respect to [CA]? Was she also referred to Mr Elliott for him to take carriage of her matter?
A. Yes, I located a file and information on [CA]. I was very concerned at the response that she had received to one of her letters to the bishop. In [CA]'s statement that you read out earlier today, she talked about how she had made contact again with the bishop to talk about where she was at in her life, and, again, the bishop did not respond personally, but she received a letter from the diocesan solicitor that said, "Our file on you is closed", and I did not think that was an adequate pastoral response. So I also sent her file, or the documents I located, to Michael Elliott and asked that he make contact with her and start the process appropriately.

Q. I wonder if you could clarify what you mean by "adequate pastoral response"?
A. Well, I think it was an appalling pastoral response. Here was someone who had chosen to withdraw from progressing her claim against the church and at some point in time had made contact again - and I don't think, in January, I had access to the correspondence she sent to the bishop, but it was clearly making contact of some type. I'm not sure - I understand since that it wasn't actually reactivating her claim; it was just making contact. To receive a letter from a solicitor saying, "We were advised that you have withdrawn and our file on you is closed" I thought was an appalling response.

Q. I understand from paragraph 60 of your statement that you raised particularly [CB] and [CC]'s personal letters with Bishop Slater. What was the response that he gave you?
A. I asked why, given that their letters specifically mentioned sexual abuse at the home, he had not referred them to the professional standards director in accordance with the protocol. His response was, "Well, we just managed them the same way that we managed the other claims", which was through the lawyers. I was very surprised that the bishop of the Diocese of Grafton was not
more familiar with the protocols and role of the professional standards director.

Q. I will show you exhibit 3-3, annexure 4A. I think you still have the folder in front of you. Do you see that is a document entitled "Pastoral Care and Assistance", and it has "Professional Standards Unit, Anglican Church Diocese of Sydney" towards the bottom. Do you see that?
A. Yes.

Q. Were you ever shown this document by the bishop or your predecessor in that role, or, indeed, by Michael Elliott, as a document that applied in the Diocese of Grafton?
A. No, I wasn't. I was under the impression, for the complete period of time that I was acting registrar from January this year until when I left in October, that the Diocese of Grafton did not have a pastoral care and assistance package in place and in fact I had encouraged Bishop-in-Council to ask the professional standards committee to start working on one and had provided copies of Healing Steps that I had worked with in Adelaide and recommended that they look at similar things that are active in Sydney and other dioceses, because I believed that the Diocese of Grafton did not have such a package, program.

Q. When was the first time you came to know that the Bishop-in-Council had adopted such a package in 2005?
A. Only a few weeks ago, I was rung by Archdeacon Ezzy, the administrator of the diocese. Even after I left in October, I said I would be happy to continue working or talking with the diocese about the development of the pastoral care and assistance package, because I had had experience in working with that. Archdeacon Ezzy rang me and said, "Did you know that Bishop-in-Council had actually formally adopted the Sydney model in 2005?" And I couldn't believe it. I was very surprised that at times when I was raising that the diocese needed to develop one, there was no-one with any historical knowledge that in 2005 Bishop-in-Council had already adopted this.

Q. Just returning to your statement, then, in paragraph 60, you said that Bishop Slater said, with respect to [CB] and [CC], that "we just managed them in the same way we managed all the other North Coast Children's Home claims". I may have missed your answer on this, so
I apologise for that. What did you say after Bishop Slater told you that?

A. I would be guessing what I said, but I'm sure that I said, "These have to go to the professional standards director. They allege sexual abuse. That is our process. They have to be referred to the professional standards director."

I know that I discussed with Bishop Slater the fact that there were a number of problems with them not being referred to the professional standards director. It's not just that we didn't follow our own process, but these people did not have the benefit of the support that a professional standards director is there to provide.

We talked before about their ability to set up counselling, to provide immediate financial assistance and support, to appoint a support person to them. So the diocese had known of these claims for 18 months and these people did not have the benefit of being referred to the professional standards director and having that support and assistance.

The other problem is that the professional standards director is someone in a diocese that holds all the information about all the complaints that come in. Now, some of them may not be sufficient information to paint a picture about what truly happened somewhere, at a school, at a children's home, in a parish. The more information the professional standards director has, the more they can put the jigsaw together. So new information may assist them and may corroborate a story that has come from somebody else. That is why it is so important that all information goes to the professional standards director.

Q. You make some remarks at paragraph 64 of your statement about financial means of the diocese. You say that you raised the issue of a financial compensation payment to [CB] and [CC] and received the following response from the bishop: "Well, we are in the middle of a financial crisis." What was the nature of that financial crisis that you knew, or at least what was explained to you by the bishop?

A. I was well aware that one of the five Anglican schools in the Diocese of Grafton had got itself into financial difficulty and, in effect, the diocese had bailed it out, which put the diocesan finances under great pressure. So
my concern - I couldn't understand why - well, I believe it's not possible to just turn the tap off, to say, "Some people came forward and we were able to provide them with a financial settlement, but when the next people came forward, we're feeling a bit of a financial stress at the moment" - it's not possible to just say, "We can't respond to you for that reason." We have an obligation to deal with everything that comes forward.

There was also a sense that these people had missed the boat; there was one opportunity to make a claim about the North Coast Children's Home. I thought that that showed a lack of understanding, that people will come to terms with the abuse they suffered at various times in their life, and the Diocese of Grafton may continue to receive claims relating to abuse at the North Coast Children's Home for some years to come.

Q. I presume the bishop indicated to you that it was a once-and-for-all settlement, or perhaps they are the wrong words?
A. I'm not saying anyone ever said that to me, but there was a sense that - well, to me, making a decision to say to people who came forward after the group claims had been settled, "We are no longer able to consider your claim", is an indication that, "There was a chance and you missed it."

Q. As acting registrar, do I understand it that one of your duties concerned the management of the finances of the Diocese of Grafton?
A. That's correct.

Q. So during that approximately 10 months that you were the acting registrar, were you aware of not just the financial position of the diocese but the expenditure, what was being spent for various line items during that time?
A. Yes, I was familiar with the budget and operational expenditure.

Q. Was there any indication, with respect to that difficult financial position that the bishop said that the diocese was in, that measures were being taken with respect to other debts owed by the diocese to close off payment of those or restrict payment or take appropriate measures?
A. No. The diocese continues to be in a difficult financial situation, and all expenditure was monitored carefully, but there was no action specifically, in what
you just said, to stop paying loans that were owed or
anything like that.

THE CHAIR: Mr Beckett, I think we would like, at some
stage, to have some more detail about this.

Q. You say "difficult financial circumstances", but do
you have available to you now information that will enable
us to understand what that means?

THE CHAIR: I have some sense that the diocese may have
been selling some assets to raise money. I don't know
whether that is correct. I don't know what the financial
position was, say, two years ago, but, Mr Beckett, we would
like to know that. We would like to know whether or not
that issue was exposed to those to whom the church leaders
were talking at the relevant time.

Q. Was it discussed with you by the bishop?
A. Look, you are correct in saying that there is
a program of selling assets. This did occur before my time
in the role, but as the acting registrar over the last nine
months I am familiar with the arrangements put in place to
try to redress the financial difficulty. I said that one
of the schools got itself into difficulty. It needed
I think almost $7 million to - I will use the language to
bail it out, to address that.

Q. Was that done by selling assets or was that --
A. Primarily. They actually established what was known
as the bishop's appeal and parishes throughout the diocese
were asked to relinquish, to some extent, assets held for
the purpose of those parishes, so that if they had a spare
church hall or a block of land or a rectory that was no
longer required, they may make that available to be sold
and they may take some of the proceeds for the benefit
of the parish, but the balance of the revenue earned from
that sale would go to the bishop's appeal, and that would
offset what the diocese had paid out against the loan held
for --

Q. Was the $7 million paid out in your time?
A. Yes, it was. Sorry, there is a technical term for
what - there was a loan held for the - the school had
a loan with the diocesan development investment fund.
Sorry, I have just forgotten the term of what happened to
that loan, but basically the diocese relieved the school of
that loan but needed the funds to support doing that.

THE CHAIR: The more you are talking about these issues, it becomes clearer that we need to have a better understanding. What we really would like to know is the extent to which this issue emerged at a time when those responsible for the diocese were struggling with this issue of claims against it from the home.

Mr Beckett, what we also would like to know is, if the diocese was in serious financial trouble, then what, if any, efforts were made for a response from the whole church. We speak of the Anglican Church of Australia and you have told us about some of the issues which have a national approach, but we need to understand these things very clearly.

MR BECKETT: Yes.

Q. I wonder if I could show you a document just to follow up those questions from his Honour. If the witness could be shown 125D, if that could be brought up on the screen. That's exhibit 3-2. At page 362, just have a look at the entry at the bottom, 7(b), Clarence Valley Anglican School.

A. I take it that these are minutes of Bishop-in-Council meetings --

Q. Yes, thank you. This is minutes of the meeting of Bishop-in-Council, Thursday, 18 May 2009.

A. Right.

THE WITNESS: So the registrar at this point would have been Pat Comben, I believe.

THE CHAIR: Can that paragraph be enlarged? Thank you.

THE WITNESS: So there is a $12 million debt and the school had assets of $1 million?

A. That is what that says here. I'm more familiar with reference to a debt of $7 million.

Q. At a later point in time?

A. Potentially.

MR BECKETT: If we go over the page, then, this appears to be a debt financing arrangement for the Clarence Valley Anglican School. It sets out the debt as
$12.089 million as at May 2009 and then the various measures that are taken to reduce that debt to $7,210,000, including a capital fund, with trustees to pay a given amount; GDIF - that's the Grafton Diocese --

A. Grafton Diocesan Investment Fund.

Q. The diocese taking on a further $1 million of debt, and then a sale of Gunundi?

A. That was a church camp property.

Q. Then other measures. Were you aware of these measures when you became acting registrar?

A. Not in this detail, and I wouldn't know if this was actually what eventually happened. I was aware that a great deal of work was done to get the school in a more comfortable financial situation, but it was at the expense of the diocese and those parishes that sold properties to support this financial arrangement. But I would not know if that was actually how it was structured.

THE CHAIR: Q. At what stage do you understand the diocese returned to a proper footing in relation to the school? Was that in your time or before your time?

A. Before my time.

Q. And I take it there was still a debt, but it was thought to be a manageable debt?

A. Yes.

Q. Do you know when that was achieved?


THE CHAIR: Mr Beckett, Ms Hywood may not know, but we will need to know what the diocesan accounts, as it were, were at relevant times.

MR BECKETT: Yes.

THE CHAIR: And where money was and where cash might have been, and so on.

MR BECKETT: Yes. We have made some attempts to obtain some of the relevant documentation. I will have to do a review to make sure that we do have it to the Royal Commission's --

THE CHAIR: Q. I assume there are annual accounts, are
there, of some sort?
A. There are annual accounts. I could say that Archdeacon Ezzy, who you will be speaking to at a later point, was very actively involved in the financial arrangements at that time, and he would probably be better able to assist you than I would.

Q. To the extent to which you can help us, it is plain from paragraph 64 that the bishop's response, at least, was that he was concerned about there being a financial crisis?
A. Absolutely. I think --

Q. What was, then, your sense of the extent to which that was playing out in the response, or lack of response, that you perceived was being made to these people?
A. I think it was probably a very important factor. I think that decision, when they started to receive new claims, I think the fact that there was an anxiety that the diocese would have difficulty finding funds to meet these claims, and that maybe just trying to close it down and saying, "We don't have funds" would be a response.

Q. Were you involved in discussions about how funds might be found?
A. Since this year, we have absolutely identified that there may well be additional claims coming forward in relation to the North Coast Children's Home and there has been some work undertaken on how they may be funded.

Q. Does that involve selling more assets?
A. That is considered one option I'm aware of, yes.

Q. There will be, presumably, a report on that as well, will there?
A. A report?

Q. On the way one might fund claims.
A. I think it is still a work in progress within the diocese. When I left the role in October, there certainly wasn't a finalised strategy, but it is a work in progress.

Q. Is that work on paper or in emails somewhere?
A. I'm not sure where it would be --

MR BECKETT: There are a couple of documents that I may be able to assist with at this point, your Honour.
Q. If you could have a look at 125E, which is the document after the Bishop-in-Council minutes in the tender bundle - so it is exhibit 3-2, volume 2, tab 125E. Following a summons issued to the Diocese of Grafton, we have been provided with MYOB print-outs from the corporate trustees about the sale of property within the diocese. You can see we only have up to 2009. You will see that a large number of properties, to the value of $7.5 million, were sold in the period 2006 through to 2009. Were you aware of the sale of those assets?

A. No, I would have had no reason to review the assets that had been sold during that period when I was in my role as acting registrar.

Q. I will show you a further document. This one is in annexure GE-19, which will come up on the screen. It is also in exhibit 3-1, volume 5. It is an annexure to the statement of Greg Ezzy. I will go to GE-18, to begin with, and if the first page could be brought up. We have been told by Mr Ezzy about something called a three-year synod plan. Were you aware of that plan?

A. Yes, I am.

Q. What is the nature of that plan?

A. It is trying to get the diocese back on a sustainable track. The first bit is, as you can see, to ensure the financial viability of the Grafton diocese investment fund; to resolve the school problem; and to focus the diocese on enabling sustainable ministry, by that, meaning that the diocesan finances are in a stable situation that can support the parishes in the diocese, that the diocesan structure of parishes and bishop and ministry leaders is affordable and able to continue.

Q. If we could then go over to GE-19?

A. This is information I am familiar with. I made mention before of the bishop's appeal. The bishop's appeal had three stages. One, it was raising money to pay off the school's debt. The second one is to set aside some funds for the implementation of the synod plan. The third one is to build up a capital base to support the sustainable ministry of the diocese into the future. The primary way that is done is by selling these properties.

The first you will see is the Gunundi conference camp centre in Ballina. All of those properties in that first half of the document have been sold, and the amounts on the
right are the amounts that have been put into the bishop's appeal fund - it's a trust account - to support the ongoing ministry of the church. As that document says, there are still properties that have been identified for sale, which are yet to be sold.

Q. That seems to indicate that there was a reasonably extensive plan to address the finances of the Diocese of Grafton, at least by 2013?
A. That's absolutely correct, but, really, just to ensure the sustainability of the diocese as an operational entity and did not take into account any additional areas of expenditure, like having to respond to financial settlements arising from abuse. So the focus of this is just to keep the diocese viable and operating.

THE CHAIR: Q. Was there any sense, when you were there, from your discussions that the diocese might totally fail financially?
A. Just before I left, the annual synod was held. It was very difficult to present an operational budget for the next year of the diocese that balanced. It was a case where the required expenditure was going to exceed the available income, and that has necessitated a review of a number of areas of expenditure in the diocese, including the organisational structure of the registry. The number of staff and cost of the staff will have to be cut in 2014 for the diocese to meet its budget next year. And other areas of expenditure were also reviewed.

Q. Is its financial survival dependent upon an arrangement with a lending authority, a bank?
A. There are a number of lines of credit available, but the budget we focused on was really just about income/expenditure.

One of the issues with the Anglican Church in Australia and the Diocese of Grafton is, like many other dioceses, it is asset rich but cash poor. Many of the assets are tied up in trusts, so the diocesan leadership can't go and just sell an unused rectory or church hall or church without the approval of the parish council. The diocese has very limited access to assets it can sell without the agreement of others.

MR BECKETT: Q. There seems to have been a reasonably sophisticated program of asset sales and management of this
issue dating from at least that Bishop-in-Council meeting in 2009; is that reasonable?
A. Yes, that's correct, and Archdeacon Ezzy was given leadership of that asset sale program.

Q. You make some comments later about lack of provision for future claims of child sexual abuse. When you arrived in January 2013 to take over as acting registrar, was there any plan or provision made with respect to future claims?
A. Not at all.

Q. Was there any discussion about that?
A. There was no discussion, really, until all of the problems that I identified about the way things had been handled - in the future and the fact that I said we should expect more claims, and when there started to be discussions about posting a public apology, which we actually called for people to come forward - it wasn't until that time, so early in 2013, that there started to be serious conversations about how these future claims would be funded.

Q. If we then return to the start of 2013, in April 2013 you raised some issues with the Primate of the Anglican Church. How did you come to do that?
A. I had been contacted by the General Synod office, Martin Drevikovsky, the general secretary, to advise that the Daily Telegraph were running a story initiated by Mr Tommy Campion and were seeking a response from the Bishop of Grafton, and also the primate, because of his meetings with them.

I was, by this stage, well aware that - or it was my view, from what I had reviewed, that the diocese had not dealt well with Mr Campion, and I thought how on earth could we respond to questions in the Daily Telegraph about this story. So I chose to make contact with the primate's office, because I was aware that he was also being asked to respond to the media story, and spoke with the primate's executive officer and asked how they were intending to respond to the story.

The message I received back was that the primate would be making his own response and wouldn't be talking to us about a joint response between the Diocese of Grafton. Basically, the primate would be making his response and it would be up to the Diocese of Grafton to respond as it

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I said to the primate's executive officer that I was really concerned with what I had discovered about the way some of the matters at the North Coast Children's Home had been handled and I believed it would be valuable for the primate to be aware of those before he responded to the media.

In discussions with his executive officer, it became clear that the primate would be in Sydney the following weekend to attend the standing committee meeting, and I was going to be in Sydney for an unrelated church matter, and I said that I would be pleased to meet with the primate and to brief him on my concerns about the way the North Coast Children's Home matters had been handled, which I thought was important if he was going to be responding to a media story.

Q. Just so we can go to the relevant documents, can I just suggest that you had a meeting with the primate and he asked you to put your concerns about what was happening in Grafton into a document? A. That's correct.

Q. And you did so, and that's the letter to the primate of 1 May 2013; is that correct? A. That's right.

Q. Before you wrote that letter, did you speak to Bishop Slater or any other of the senior members of the Diocese of Grafton? A. I informed Bishop Slater that I would be meeting with the primate and for the purposes of discussing the response to the media story. Bishop Slater was quite well aware, at that time, of my concerns as to how things had been handled, so he would have been aware that I would be raising that with the primate.

Q. If we could go to AH-18. In your letter to Dr Aspinall, in the third paragraph of the letter particularly, you raise a number of issues:

... I have identified in regard to the Diocese's response which has been overly legalistic, has not been focused on the pastoral care and ongoing support of
survivors, has incorporated processes and
responses that have incurred additional
damage to individuals and, at times, has
not been managed in accordance with the
Professional Standards Ordinance and
Protocols which have been in place in the
Diocese since 2004.

That was a summary, obviously, of the entire letter?
A. That's right.

Q. It is a sizeable step to take. Why was it not
sufficient that those matters concerning [CA], [CB] and
[CC] had been referred to the professional standards
director, and now there seemed to be a process whereby such
matters were being referred to them?
A. It's correct to say that we had fixed some of the
issues by referring those outstanding matters to the
professional standards director, but I felt it was
important that the - I did not know what the primate's
response was going to be, but he needed to be briefed that
things had not been managed in accordance with the
protocols in case he wished to make any statement that he
was confident that everything had been handled properly.
I thought it was appropriate that he, as the head of the
Australian church, should not be put in a position of
believing that things were handled properly when they
weren't.

THE CHAIR: Q. In your discussions with Archbishop
Aspinall, did the question of the financial circumstances
of the diocese enter the dialogue at all?
A. I can't recall. It may --

Q. In the ordinary course of things, would the primate
know if the diocese was in financial strife?
A. I would think only if it was brought to his attention.
He did know that the diocese was in difficulty. He was
aware of that situation with the school. In fact, the
primate had initiated putting in place an entity known as
the independent oversight committee in the Diocese of
Grafton, which is a group of people with various expertise
in finance and church leadership, to be like an advisory
board to the Diocese of Grafton during this period.

Q. When was that put in place, do you know?
A. 2011.
Q. Do you know of the authority of the primate to put that body in place?
A. He didn't impose it. I understand that he - he has no authority to impose it, but he approached people as to whether they would be willing to participate and be members of that committee, and then it was actually up to the Diocese of Grafton to agree to that group being established and invite them to take on the role of the independent oversight committee.

Q. That was a response to the financial problems?
A. That's correct.

MR BECKETT: Q. Ms Hywood, if you would just go over the page to the start of page 2, you will see at the top there, you say:

... the principles of providing a pastoral response to survivors of abuse to ensure that no further damage is incurred during the reporting, investigation and settlement process.

Did you have some concerns about whether such damage had been done in the way that the Diocese of Grafton had handled claims?
A. Yes, particularly in relation to [CB], [CC] and [CA], the fact that their letters were responded to in a very legalistic way and that, in relation to [CB], there were great delays in responding to his continuing contact with the diocese, and I believe that there can be a great deal of damage done to people who get brave enough to come forward and tell their story, and if they are rebuffed by the church, that does more - just so much damage.

Q. With respect to [CB] and [CC], had you seen any evidence of that damage having occurred?
A. No, I hadn't. I know that I was anxious when the matter of [CB] was referred to the professional standards director - his letter to the bishop had really outlined his very difficult situation and his very poor mental health or depression, feeling about his life, and I was really concerned that when the professional standards director made contact with him 18 months later, would he still be alive? That is the sort of damage that can be done by not responding appropriately.
Q. Just going down through that letter, the fourth paragraph sets out the 40 claims, the group claims concerning abuse from the North Coast Children's Home. Then in the next paragraph you say you located the files in the registry, raising the same concern you earlier told the Royal Commission about, about them being stored in the registry rather than with the professional standards director; is that right?

A. That's correct.

Q. Then you say:

The files did not give any indication how the 20 claims alleging sexual abuse had been processed in accordance with the professional standards protocols in place in the Diocese of Grafton since 2004, or whether the police had been informed of any named perpetrators.

Do you see that?

A. Yes, I see that.

Q. What was your primary concern there about the informing of the police?

A. The document that we looked at before, that matrix of the list of claims and the perpetrators - many of them included names, and names of clergy, and it was terribly important that if there had been criminal acts done, those names were referred to the police.

When I say the files did not give any indication, of course, I only had access to what I found, so I was careful not to make allegations that things that should have been referred to the police weren't. All I was saying was, "I can't tell from what I have in front of me, and work needs to be done by the professional standards director, who is the appropriate person to do it, to check that everything was done properly at the time."

Q. You indicate in the next paragraph that Mr Gerber, when he was the professional standards director, had, you thought at least, referred matters to the police. Do you see that?

A. Yes, I do. I did identify, as I located documents, some minutes of professional standards committee meetings,
and it was minuted that some matters had been referred to
the police, and I also identified in subsequent minutes
that the police had responded and acknowledged receiving
the information and had actually asked that the
professional standards committee not do any further
investigations while the police undertook their
investigations.

Q. Did you get any indication from your review of the
material as to whether that matter had been followed up
with the police, that is, whether the investigations were
ongoing or whether they had ceased?
A. No. The minutes I referred to were 2007, and I had no
information about what had happened to those police
reports.

Q. Were you aware that Mr Gerber had written three
letters on 19 December 2006 to the police with respect to
two clergy and one former resident?
A. I think that I didn't have access to those letters,
but I think that is what I ascertained from reading the
minutes, that that is what had happened.

Q. The schedule that we went to some time ago, the one
that had been prepared by Reverend Comben of all the
claimants, indicated, didn't it, that there were a number
of perpetrators, not just three?
A. That's correct. I saw in the minutes that the
professional standards committee was focusing on the
members of licensed clergy who were named, but I saw no
reference to the other perpetrators. Some were other older
residents of the home, and there were, of course, other
people who were unnamed.

Q. As somebody, for example, who was operating as
a professional standards director, having received that
information, in terms of the Professional Standards
Ordinance and protocol, is that a legitimate distinction to
make, between clergy and non-clergy, in terms of reporting
to police?
A. No. If you believe that the home was a church entity
and should have been a safe place for anyone, it wouldn't
matter if the person was a staff member, clergy or a fellow
resident, the professional standards director would have
a responsibility to report that. And it's a criminal act
against a child and should be reported.
Q. In the last paragraph on that page, you say:

... the Diocese took a legalistic response.
The diocesan solicitor was instructed to respond to the claims advising that the Diocese was "not prepared to offer settlements of these matters on the same basis as earlier settlements".

There are a couple of matters there. First of all, "legalistic response" - you were concerned that a legalistic response was, I presume, inappropriate, by that comment; is that right?

A. This paragraph refers to the response to [CB] and [CC], and I mentioned before that both of those were people who chose to write directly to the bishop and tell their very personal stories, and I think receiving a letter from a lawyer in response to that is a legalistic response.

MR BECKETT: I notice the time, your Honour.

THE CHAIR: Yes. We will take the luncheon adjournment.

LUNCHEON ADJOURNMENT
UPON RESUMPTION

MR BECKETT: Q. Just before the lunch break we were going through your letter to the primate of 1 May 2013. I wonder if page 2 of that document could be brought up. It is 1001.1184. If you could scroll to the bottom of the page, please. I asked you about the legalistic response, but there is another point that was taken by you in that paragraph:

The Diocesan solicitor was instructed to respond to the claims advising that the Diocese was "not prepared to offer settlements of these matters on the same basis as earlier settlements".

What was that principal concern that you had there about a change in position?

A. I just felt that there was no justification for choosing not to settle some claims relating to abuse in the same facility. All claimants who come forward are entitled to have their claims considered.

Q. So you perceived that there was a change in the position between the way the group claims had been handled and the way in which [CB] and [CC] were now being dealt with; is that right?

A. Yes, and this paragraph also refers to - I identified those personal letters from [CB] and [CC], but there was a group of three others who were represented by the same solicitor who had handled the previous group claim, and they also received that response.

Q. Is that a reference to [CE], [CF] and [CG]?

A. That's correct.

Q. Going over the page, then, 1185, the third paragraph there. There was, you perceived, a response from the Diocese of Grafton, particularly from the bishop, where he had offered [CB] and [CC] something called a pastoral care package. What was the nature of that pastoral care package?

A. From what I could see from correspondence, it seemed to involve having someone appointed to - I think the phrase is - walk with them in their journey but didn't seem to mention counselling or any financial assistance, so it just looked like having someone to be a support person.
Q. You gave some evidence earlier on about a pastoral support person. Was it your understanding that this fell within that structure operating under the ordinance for the appointment of a pastoral support person?
A. It did, but what's important is that a pastoral support person is appointed by the professional standards director and not by the bishop.

Q. What about the other parts of the process - and I think you mention them there - counselling, mediation, financial assistance? What was the proposal with respect to those matters?
A. From what I read, which was email correspondence between the bishop and primarily [CB], there didn't look to be any reference to counselling, mediation or financial assistance.

Q. I'll take you to an earlier document. AH-13 is a letter to [CC] from Peter Roland dated 4 April 2011. You referred just then to a pastoral care package or support package. I wonder if you could just read that letter to yourself.
A. Yes, so the pastoral support package seemed specifically limited to the appointment of a support person.

Q. This is a letter that comes from a solicitor, Mr Roland, obviously on behalf of the diocese, being sent directly to a claimant. What did you think of that particular part of the letter?
A. Well, I thought that [CC] should be receiving correspondence from the professional standards director, not from the solicitor, at this point. As far as I can recall, [CC]'s initial letter to the diocese, to the bishop, was just sharing her story and had not said that she intended to make a claim for money. Therefore, it should have just been dealt with through the normal professional standards processes.

Q. In your understanding, was it then referred to the professional standards director, or was that the extent of the response from Grafton?
A. When I referred [CC]'s file to the professional standards director in January 2013, he was not familiar with her complaint.
Q. Just returning to 1185, the letter of 1 May, and if we could scroll down to the seventh paragraph, you will see that there are two paragraphs there about Mr Campion's matter, and you were concerned about the way in which the diocese had communicated with Mr Campion. What were your principal concerns there?

A. In that first paragraph, I refer to the fact that Mr Campion, as he in his own statement has said, wrote on a weekly basis to the diocese, primarily the bishop, and the bishop did not respond to many of the letters he wrote. He did respond to some, but not all.

The second one concerned me most, which is that the bishop did agree to meet with Mr Campion, and Mr Campion outlined details of that meeting yesterday where he met with Bishop Slater and Mr Garth Blake.

My understanding of the purpose of that meeting was to assist Mr Campion to understand the complexity of the legal position about the home's legal connection to the diocese, and Mr Campion himself, after the meeting, wrote and said that he thought that the meeting had been unbalanced and unfair because he had been unable to have a solicitor in attendance.

Q. What did you think about that?

A. I believe it is a basic principle, when the church is dealing with any claimant, that if they choose to have a legal representative in attendance at a meeting, then the church is entitled to do so, but, importantly, vice versa, for the church to have a very senior legal representative in attendance at a meeting and to deny someone making a claim against the church to have a legal representative, I agree with Mr Campion, is unbalanced and unfair, and particularly given the subject matter. The complexity of that issue about whether the church is or isn't an Anglican entity is so complex - and I've worked in the church a long time and I have trouble understanding it. To expect someone without any legal support - if the purpose was to assist Mr Campion understand why the church continued to say it had no duty of care, it was not structured in a way that would help him understand that.

Q. Did you have a conversation with Bishop Slater about that particular issue, namely, the attendance of a lawyer at the meeting with Garth Blake?

A. I did. I stated exactly that - that I agreed with
Mr Campion that it was unfair and that it should be a principle that if the church has a lawyer in attendance, the party they're meeting with should also have a lawyer in attendance.

Q. What, if anything, did Bishop Slater say about his concerns?
A. When he received the letter from Mr Campion complaining about the meeting, Bishop Slater was very surprised because he had the impression that the meeting had gone well and that Mr Campion had been happy with the outcome of the meeting.

Q. Were any concerns raised about whether Mr Campion was considering legal action at that stage?
A. Yes, I think there were statements made that - there was a presumption that the only reason Mr Campion would want to bring a lawyer with him is if he intended to continue his action against the church, which I didn't find a logical presumption. I thought that if there was going to be a discussion about legal issues, it would be quite reasonable for Mr Campion to have an adviser with him.

Q. Were you aware that Mr Campion had already signed a deed of release with respect to his financial settlement with the Diocese of Grafton?
A. Yes, I was.

Q. On the next page, 1186, you set out there a meeting you had on 16 January 2013 with Bishop Slater and also Archdeacon Ezzy and Archdeacon Hagon. Do you see that?
A. Yes, I do.

Q. Could I summarise that by saying you took the concerns in the body of this letter to those people and set them out for them?
A. Correct.

Q. You say on the next page:

My comments were acknowledged as factual and were not challenged. The Bishop's responded that he had followed the advice made available to him at the time.

Is that what he said?
A. Yes.
Q. Who did that advice come from?
A. I would say that that advice came from his registrar at the time, Pat Comben, and the diocesan advocate, Mr Peter Roland.

I should say that in this letter to the primate, I say:

My comments were acknowledged as factual and were not challenged.

Later on there were discussions between myself and the bishop and other people attending the meeting where they felt that perhaps they didn't actually agree with everything that I had said at that meeting.

Q. As a result of that, you wrote the letter dated 14 May 2013, which is AH-20; is that correct?
A. Correct.

THE CHAIR: Q. Before you go there, can you just help us - you refer to the bishop's "senior leadership team", including himself and two archdeacons. What did you mean by "senior leadership team"? Is that some formal structure?
A. Your Honour, most bishops would establish a group of senior clergy and laypeople as immediate advisers. It would vary from diocese to diocese. In the Diocese of Grafton, it is a group known as the senior leadership team.

Q. So it's formally identified as that, is it?
A. It's formally identified within the diocese and would be understood within the Diocese of Grafton as being the senior archdeacons and the registrar who --

Q. So it's those three people?
A. Correct, and, sorry, and the dean of the cathedral.

Q. So that meeting could have had the dean present as well?
A. Yes. He was not present at that meeting.

Q. Not present. And do they have any authority beyond advising the bishop?
A. No, unless delegated by Bishop-in-Council, who may say, "We delegate this matter to be resolved by the senior
Q. One has the impression that you weren't very happy about what was going on on the way through; is that right?
A. This meeting was on 16 January, and in that first two weeks of January I'd identified matters that concerned me greatly and had actually - the meeting was a regular meeting that was scheduled each second Wednesday, I think, but I had emailed the people in advance to say that I would be raising some matters of concern.

Q. Were you able to identify in your discussions with the senior leadership team whether they were unified in their view about the appropriate response to those who were now seeking to engage with the church?
A. No. In fact, Archdeacon Ezzy and Archdeacon Gail Hagon responded to the information I provided at this meeting with some surprise. Even though they were members of the senior leadership team at this point in time, in 2013, when these matters were under review in 2006 and 2007 they were not involved in those discussions and felt that they were not fully aware of how these matters had been managed in the past. So they were very concerned, but it was new information for them.

Q. Did you then understand that the process had been one managed by the bishop with the solicitors and not with anyone else in a leadership role in the church?
A. I think the registrar, Pat Comben --

Q. Yes.
A. I very much felt that Mr Comben had taken a lead in how these things would be managed, which is an appropriate role for a registrar to advise the bishop on those matters, and the advice of the diocesan advocate. What concerned me at the time is that the bishop, the registrar and the diocesan advocate did not seem to be complying with the professional standards processes. It seemed like those three had managed the way things had been done in the past.

Q. And that was generally to look at the legal position rather than any other obligation of the church, as you understand it; is that right?
A. Yes. I think to respond - yes, to respond from a legal position to the claims that were before them.
THE CHAIR: Yes, Mr Beckett.

MR BECKETT: Thank you, your Honour.

Q. In your statement at paragraph 76 you refer to a meeting on 11 May 2013, a five-hour telephone conference with Bishop Slater, Archdeacons Ezzy and Hagon and Father Donald Kirk. By this stage, I understand that those members of the senior leadership team, if I can use that expression, had obtained a copy of your letter of 1 May. What was that process by which they came to obtain that?

A. After I provided my letter of 1 May to the primate, he chose to call a meeting with Bishop Slater. I was contacted to ask if I was happy for my letter that I'd written to the primate to be presented to Bishop Slater, and I said I was. I believe it must have been on Friday, 10 May, that the primate met with Bishop Slater, and he returned - the meeting, I believe, was in Sydney, and he returned to Grafton and contacted all the members of the senior leadership team - Archdeacon Ezzy, Hagon, Father Donald Kirk and myself - and said that he would like to - I was in Port Macquarie; the others were in Grafton. I believe they were all meeting in the registry office. I was on the end of a phone in Port Macquarie, and I believe Bishop Slater provided the people present with a copy of the letter I'd written to the primate, and the purpose of the telephone conversation was to discuss the matters I had raised in that letter.

Q. I take it that the fact that you wrote a letter dated 14 May clarifying certain factual matters indicates that at that meeting an issue was raised about the accuracy of your 1 May report?

A. Yes, they were. As I said, when I wrote to the primate, I based it on the documents I had seen and I had access to, and that did not include some electronic documents which may have been held by the bishop on his own computer, et cetera. So there were some issues raised about whether letters had been responded to or not that Bishop Slater was keen for me to clarify - if I believed that he provided me with additional information that might change the position that I presented to the primate, he was keen for me to clarify that.

So I did write a letter early the next week after our teleconference that clarified some of those issues.
Q. In terms of your broad view, particularly about the application of the protocol and the ordinance and reference of matters appropriately to the professional standards director, were there any major changes that were reflected in that letter of 14 May?
A. No, not really in terms of how the protocol was complied with. It didn't change my view substantially on the matters of concern that I'd identified.

Q. You say in your statement at paragraph 78 that your view on the handling of the claims after writing the second letter did not change?
A. That's correct.

Q. Were you involved at all in the meeting between Dr Aspinall and Bishop Slater on 10 May 2013?
A. No, I wasn't.

Q. The meeting on 11 May 2013 - what was the tone of that meeting, if I could put it that way? I mean, clearly you had written a very strongly critical letter of the way in which the Diocese of Grafton had been managed, specifically with respect to professional standards and the dealing with claims of child sexual abuse. What was the response that you received from Bishop Slater, first?
A. I would say Bishop Slater was very gracious, given, as you say, how strong the criticisms were. He wasn't angry or he didn't demonstrate any anger towards me at all. He was very gracious. I think the tone of the conversation involving the other members of the senior leadership team was a desire to get to the truth and to understand better the issues that I had raised.

Q. What happened as a result of that meeting? How did it conclude?
A. It may have concluded with some agreement that some points of clarification could be worked on, and I probably agreed to do that and to write a subsequent letter to the primate.

Q. As we now know, there was some discussion of Bishop Slater resigning during the meeting on 10 May 2013. Was that discussed at that meeting?
A. Yes, I think the bishop would have shared with us that the primate had suggested that he might wish to consider resigning.
Q. What happened in the week following that meeting on 11 May 2013?
A. Bishop Slater spent a lot of time considering his position and would occasionally seek my advice and the advice of other members of the senior leadership team on what he should do. I think it was later in that week, on the Thursday, that he resolved to resign and the announcement was scheduled for the next day. I assisted by drafting his statement to be read out at church services on the Sunday and also assisted in drafting the media release, but Bishop Slater also had input to those documents himself.

Q. One of the central themes, if you like, of the press release that the bishop put out was an acknowledgment that he had failed to implement the protocol that governed professional standards matters; is that correct?
A. That's correct.

Q. If we could just go to AH-22. That's the media statement that was put out by Bishop Slater?
A. That's correct.

Q. Did he acknowledge to you that he accepted the terms of it?
A. Yes. It wouldn't have gone out unless he was happy with the statement.

Q. Did he make amendments to this?
A. Yes, but, I mean, I did the first draft. I think on the second page there is specifically - oh, no, it might be in the other - there were two statements. There was a media statement and there was also a message from the bishop to the people of the diocese, and he had more substantial input to the drafting of that document.

Q. I wonder if you have a copy of that and you can make it available to the Royal Commission?
A. I can make it available, yes.

Q. Just going to page 2 of that media statement, the third paragraph, there is an acknowledgment there of the bishop being "responsible for ensuring full compliance with the Protocol" and that he failed in this duty and:

Some matters detailing sexual abuse at the
North Coast Children's Home were not referred to the Professional Standards Director as they should have been.

That was an appropriate acknowledgment to make in terms of your review of the handling of sexual abuse claims?
A. That's correct.

Q. And then the next paragraph:

... the Professional Standards Director was not provided with information that could have assisted ongoing internal and Police investigations.

Was that a reference to both [CB], [CC], but also the police investigations that might arise out of the schedule from the North Coast Children's Home.

A. Yes, it could have been. It was a general statement that we were not confident that everything that should have gone to the police had gone to the police.

Q. Two paragraphs down --
A. Sorry, can you just refer me to where we are in what's on the screen?

Q. Yes, sorry. The paragraph at the bottom of the page, beginning, "While I responded", if you could read that to yourself, please. There appears to be an acknowledgment that there was no justification for the decision that new claims would not have access to the same financial settlement process made available to the earlier claimants. So that's an acknowledgment, I presume, of the different position taken with respect to [CB], [CC], [CE], [CF] and [CG]?
A. That's correct.

Q. Compared to the group claims?
A. The group claim.

Q. I just want to ask you about the next thing.

I acknowledge that our offer of a pastoral care package was poorly communicated and did not provide an adequate response to meet the immediate needs of the
complainants. I acknowledge my pastoral failings in adopting this approach.

What's that a reference to, to your knowledge?
A. To the matter we were just discussing about when [CB] and [CC] received a letter offering them a pastoral care and support package that was really limited to providing a support person, so I think that makes reference to the fact that the pastoral care package that had been communicated was inadequate; just providing someone with a support person is not a full pastoral care package.

Q. Then over the page, the first paragraph on 1313 - just read that to yourself.
A. Yes, so this just reiterates the fact that even when things are being dealt with in a legal way, when someone is litigating, it's still important that their matter is dealt with through the Professional Standards Ordinance and protocol.

Q. So that means, I presume, that the two processes can exist side by side?
A. They can.

Q. It's not an either/or practice?
A. No.

Q. I understand that after the resignation of the bishop, steps were taken to appoint an administrator, almost like an acting bishop; is that correct?
A. It's a structure in the Anglican Church of Australia that there will always be someone identified as the next person to step up to fulfil the role of bishop when a bishop resigns or retires, or even when they're absent from the diocese for an extended period of time. In the Diocese of Grafton, there is an ordinance that identifies the role of commissary, which is a person appointed by the bishop to step up for them in their absence, and in the Diocese of Grafton it was Archdeacon Greg Ezzy.

Q. So as a result of the resignation, he was automatically installed in that position, was he?
A. Automatically. There was an ordinance in place that happened automatically.

Q. An issue arose about him serving in the position of administrator, which I think was taken up at the General
Synod office in a meeting on 5 June 2013, but essentially could you perhaps tell the Royal Commission what the issue was with respect to Archdeacon Ezzy?

A. It was an issue I raised a concern about, and others also shared the concern. Archdeacon Ezzy had for a period of time between I think 1985 and 1995, or thereabouts, been the rector of the parish of Lismore, which meant that he automatically, in accordance with the constitution of the North Coast Children's Home, became chair of the management committee.

I was very concerned that here we were, we'd just lost a bishop through a very controversial matter associated with how claims were managed arising from the children's home, and the person put in place to take that forward was someone who had spent ten years as chair of the management committee of the home. Regardless of whether Greg Ezzy was the right person to take on the role of administrator, or whatever, I felt the perception was very bad, that it would be perceived very badly by those claimants and also by entities such as the Royal Commission, that - had we really learned our lesson? Here we were, the bishop had had to resign over matters associated with the home, and the person we put in charge was someone who had been involved in running the home for ten years.

So it concerned me greatly, one, that it would bring the Diocese of Grafton into further disrepute, but, two, that it would also impact greatly on Archdeacon Ezzy, that he would come under personal criticism, and was that really going to be worth it for him?

Q. Were you aware of the involvement of Archdeacon Ezzy's wife at the North Coast Children's Home during the time that he was rector at Lismore?

A. Yes. Mrs Del Ezzy was superintendent of the home for a period when Archdeacon Ezzy was rector of Lismore and chair of the management committee.

Q. How did you come to be aware that there had been a complaint made against her?

A. I saw Mrs Del Ezzy's name listed on that matrix summary that we looked at earlier today.

Q. That's the one of September 2006 prepared, we think, by Reverend Comben?

A. That's correct, and I saw that she was listed by one
person who had made a complaint of psychological abuse against her.

Q. And what steps did you take to raise that issue with Archdeacon Ezzy?
A. I raised it directly with Archdeacon Ezzy and the other members of the senior leadership team and said that this was, again, a concern, that someone that was now leading the diocese had these connections to the home.

Q. The issue was raised at a meeting at the General Synod office in Sydney on 5 June 2013. How did that meeting come to be?
A. I believe the primate requested the meeting. That's my recollection.

THE CHAIR: Q. Can you help us, what's the General Synod?
A. The General Synod is the office that supports the Anglican Church of Australia, the national body. It's quite a small team of people. The national church is not really an entity in its own right. It is just made up of all the dioceses which operate independently, but there is still a need for - the primate and the Anglican Church of Australia has a synod every three years, and so there is an office known as the General Synod office, which supports that.

Q. Does the synod at that level have any legal authority over the church?
A. The General Synod of the Anglican Church of Australia is able to adopt canons which decide legislation in the church. In most instances, those canons are not effective in individual dioceses unless they are also adopted by the individual diocese. So there could be a canon of the national church which is not in effect in an individual diocese, because that diocese synod has not adopted that legislation.

Q. You mentioned previously that you were on some national committee that developed the Professional Standards Ordinance and protocol. Is that under the authority of that synod?
A. Yes. I was elected to General Synod standing committee, which is like an executive group which supports the primate and the work of the General Synod. The membership of that General Synod standing committee,
I believe, is all metropolitan bishops and other elected clergy and elected laypeople, and those elections are conducted at the General Synod meeting every three years.

I should say I was a member of that General Synod standing committee involved in the development of the professional standards processes, but there were more specific subcommittees that did all the work on that.

Q. Those were adopted by General Synod, I assume, or approved by General Synod?
A. Yes, I believe the model ordinance, and I'm not sure about the protocol, were adopted by the General Synod for referral out to the dioceses of Australia for them to adopt.

Q. With the expectation that they would adopt them or the obligation?
A. Absolutely.

Q. Was there an obligation or not?
A. It was strongly encouraged that they would be adopted without amendment, and I do not know - someone would know, but I don't know - whether every diocese in Australia adopted them without amendment or whether some dioceses chose to amend them slightly.

Q. So you can't tell us whether other dioceses have a process in place, for example, without a cap?
A. The Professional Standards Ordinance and protocol do not deal with financial settlements, so those processes for financial settlements are dealt with separately to the ordinance. I can advise your Honour that the Diocese of Adelaide operates one of those pastoral care programs, the one we've referred to as Healing Steps, and it does not have a financial cap, so I know of at least one diocese.

Q. You don't know about the others?
A. I know that the Dioceses of Sydney and Newcastle have financial caps, and I'm not sure of others.

MR BECKETT: Just for the Commission's assistance, tab 152B in the tender bundle - that's exhibit 3-2, the second volume - is a document that the Anglican Church of Australia provided to the Royal Commission which sets out the structure of the church in some detail and goes into some of those structural matters, particularly the
operation of the General Synod and so forth, that may be of assistance.

Q. Ms. Hywood, we have the minutes from that meeting on 5 June 2013 where Dr. Aspinall was present, also Martin Drevikovsky who is, as I understand it, the general secretary of the General Synod; is that correct?
A. That's correct.

Q. And others, such as Dr. Jensen was present, and you were there as well?
A. Yes, and as was Archdeacon Ezzy, Archdeacon Gail Hagon, Father Donald Kirk, and Bishop Philip Huggins, who is based in Melbourne.

Q. And there was discussion of the issue of the conflict of interest that you've talked about already.
A. (Witness nods).

Q. What was Archdeacon Ezzy's response to that issue?
A. He believed that there was no real conflict of interest, in that he knew in himself that should he have to deal with any claims that might come forward, he would act in the best of integrity, and so that was his reasoning why he felt he should be able to stay as administrator - because he knew in himself how he would respond and do the best thing. That was the way he presented his information.

He acknowledged what he called a "perceived conflict of interest", but he believed that it would not come into play in reality.

Q. Was it a question of him acting properly or was it a question of him, that is, in his own mind, as to what was the proper way in which to act, or did he indicate that if a matter of conflict did arise, he would step aside and somebody else would make those decisions on behalf of the diocese?
A. There were discussions about that. I'm not sure to what extent we talked about that in that meeting in Sydney.

Q. Just let me take you to Ringtail page 0114 of AH-23. The fifth paragraph there:

"He advised that he was unwilling to stand aside based on the perceptions of conflict of interest but was prepared to stand aside..."
on the basis that his appointment had become an unnecessary focus for the Diocese. He was willing to stand aside if this would allow the Diocesan leadership to get on with the important work in the area of Professional Standards and preparing for the new Bishop.

Then there was a proposal from the primate to take the matter to Bishop-in-Council. They were the ones that would resolve that issue, were they?
A. Yes. The ordinance required - well, actually, the ordinance says that the commissary will be the administrator and no-one can actually - the ordinance doesn't allow anyone to remove the administrator from that role. It is up to the administrator to stand aside.

Q. But in terms of that statement in the paragraph above about him being conditionally willing to stand aside, did you gain an impression as to where the issue was left at the end of that meeting on 5 June 2013?
A. Yes. There was an agreement or a view that Archdeacon Ezzy would stand aside and that it would be - I think the ordinance says that if the administrator stands aside, Bishop-in-Council can then appoint an administrator from either within or outside the diocese, and so it was agreed that the senior leadership team would go back, report on the meeting and advise that Archdeacon Ezzy would advise that he would stand aside, and it would be recommended that Bishop-in-Council appoint Archdeacon Gail Hagon as the administrator.

Q. The issue then did go to Bishop-in-Council; is that correct?
A. That's correct.

Q. We have the minutes for 7 June, two days later, at AH-24, if that could be brought up. You will see at page 7, or 0028 in Ringtail, is the minute of what occurred at the meeting. Perhaps you could tell the Royal Commission what you recall happened at the meeting with respect to the issue of whether the administrator should stand aside or not?
A. Yes, Archdeacon Greg Ezzy talked about the meeting and the fact that he had been in conversation with the primate about whether he should stand aside.
There was another issue, in addition to the one that concerned me - the one that concerned me was the association with the home. There was also another matter, which was a matter within the ordinance relating to the age of the bishop. The ordinance says that no bishop in the Diocese of Grafton shall be greater than the age of 70, and the administrator, Archdeacon Greg Ezzy, was 70 years old, so there was also an issue of, if the bishop can't be 70, can the administrator? So that was another matter that was under discussion.

So all of those matters were raised, and Archdeacon Ezzy said that while he would like to continue as administrator, he was prepared to stand aside if it was going to cause difficulty - as was said in those minutes, if it became the focus and another problem, at a time when we needed to be showing a very positive way forward.

So there was discussion around whether he should stand aside. The members of Bishop-in-Council discussed that in great detail, and a motion was drafted that - sorry, can you just scroll down a bit?

Q. Yes, we have the vote on page 30.
A. Yes, a draft motion had actually been prepared for Bishop-in-Council. The minutes say:

A draft motion was then circulated in response to the Administrator's proposal to stand down from the position and for The Venerable Gail Hagon to take over the role. The draft motion was not moved but was tabled for consideration.

Then there was a lot of conversation about how there was support from Bishop-in-Council members for Greg Ezzy to continue to be administrator, despite his association with the home and the age matter, and one of the members of Bishop-in-Council moved the motion on the screen there:

... that we as Bishop-in-Council support Archdeacon Greg Ezzy as Administrator of the Diocese of Grafton with the expectation that he will not handle any claims arising from the North Coast Children's Home.

Q. Can I ask you just to stop there for a moment?
A. Yes.

Q. What was your position - what position did you take at the meeting with respect to whether, first of all, Archdeacon Ezzy should remain in the position of administrator?
A. I supported Archdeacon Ezzy's presentation about the outcome of the meeting in Sydney and that the best way forward was for him to stand aside. So I supported that in the general discussion around the members of Bishop-in-Council. But there was a strong move from the members of Bishop-in-Council that he shouldn't stand aside.

Q. What was your position with respect to the motion that's on the screen at the moment? Did you consider that an appropriate way to respond to the apparent conflict?
A. I would have preferred that Archdeacon Ezzy stood aside. That was still my position. But I felt in that meeting that I had had my opportunity to share my views with the members of Bishop-in-Council and it was up to the members.

Q. Did you have a casting vote?
A. No. What happened at that point is that Archdeacon Ezzy had been chairing Bishop-in-Council, and before it moved to a vote I suggested that he relinquish the chair and leave the room. I then took over the chair and I chose not to vote. So there were four members of 11 members of Bishop-in-Council that voted for; none voted against; two abstentions; and as chair, I didn't vote.

Q. I want to ask you some concluding questions about the end of your involvement as the acting registrar of the Diocese of Grafton. The first is with respect to the public apology, and I think there is a copy of that at AH-26, page 14. What was your involvement in the drafting and the making of that apology?
A. I think I sort of started with some first drafts. There is already an apology that was adopted by General Synod and published on the General Synod website apologising to all those who had been abused in any Anglican organisation anywhere in Australia.

Q. That's from 2002; is that correct?
A. I believe so.

Q. Yes.
A. And so I used that as a basis to start doing some drafting. So I would have done an early draft, and then Archdeacon Ezzy was very keen to progress this apology, so he worked on it, and also the professional standards committee, led by its chair, the Reverend David Hanger, also worked on it. So it was one of those things that quite a few people had input.

Q. Was the genesis of the apology Tommy Campion's request for one, or had it arrived from some other source?
A. I think the fact that Mr Campion thought that that was a really important thing that needed to happen in regard to the North Coast Children's Home certainly had a major impact. But also many dioceses - in Adelaide, the synod of the Diocese of Adelaide had prepared an apology along similar lines. There are a number of dioceses that have done so, and it was quite appropriate that Grafton also considered it. But the fact that Mr Campion had raised it I think was something that initiated it more strongly.

Q. At AH-27, there is a paper that was presented to Bishop-in-Council dated - the date of the paper, at least, is 27 June 2013. At AH-28 we have a pastoral care and assistance scheme. Were they steps that you took in and from June of this year to put in place a pastoral care and assistance scheme in Grafton?
A. Yes, I did. Right back in the meeting I had in January with Bishop Slater and the other members of the senior leadership team, I had provided them with a copy of the Diocese of Adelaide's program, Healing Steps, and said that this was the type of thing that the Diocese of Grafton needed to put in place. So quite formally at the Bishop-in-Council meeting in June, I recommended that work really commence in earnest on the development of a similar type of program in the Diocese of Grafton, and this paper makes reference to some principles that had been adopted by the General Synod standing committee in 2009, which sort of says how such schemes should operate, or the principles that should apply, and on the following page I provided website links to places where such schemes are promoted through the Dioceses of Sydney, Adelaide and Brisbane.

Q. At AH-28 there is a draft pastoral care and assistance scheme, setting out presumably those, or at least some of the, elements that you indicated in that agenda item. What's the origin of this document?
A. So after that June meeting, I think it was resolved
that the Professional Standards Committee be asked to work
on the development of a pastoral care and assistance
scheme, and this document that's on the screen now is the
first draft that came to a meeting at the end of
September of Bishop-in-Council and was presented by the
chair of the professional standards committee, the
Reverend David Hanger, and it was the professional
standards committee's first draft of a scheme that may
work - that may be adopted in the Diocese of Grafton.

I should say, as we said earlier today, that even at
this point, Reverend Hanger and others in the diocese were
unaware that the Bishop-in-Council had already adopted
a similar scheme back in 2005.

Q. You annex to your statement at AH-29 a schedule of
financial assistance. Was that a document that was annexed
to the pastoral care and assistance scheme to be considered
at the September Bishop-in-Council meeting?
A. I believe it was. There was certainly a schedule
attached to Reverend Hanger's recommended draft, and
I think he stated that it was just based on the current
Diocese of Sydney levels.

Q. Were you in support of such a schedule of financial
assistance?
A. I took the opportunity at the meeting at the end of
September to encourage Bishop-in-Council to consider
a pastoral care and assistance scheme that didn't have
a capped financial schedule, and I shared with them my
views, as I shared earlier here today, about why I think
there are advantages in it being an open scheme, as it
encourages more people to participate.

Q. What was the resolution at Bishop-in-Council in
September?
A. I think the resolution in September was that the
Professional Standards Committee continue to work on the
draft and to take account of the comments they had heard
that day, including my own, and even knowing that I would
be finishing with the diocese within a few weeks, I made
a commitment to Reverend David Hanger that I would be happy
to continue to have input into the development, and he
subsequently has shared another draft with me, which I've
had the opportunity to comment on.

Q. But it is yet to be resolved finally; is that correct?
A. I believe there was a Bishop-in-Council meeting last week, and I believe they did adopt a scheme at that point, but I am not familiar with the actual final version of the one they adopted.

Q. We can chase that up.
A. You can.

Q. Now, I understand that the claims of [CA], [CB] and [CC] still, to this day, have not been resolved; is that correct?
A. I understand that Bishop-in-Council, at the same meeting that they adopted this, last week, also made some resolutions in regard to financial settlements for those people, I believe.

Q. As a principle or with respect to individual claims?
A. I believe in respect to the individual claims.

MR BECKETT: All right, we'll chase those down. Those are the questions for this witness.

THE CHAIR: Mr Griffin, any questions?

<EXAMINATION BY MR GRIFFIN:

Q. I appear on behalf of Archbishop Aspinall. Ms Hywood, you refer in paragraph 72 to the meeting you had with Archbishop Aspinall on 26 April 2013 in Sydney?
A. Yes.

Q. Can you recall at that meeting the archbishop advising you to do two things in particular: firstly, to secure all relevant files in relation to complaints?
A. Yes. We would have had a conversation about that, because it was my concern that those files were in the registry and not held securely and confidentially with the professional standards director, so he did remind me that that was an important thing that needed to happen.

Q. Did the archbishop also give you advice that, in his opinion, all complaints of sexual abuse should be referred to the police?
A. He may have, in our conversation. I'm unclear on that myself, a bit out of touch with being actively involved in this. I know, of course, that all matters involving sexual abuse relating to children must be referred to the police,
but I'm unclear on what the policy position is on matters relating to sexual abuse of adults.

Q. You told the Commission that you subsequently delivered some files of complaints to Michael Elliott?
A. Correct.

Q. Did you have a conversation with Mr Elliott when you delivered those files?
A. Yes, I did.

Q. Did you relate to him the advice that they should be secured?
A. I think the fact that I was delivering to them implied that they would be secure - that by removing them from the registry and placing them in the office of the director of professional standards would be securing the files.

Q. Did you discuss with Mr Elliott whether or not complaints of sexual abuse had been referred to the police?
A. Yes, and I had in various correspondence. In fact, I primarily said that I was unclear, from some of the documentation I had, on whether some complaints had or hadn't, and that I considered that it was now an important job for him, as professional standards director, to resolve that.

Q. Do you recall having a conversation on 8 May 2013 with Mr Rodney McLary? Do you remember that?
A. Yes, I do.

Q. During that conversation, did you tell him that all allegations and files of child sexual abuse had been referred to Mr Elliott?
A. Yes, I would have. I'm unclear when I actually transferred the files to Mr Elliott. I'm unclear as to the date that I did that. But if I said to Mr McLary that I had sent them to Mr Elliott, then I presume it was after that date, yes.

Q. Mr McLary is reported in Archbishop Aspinall's statement to have said that he was told by you that Mr Elliott undertook to refer all relevant files to the police. Do you remember any discussion along those lines?
A. I'm sure we had that conversation, because that is what I expected Mr Elliott to do, and I would have said that to Mr McLary, that the files were now with Mr Elliott
and anything that needed to be referred to the police, he would do so.

Q. Does it follow from your answers that as of 26 April of this year, all of those files had not previously been referred to the police?
A. No. I was unclear, from the information I had available to me, what had been and what hadn't, and what I requested of the professional standards director was that he reviewed the files, contacted the police and identified if there was anything that hadn't been. It could well have been that some of the matters had been referred to the police, but anything that hadn't needed to be referred to the police as a matter of urgency.

Q. And after that discussion with Mr Elliott, did he report back to you as to what he had done?
A. Yes, I believe he did, though it's my view that the registrar of the diocese should not be involved in the business of the professional standards director. So I certainly didn't follow up with him. I expected him to fulfil his obligations. To me, the registrar needs to be at arm's length from the professional standards director and not to be seen to be interfering in their job.

MR GRIFFIN: Thank you, your Honour.
MR BECKETT: Nothing arising.
THE CHAIR: Yes, thank you, Ms Hywood. You are now excused from further attendance. Thank you.

<THE WITNESS WITHDREW

MR BECKETT: I call Simon Harrison.

<SIMON JOHN HARRISON, sworn: [3.05pm]

<EXAMINATION BY MR BECKETT:

MR BECKETT: Q. Mr Harrison, I wonder if you could state your full name and occupation to the Royal Commission?
A. Simon John Harrison. I'm a solicitor.

Q. And you have given your address to the Royal Commission, I understand. Did you make a statement dated 31 October 2013 in this matter?
A. Yes.

Q. Have you recently reviewed that statement?
A. Yes.

Q. Do you say it's true and correct to the best of your knowledge?
A. Yes, I do.

Q. There is a folder in front of you, which will hopefully contain a copy of your statement, and I will be taking you to that and some of the annexures as we move through. In 2005 you were working, as I understand it, at Nicol Robinson Halletts?
A. That's correct.

Q. At Brisbane?
A. Yes.

Q. And one of the parts of your practice was to do personal injury work or tort-related negligence matters?
A. That's correct.

Q. How did you come to first have contact with Mr Campion or any of the other group claimants who had been former residents of the North Coast Children's Home?
A. Well, during that period of time and for about, I think, six years before then as well, I had been president of a national charity for child abuse, Bravehearts, and I received a call from Hetty Johnston, who was the founder and CEO, to ask me whether I would be willing to chat with Mr Campion about matters relating to sexual assault.

Q. When was that, do you remember?
A. That was in 2005, late 2005.

Q. He was the first person who contacted you about the North Coast Children's Home?
A. That's correct.

Q. Did he want you to represent him at that stage?
A. Yes. At that stage he was asking me about some options that he may have and also mentioned that he'd been speaking to a number of other people who may want to proceed with possible claims. So I agreed that we'd certainly look into it for him at that stage.
Q. The options that he had - what were the options, to your understanding, that Mr Campion had at that stage?
A. Well, he had consulted me primarily to look at the issue of litigation and also whether or not I could assist in respect of any informal potential group action claim.

Q. Had he shown you the pastoral care and assistance package that he had been provided by Reverend Comben at that stage?
A. Not at that stage, not that I recall.

Q. At some later stage did you come to obtain that document?
A. I honestly can't remember whether or not he showed me that particular package, but I think one of the reasons that he sought me out was that I had undertaken, over many years, a number of group actions, and that my bias was towards either informal group actions or alternatively litigation. I had acted for the foster children in their claim that we took to the High Court and a number of other fairly high-profile group actions over the years.

Q. As I understand from the correspondence, a group was formed, if you like, to make a single claim through you to the Diocese of Grafton; is that a reasonable characterisation?
A. Yes, that's correct. It's different from a class action. In a class action, for example, we'd have one occurrence that affects a number of individuals, such as a train crash. This was a number of alleged assaults that took place potentially over a period of 48 years, and it involved something in the region, we believed, of about 12-plus abusers at the home. So there were various - there were certain common denominators - ie the home, and also certain protagonists as well, but it wasn't a class action; it was a group action that we were forming.

Q. So I presume, in addition to Mr Campion, other people came forward to you and asked you to represent them; is that correct?
A. That's correct. It happened fairly quickly. So I quickly established a legal team around me at the practice, with two other admitted solicitors and some junior support staff, and we had some 41 claimants come forward.
Sorry, I should just say, actually, we had more than that. We actually processed 41 claimants, but we had more people who came forward just to find out what we were doing and just to review their options.

Q. What was the basis upon which you had individuals agree to proceed as a group claim as opposed to just representing them individually? What was the process that you went through?

A. In terms of internal process, do you mean?

Q. Well, the agreement between you - that is to say, your firm - and the client about how the matter was to proceed, in other words, all the claims would be grouped and they would proceed as a group claim?

A. That's right. We had individual client agreements, because they were individual clients, but we advised them that the way we would like to proceed with this was to present a bulk claim. We felt that that stood a better chance than firing off individual claims at disparate times. It would mean that we'd have an economy in respect of fees as well, and also we'd make the whole matter much more manageable, as had been the case in previous group actions that we'd dealt with.

Q. Were there also some dangers that you realised that might occur as a result of proceeding as a group action, particularly at that stage in the formation of the group?

A. Not - by "dangers", could you clarify what you mean?

Q. In the sense that an individual client might consider that negotiations might take place with the other party, namely, the Diocese of Grafton, on a one-in-all-in basis, that is to say, the group could bind an individual?

A. We would never have agreed to that. That would never have been an option.

Q. Is that something that came up in terms of the mind of the Diocese of Grafton during negotiations?

A. The mind of the Diocese of Grafton was a very strange thing, quite frankly, and it changed quite regularly, so I got into the habit of not really predicting what the mind of the diocese might have been at any particular stage.

They may well have considered that, and I think certainly towards the end of the claim they were trying to make sure that all of these settled so that they didn't
have any what they may have perceived as rogue claimants going off, which is what they may have classified as being Tommy Campion and others.

Q. Did you indicate at any time during that period from November 2005 through to, let's say, April 2007 to Peter Roland or the Diocese of Grafton that all the claimants would be bound by the settlement that was being negotiated?
A. No.

Q. All right, let's start at January 2006. I think the first letter that we have is from you to Mr Comben, in fact, dated 5 January 2006. It is SJH-1. Do you have that in front of you?
A. Yes, I do.

Q. So am I right in saying that this was the first time that you'd approached the Diocese of Grafton with respect to the group claims?
A. That's correct.

Q. You indicated that you had a number of clients, 20 at that stage?
A. That's correct.

Q. You set out that the abuse included sexual assault?
A. Yes.

Q. As to the claims process, on the second page, you say:

... it may be that we will proceed in accordance with the Pastoral care and assistance procedures albeit that we are not yet in a position to make that determination.

I'll just show you a document. What was your knowledge of what the pastoral care and assistance package or procedure was at that stage in January 2006?
A. At that stage, we weren't entirely sure. We were still making inquiries as to what particular process they were going to follow. I think that paragraph in particular, for my part, was a bit of a fishing expedition. I wanted to try and draw the diocese out a little bit to see whether or not they were going to proceed by way of some informal claims process, as you would perhaps with any
other non-abuse claim, or alternatively whether they were
going to suggest we proceed in accordance with a Towards
Healing or other protocol.

Q. The document I will have brought up on the screen is
exhibit 3-3, which is the tender bundle containing policies
and procedures, tab 4A. Was this a document that you had
seen before 5 January 2006?
A. Possibly not before 5 January.

Q. Is it a document that you saw subsequently?
A. I would have seen it subsequently and it would have
been, I think, shortly after this initial letter, if not
before, but I can't be certain.

Q. You seem to be aware - you've called the process
a "pastoral care and assistance package", so I presume that
you had some knowledge before you wrote this particular
letter?
A. Yes.

Q. At that stage was there any indication given to you by
Reverend Comben or the Diocese of Grafton that these
matters would be referred to the professional standards
director --
A. No.

Q. -- of the Diocese of Grafton?
A. No.

Q. Let's take the period up to 15 September, the
substantial document you made. In that period, was there
any indication that your matters were to be referred to the
professional standards director?
A. There's an attendance note of 18 May 2006. I'm not
too sure which exhibit that is. The import of that was
that we were told by the lawyers for the diocese --

Q. We'll just locate that first. It's SJH-10. Yes,
please continue?
A. In that note I'm recording a conversation there with
the lawyer at Foutt Law & Co, and he's telling me that if
there were sexual elements or sexual abuse that had taken
place, they will consider counselling, that they do not
operate as Sydney does, but that they would need evidence
that the sexual assault actually happened, and of course
these assaults were perpetrated without witnesses, if

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I recall, all of them were, and 20 or 30 years later, certainly we were not going to be looking at DNA. So why he had adopted that particular stance I don't know.

Q. Let's go back before you get to that period. You then received SJH-2, a letter from Mr Roland dated 24 January 2006, where he indicates that he is representing the Diocese of Grafton. Was that the first time that you had any contact with Mr Roland?

A. Yes.

Q. He mentions there that the diocese has established a professional standards committee for the purpose of dealing with such matters. After January and perhaps we can take that period between January and May 2006 that you have mentioned - was there any further approach by Mr Roland or anybody from the Diocese of Grafton to indicate that the group claimants who you were representing had been referred to a professional standards committee?

A. Not that I recall, no.

Q. We see from Mr Roland's letter that he points out that:

... the Anglican Diocese of Grafton is not a separate legal entity.

He asks you to indicate which individuals or office bearers you would seek to hold liable for any alleged misconduct, and given the time which has elapsed, the basis upon which liability would be alleged. So do I take it from that he was indicating upfront some major issues for consideration in any claim?

A. That's correct. He was also setting out his stall in respect of litigation, in that the principal issue as I read that letter - and I think I then continued that theme through further correspondence shortly after - was that his main issue with respect to litigation was going to be one of time limits.

THE CHAIR: Q. How did you propose to frame the duty of care?

A. We had been collating quite a bit of evidence, even at that stage, to show that the home was managed by the church, and there's a whole range of issues that we intended --
Q. I understand that issue, but how did you propose to frame the duty of care?
A. That the church was responsible for church workers, and that would include not just the clergy but it would also include anybody who was employed or engaged within the home.

Q. Absolute liability?
A. Sorry?

Q. Absolute liability?
A. Yes.

Q. You were confident you could sustain that?
A. As confident as I could be at that stage, but we were still waiting for other information to come through and we were yet to speak to the historical society.

Q. That's a different issue. That's the issue of the legal relationship.
A. Yes.

MR BECKETT: Q. Then I think you responded on 9 February 2006 with replies to each of those matters that he has referred to. You hadn't determined at that stage, or at least you did not accept what Mr Roland had said about the appropriate entity, and you asked for clarification of that at point (3) of your letter; that's correct, isn't it?
A. Yes.

Q. So do I take it from that that the entity that you thought was the appropriate entity at that stage was the Diocese of Grafton?
A. At that stage, yes.

Q. Do I take it from that that you didn't understand at that time that the diocese is in fact an unincorporated association?
A. That's correct.

Q. Then "time elapsed" refers to the issue about limitations; is that correct?
A. Yes.

Q. Then you have a letter of 1 March 2006, SJH-4. There is a reference there to alleged abusers and then office bearers at point 2. He specifically mentions Mr Campion's
mature. Now, at the end of that paragraph you will see:

Our client -

that is to say, the Diocese of Grafton -

remains willing and anxious to immediately
progress Mr Campion's matter through
Diocesan processes to a conclusion, but is
awaiting further communication regarding
the matter.

What do you understand "Diocesan processes" to mean?
A. I assume that they meant some Towards Healing process,
or the process that we'd originally identified.

Q. The care and assistance package that I took you to
earlier, was that what --
A. Yes.

Q. Had Mr Campion indicated that he wanted to go through
that process?
A. Sorry, are you saying did he want to go through that
process?

Q. Yes, were you aware of whether Mr Campion wanted to
proceed through that process?
A. Well, I assumed that he wanted to put that in some
sort of stasis, because he had instructed us to look at
this group action, which would have included him.

Q. Did the group action exclude the utilisation of
diocesan processes?
A. Not necessarily, but I think we wanted to find out
a little bit more about what they were proposing. It's
often been the case, when I've dealt with group actions
before, that a diocesan process is not necessarily the
right way to go, and sometimes that will be offered further
on in the process or it will be offered at the beginning.

Q. But in terms of the ordinance and protocol that
operated in Grafton - or at least that had been adopted in
Grafton at that stage - I presume it starts with some form
of application being given to the professional standards
director; is that your understanding of the process?
A. I would have thought that would be the standard.
Q. Did Mr Roland ever invite you and your clients to place such applications before the professional standards director?
A. No. Quite the opposite, in fact. He had said at one stage - I think it's in the papers that are exhibited to my statement - that because of the size of the claim and also because of what he referred to I think as the complicated nature of the arguments, that this wasn't appropriate for any informal process like that. In his letter of 10 October 2006, he says:

Our client does not consider that the protocols set up by the Anglican Church are an appropriate procedure in the present case given the large number of allegations made by some 42 claimants as well as the highly complex evidentiary and legal issues involved.

Q. Yes. That is not until October, but in any event in the period between January and October there had been no indication from Mr Roland, an invitation to make applications directly to the professional standards director with respect to your clients?
A. No.

Q. Was it something that you considered or you were open to?
A. My previous experience of dealing with those sort of protocols is that they can do more damage. That wouldn't mean that we wouldn't look at it in this particular case. Each one on a case-by-case basis. But I've seen an awful lot of damage to individuals done by that sort of process.

Q. What sort of damage are you referring to? That is to say, what matters damage the individuals concerned?
A. Well, I can give an example. It's a little bit severe, but I'm quite happy to mention that.

One particular client that I had some years ago was abused by a priest who would only abuse girls who were menstruating. During the course of the Towards Healing process, the bishop involved started to castigate my client for alleging that the term "blood of Christ" was used at a particular time and, therefore, because it wasn't used when it was alleged she was abused, it never took place. That's just one of many examples where the bishopry and...
those attending Towards Healing and other processes have caused more damage as a result of their behaviours.

Q. Were you aware of similar instances occurring with the operation of the Professional Standards Ordinance adopted by the General Synod of the Anglican Church?
A. I've dealt with the Anglican Church before. I can't recall specifically whether it was - whether I came across that with the Anglican Church, but I've certainly come across it with the Salvation Army and the Roman Catholic Church.

Q. Thank you. 10 March 2006, SJH-5, you then indicate that you have 34 clients that you are acting for; is that correct?
A. Yes.

Q. Then the letter of 10 May 2006, SJH-8?
A. Yes.

Q. At the end of that third paragraph there, Mr Roland says:

    We cannot see any basis on which such
    Corporate Body -
    referring to the corporate trustees of the Diocese of Grafton -
    could be held liable in Tort for the actions of any person ... at The North Coast Children's Home or otherwise unrelated to property matters.

Did you take that statement on 10 May 2006 as effectively a formal denial of all the claims?
A. Yes.

Q. Was there ever, at least at this stage, any differentiation that Mr Roland drew between clergy and non-clergy who were involved in abuse, be it sexual or otherwise?
A. I don't understand the question, I'm sorry.

Q. You later became aware that there were different sorts of abuse that occurred at the home; that's correct, isn't it?
Q. And that those acts were perpetrated or said to be perpetrated by a number of people, be they clergy, staff or other residents?
A. Yes.

Q. Is that correct?
A. That's correct.

Q. As far as Mr Roland was indicating to you in 2006, did he draw any distinction between clergy and non-clergy?
A. Not at that stage, no.

Q. At some later stage, did he?
A. I'm trying to think. I don't think he did.

Q. In any event, the crucial thing for him was with respect to who the defendant might be?
A. That's right.

Q. And that there was no acceptance, for example, that the act of an individual member of clergy might be distinguished from the act of an employee --
A. No, there wasn't.

Q. -- of the North Coast Children's Home?
A. No, there wasn't.

Q. We have a note that I think you've accepted as being a reasonable record of a telephone conversation you had with Mr Roland dated 12 May 2006. It's SJH-9.
A. That's correct.

Q. He says that you, that is:

... Mr Harrison ... raised the question of whether the Church was prepared to Mediate or whether it would be necessary to proceed with more formal proceedings ...

Was that the first time that you had raised the issue of mediation or informal settlement with Mr Roland?
A. Yes, it was.

Q. Was that a position that you continued to maintain after 12 May 2006?
A. Yes.

Q. It then says that Mr Roland said to you:

... that the Diocese had a professional standards protocol and was prepared to deal with any matters where the Church could be deemed responsible in respect of Counselling and Pastoral Care etc ...

I'll take you to that. First of all, "any matters where the Church could be deemed responsible" - what did you understand that to mean?

A. During that conversation, he just raised that as an aside, effectively. It wasn't central to any discussions that we were having at that stage, so I just let that actually pass at that time.

Q. Did that not indicate to you that there was a possibility that the North Coast Children's Home matters could be dealt with according to the professional standards protocol?

A. Yes.

Q. Did you pursue it?

A. Not at that stage, no.

Q. Did you pursue it at a later stage?

A. It was raised in some hybrid sense with an offer at a later stage in the proceedings by Footh Law & Co, but I never pressed it at that time.

Q. It says "in respect of Counselling and Pastoral Care etc". Did you understand at that stage that Mr Roland was indicating that there was a process within the Diocese of Grafton which would include counselling and pastoral care alone, or was it a process which would include financial assistance as well?

A. At that stage, I understood it was just counselling and pastoral care.

Q. Did he indicate that that was the case, or did he just not indicate that?

A. I would have expected him to go further, if there were going to be some financial package over and above mere counselling, and he didn't.
Q. Did you reach a conclusion as to whether that counselling and pastoral care package was contingent upon Mr Roland and the Diocese of Grafton accepting responsibility for those matters?
A. Yes.

Q. That arose from what he said during that telephone call?
A. That's correct.

Q. If we can then go to the document you mentioned before - your note of 18 May 2006.
A. Yes.

Q. In the note at SJH-10, there is a reference here to:

Spoke to North Coast Lawyers engaged half an hour discussing and considering.

Who was this a conversation with?
A. That was Foott Law & Co.

Q. Was it Peter Roland or somebody else?
A. Yes, it was.

Q. In paragraph 3, Mr Roland indicated:

... that they don't work the same way as the Sydney Diocese. They see other matters such as physical and psychological abuse in the different category.

Do you see that?
A. Yes, I do, yes.

Q. Was there some indication from Mr Roland that the sexual abuse matters should be split off and dealt with separately from the physical and psychological abuse matters?
A. Well, he was suggesting there that the protocol only extended to sexual abuse, and of course for the clients that were actually sexually abused there was also a significant amount of physical and psychological abuse, so it wasn't clear at that stage, if the clients did proceed with the sexual abuse protocol with the diocese, whether any payments or other accommodation would have included payments and accommodation for non-sexual matters,
and therefore what would we then do with the clients who
had been sexually assaulted who were being dealt with
through the protocol - what would happen to the rest of
their claim where it wasn't a sexual assault, and that was
unclear.

Q. Clearly it's undesirable to try to split each client's
claim up between sexual and physical and psychological
abuse?
A. It would have been a practical nightmare.

Q. You say there in your note that they are prepared to
offer counselling. First of all, was that with respect to
all of the claimants or just some of the claimants?
A. I wasn't sure. What I did know is that certainly
Tommy, I think, had been receiving some counselling and
I think one or two other clients had approached the diocese
at some stage and were also - or had received counselling,
or at least the promise of counselling.

Q. In terms of the offer of counselling, was that tied to
the financial settlement of their claims; was that part of
that, or was it a separate matter on the side?
A. Well, I think I assumed at that stage, and
subsequently, that it was separate and on the side. So if
clients were proceeding through the group action process as
opposed to a diocesan protocol, they would nevertheless
still be afforded counselling.

Q. So you knew Mr Campion had received counselling at
this stage. Were you aware that [CA] - sorry, there's
a list of pseudonyms in front of you on the desk. Were you
aware that [CA] had been offered or had been receiving
counselling?
A. I honestly can't recall. I would say that these
matters took place six years ago and the documentation that
we requested from Nicol Robinson Halletts relates to the
master file. Just to explain, the master file - we split
the files up into the master file, which contained generic
research, generic correspondence for the whole claim; and
then individual files, so any files relating to - any
specific matters relating only to [CA] would be on her
individual file, which I've not seen since leaving the
practice six years ago.

Q. Thank you for that. In any event, was counselling
offered, through you, to the other clients apart from
Mr Campion?
A. We would have notified the clients that that was a facility that was being offered. We wouldn't then get involved in the machinations of actually arranging that counselling and entering into correspondence about it.

Q. But as far as you were aware, that did not take place, or it did take place?
A. I'm not sure which clients took up counselling and which ones didn't, except for Tommy Campion.

Q. That was a matter for those other clients to negotiate with the diocese; is that correct?
A. Yes.

Q. Who would they be speaking to at the diocese? Was there a particular person or was it Mr Roland?
A. Honestly I'm not sure.

Q. You said I think earlier today that Mr Roland had said that they needed to be shown evidentially that the abuse actually happened, so I presume that means he wanted a factual basis from your clients set out in some form of statement; is that correct?
A. Yes, and I quite flippantly said before that we were not exactly looking at DNA. This wasn't a "scene of crimes" issue of recent date, and therefore the only other evidence that could be provided is corroborative evidence from other individuals, presumably, or an admission from the abuser themselves, neither of which - well, neither of which were going to happen.

Q. Then there is a reference going down two paragraphs to:

... the Church on pastoral principles may be able to assist but that it has limited resources and also limited obligations.

Did he say what the offer on pastoral principles might be?
A. Not at that stage, no.

Q. But he was indicating, obviously, that there were limited funds available, on his instructions, to provide for your clients?
A. Yes, he was pleading poverty, but I've seen that so many times with churches, it's just taken as a matter of
course.

Q. There must have been some discussion about insurance prior to this date, because he says:

Compensation is not covered by their insurance as we were aware.

Had there been discussion with Mr Roland about insurance?
A. No. He's assuming that I would have known that, which of course I did know that. These matters would not be covered by insurance.

Q. Then over the page, you say that you were "not impressed by Reverend Comben's recent article". What's that a reference to?
A. I seem to recall it was an article that Reverend Comben had placed in the Lismore Times, I think it was, but I honestly can't recall and I don't remember seeing a copy of the article in the bundle of files that I had from Nicol Robinson Halletts.

Q. Just going down to that large paragraph that begins:

He said if we show that the Rector and/or the Bishop was involved for example, then that would be a "fair cop".

Do you see that?
A. Yes.

Q. Well, it was the case, was it not, that particular clergy were involved in terms of the allegations?
A. That's correct.

Q. You knew the names of those people, particularly after the statutory declarations that were taken later that year?
A. Yes, we prepared a schedule.

Q. Was there ever any indication from Mr Roland or the Diocese of Grafton that they would agree to a fair cop with respect to allegations against clergy?
A. Well, I was a bit offended by that term "fair cop", but that was typical, unfortunately, of the type of flippancy that we were experiencing at that stage, and throughout this process, by both the diocese, through Reverend Comben and also from Foott Law & Co.
Q. But it indicates, does it not, that "we will accept liability" - there's an indication there from those words that "we will accept liability" if it's shown that a rector or the bishop was involved?
A. Yes.

Q. I'll ask it this way, then: was there ever any indication from Mr Roland or the Diocese of Grafton after this particular telephone conversation where they said, "We will accept liability for certain acts of clergy"?
A. No, and I've got no doubt whatsoever that they would have continued their initial response to issues of liability by relying on limitation periods. My point to them throughout was that if they were willing to waive limitation periods - which is only an issue if it's raised by defence; it doesn't have to be raised - if they abrogated the defence of limitation periods, then we could have the courts look at these matters; we could then look properly at liability and undertake full evidentiary processes. But they were adamant that they wouldn't move from their limitation arguments, and of course that was one of the major issues in eventually trying to get these matters settled, because we were prejudiced with limitation.

THE CHAIR: Q. Did you think about going to the court and asking for the period to be waived?
A. Yes, we did. We in fact relied upon secondary limitation through section 31. I had done on awful lot of work on section 31s previously, not only with the foster kids' claims but with others. We'd got a wealth of advice on that, and our issue, our difficulty, was that we did not believe for one minute that we'd get up on a section 31. Even if we'd got up on one section 31 for an individual, we'd still have 40 separate cases that we'd need to get up on. The fact that we had got up on section 31 for one claim would not matter. Each of those section 31 applications would be very subjective. Of course, most of these clients were aware, I think, that they could have brought a claim earlier on in the piece, and they hadn't.

The other issue that we had is that if we did issue proceedings and section 31 was raised, the defence, our clients would have been hit with significant costs orders, and that was one of the main reasons why we had to try to get this thing settled, and he knew that. Foott Law & Co
knew that.

Q. Secondly, while I'm asking you a question, there is a suggestion in the documents of the possible incorporation of the home. I take it that never happened?
A. No.

MR BECKETT: The home was incorporated in 1989.

THE CHAIR: Oh, it was, was it?

MR BECKETT: Yes, as the North Coast Children's Home, incorporated under the Associations Incorporation Act of New South Wales.

THE CHAIR: Did it own anything?

MR BECKETT: There was a substantial dispute about ownership of the land on which it sat, and particularly there is the 1923 trust.

THE CHAIR: When it was incorporated, did it acquire any property?

MR BECKETT: I don't know.

THE CHAIR: Q. You don't know the answer to that either, I suppose?
A. No, I don't know.

MR BECKETT: Q. Mr Harrison, just at the bottom of that paragraph, you say:

I advised him that we must understand that we will not be satisfied with mere counselling and ancillary payments, that we are looking for proper compensation which we can't define at the present time but it will certainly not be mere expenses.

Do you see that?
A. Yes.

Q. In terms of your earlier indication of what counselling, and whether it was included, does that statement indicate to you that in fact what Mr Roland was indicating to you was that they were prepared to offer
counselling and ancillary payments but not a financial
settlement?
A. That's correct.

Q. As a result of that indication particularly about
evidence, what did you then do to prepare matters for the
diocese?
A. We'd continued to get more instructions in respect of
the statements that we required for all 41, and we then
started an investigation as to where we could obtain any
historical documents relating to the home, and that's when
we came up with the CASPA and also the historical society,
who I believe were both based in Lismore. So we were
basically trying to pull more information together.

Q. Do I take it that the primary reason for gathering
that material was to meet, effectively, the demands of the
Diocese of Grafton that you provide an evidentiary basis
for the claims that were being made by your claimants?
A. It was to do that, and also to see whether or not we
could find any smoking guns in any of that information that
we thought was out there. I was also dubious about the
contention that was being raised that the diocese didn't
know of any previous abuses, and I was quite anxious to
find out whether or not that was in fact untrue.

Q. During that process, did you find out about the
litigation that [CH] was engaged in?
A. Yes.

Q. And what did you discover there?
A. We'd ascertained that the diocese had made
a settlement with [CH]'s lawyers.

Q. The indication we have is that the deed of settlement
in the [CH] matter actually occurred after that particular
time. Does that accord with your memory?
A. I can't recall.

Q. In any event, the [CH] litigation, as I'm calling it,
was with respect to a Reverend Kitchingman; is that right?
A. That's correct.

Q. And also the Diocese of Grafton had relied upon an
insurance policy to deal with that particular litigation?
A. I can't recall whether it was an insurance policy.
Q. Then I think in SJH-13 we have a letter from Mr Roland to you dated 30 June 2006 where he indicates that Reverend Comben will require material to be put before the professional standards committee to show the church's interest in the matter. That was the material that you were preparing at that stage; is that right?
A. That's correct. Albeit at that time we weren't preparing that information with the view necessarily to provide it to professional standards. We were preparing it for the purpose of the group action itself. As an aside, of course, it would have gone to professional standards if that's what we'd have - if that's the process we'd have followed later on.

Q. But you were preparing it in a pre-litigation sense?
A. Absolutely.

Q. What other steps - I think you've indicated some of those in your statement - did you undertake to gather the evidence in support of the group claim?
A. I think I've said we were looking at any resources that we could approach. So the historical society was one. We were also looking at obtaining a number of psychiatric reports on various clients, or at least contacting any psychologist that had been instructed at any stage by them. We were very conscious throughout this process that what we didn't want to do, as lawyers, was trigger any further decompensation. Therefore, when we were following particular avenues of inquiry with individual clients, we were very conscious that we had to stop at certain stages, and it may well have been the case that the likes of Dr Ian Curtis or others could have secured that information through the safe environment of a debriefing session with a counsellor. So that was also part of the fact-gathering process as well.

Q. You took a number of steps to gather historical documents that applied to the North Coast Children's Home?
A. That's correct.

Q. Particularly during the period when your clients were at the home?
A. Yes. Well, I would just say we were also looking at a potential period here not just based on what the 41 were telling us but what others were telling us of a 48-year period of potential abuses, and I think that's set out in some of the matrix that we provided.
Q. Were you able to obtain the licences under the Child Welfare Act that the home had, or I presume must have had, during that period?
A. I believe we did. There's at least one, I think, in the bundle of documents that I saw from NRH, but I also note that yesterday you mentioned that there were some licensing agreements that were available. I'm not sure whether they came through NRH or whether they came through any other sources, but I do seem to remember that we had at least one.

Q. At least one, yes. As we understand it, the Child Welfare Act required an annual licence, so was that a one-year licence or a licence application?
A. No, it was a one-year licence, if I recall.

Q. Do you remember the year that --
A. No, I don't.

Q. All right. Then on 15 September 2006 you did two things, as I understand it. First of all, you wrote a 14-page letter to Mr Roland setting out the basis for the claim?
A. That's correct.

Q. And annexing a very large number of documents to substantiate that claim?
A. Yes.

Q. On that date or soon after, in September, did you also provide a number of statutory declarations to the diocese?
A. Yes, we did.

Q. There's some reference in the church materials to 450 pages of material being provided to the Diocese of Grafton.
A. It would have been in that order, yes.

Q. If I can just take you to SJH-14, your letter of 15 September.
A. Yes.

Q. You say at the third paragraph of the first page of that letter:

You -
that is, Mr Roland -

also advised at that time -

in other words, March 2006 -

that the Diocese is "not in a position to
undertake open ended investigations without
having details of the identity of the
persons making the allegations or the
timeframe and extent to its inquiry should
be made".

So do I presume from that that this letter of 15 September
2006 was intended to address that particular request from
the diocese?
A. Yes.

Q. If we go over the page, then, you've divided the
letter into six parts - the incorporated association, the
church home, informal processes, liability, other matters
and a conclusion. If I could just go to the incorporated
association matter, which is on page 3, or Ringtail
1802.0008, there was an issue, was there, as to whether the
committee or association that was running the North Coast
Children's Home at the relevant time of the abuse was in
fact incorporated or not?
A. Yes.

Q. What did you resolve on that issue?
A. I believe we resolved that it was incorporated at that
time.

Q. At that time, that there was an incorporated entity?
A. Yes.

Q. What was it called?
A. I'm not sure.

Q. Was it not the case that in fact there was no
incorporated entity until North Coast Children's Home was
incorporated on 23 March 1989?
A. Yes, you're correct. My apologies. You're correct,
of course.

Q. Not at all.
A. It's been a long day.

Q. It has, and we're grateful for your being here. Now, part 2, "The Church Home", in attempting to rebut an assertion from the diocesan lawyers that there was no evidence that the home was called the Church of England North Coast Children's Home, you provided certain matters of evidence to rebut that; is that correct?
A. That's correct.

Q. One of them was the photo that Tommy Campion had obtained of the gate which said "Church of England"?
A. That's correct.

Q. "The home's internal records" - there were references there, were there?
A. Yes.

Q. "Third party correspondence"?
A. From suppliers such as plumbers and electricians, that's right.

Q. "The testimony of a previous employee of the Home". Sorry, I've just lost my space for a moment. Perhaps I should go to the annexures which are summarised in your --

THE CHAIR: I think, really, we have a fairly good idea, don't we?

Q. There was a good deal of research done and historical material was brought forward?
A. Yes, your Honour.

Q. Which you would say made plain that the church both accepted that it was a church institution and the constitution of the institution provided that the church was intimately involved in the management of the facility?
A. That's correct, yes, your Honour.

Q. That's what it comes down to, isn't it?
A. Yes, your Honour.

Q. Your work is to be commended, but can I ask you this: on the way through this, I assume you were in oral discussion with the solicitors for the diocese as well as corresponding; is that right?
A. If we were, all of the attendance notes were recorded. I had particular concerns about the manner in which I felt that any telephone conversations would be construed by Foott Law & Co or by the diocese, and so any discussions we had were recorded in attendance notes on the file.

Q. Leaving aside the technicalities of the legal dispute, did any question of moral obligation emerge in those discussions?
A. None whatsoever. Quite the opposite, as I think we'll see in the course of the mediation. This was a thorn in their side that they wanted to go away. There was no intention by the diocese to do good in these matters. I was absolutely convinced of that.

Q. Did you raise that with the solicitors for the diocese, that there might be a moral obligation?
A. Sometimes I suppose it's quite easy to have fairly direct discussions with defendant lawyers. I didn't feel that was going to be the case with Foott Law & Co. I felt that, in my mind at least, they were married to the church in this instance and, therefore, there was no point in getting into those sorts of discussions, that minutiae.

MR BECKETT: Q. At pages 5 and 6 of your letter of 15 September 2006, you raised the church's protocols. You raised the Professional Standards Ordinance of the diocese in some detail there, setting out definitions of "church authority" and "church body", and so forth, "church worker". That's all set out there as the basis upon which you say that --
A. Yes.

THE CHAIR: Q. Again, I think, in summary, the position is you were contending that the church had a legal obligation that you could establish. The question that stood in your way was the statute of limitations?
A. Absolutely, your Honour, and that was the main issue throughout. The end of page 5 and page 6 onwards throws back the church's own language, which they were quite happy to tread all over when it came to this particular claim.

I would say, as an aside, out of all the claims I've dealt with over quite a few years, the way that this was dealt with by the church was perhaps the most scurrilous and mean-minded attitude I'd ever come across, quite frankly.

.19/11/2013 (17) 1812 S J HARRISON (Mr Beckett)

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MR BECKETT: Is that a suitable time?

THE CHAIR: It is, Mr Beckett. We'll adjourn until 10 o'clock in the morning.

AT 4PM THE COMMISSION WAS ADJOURNED TO WEDNESDAY, 20 NOVEMBER 2013 AT 10AM
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