The Royal Commission into Institutional Responses to Child Sexual Abuse
Response of [redacted], Hobart; to Consultation Paper: Redress and civil litigation

First two explanations:
One: This response is being sent via Relationships Tasmania due to problems with my computer email settings.
Secondly: I require more time to fully formulate and detail my arguments, and hereby formally request an extension of time to midday Friday 6 March 2015 to do so.
Issues 1 and 2 are reasonably complete though I am happy to follow up with matters

Issue 1: There appears to be an error in the actuarial figures relating to Tasmania in both the Finity Cost Estimates paper and in its translation to the Consultation Paper.
The matter is possibly minor and technical and should be referred back to the actuaries. However, it has frequently been used by the media and is a potential embarrassment. I should explain firstly that it comes within part of my area of professional competence [redacted] I should explain secondly that it first came to my notice upon the first release of the consultation paper when the ABC asked that I comment on the TV news that: "the Royal Commission had recommended that $74 million be paid to Tasmanian victims". I could not access the documents at that time, but on being informed that the total disbursement Australia-wide were estimated at $4.378 billion, I immediately realized there was a problem with the figures. Consequently, I refused to comment on the amount of $74 million. **Just as well because the Royal Commission was recommending no such thing.** However, that did not stop the media hyping this figure. My estimate on that day for the figures given was that $110 million or in general terms between $100 million and $125 million would have been the funding model that should have been used for Tasmania by the actuaries. My current perception having read the details of the actuarial approach is that the estimate for this particular projection should be $105 million plus or minus $7 million. Fundamentally this issue is statistical: 2.4% of private hearings were Tasmanian; during the period 1945-2010 the Tasmanian school population roughly averaged 2.5% of Australia's; and the Tasmanian population for the same period averages out at about 2.5% of Australia's (roughly 3% declining to roughly 2% over that period for school and population figures). At first I thought Aboriginal issues may have distorted the Tasmanian figures, as well as the fact that Tasmania historically had a lesser percentage of Catholics, but use of the excellent details provided by the Finity report have largely persuaded me otherwise.

Issue 2: Table ES 1, page 19 on factors and values in assessing monetary payments.
It strikes me that there is no reason that the three factors should each have a top-out value. Surely, the matrix could used to assess severity say from 1-50 for the level of abuse; 1-60 for impact of abuse, and 1-30 for distinctive institutional factors, **or any other justifiable matrix**; with the total topping out at 100%. It could be that what we correctly see as relatively minor level sexual abuse (it gives me the horrors to talk in these terms), because of appalling levels of neglect, or appalling levels of victimisation, violence, and deliberate bureaucratic machinations can be seen or even proven to have led to extreme and catastrophic outcomes. The topped-out model can possibly lead to someone who clearly needs the maximum payment, and whom the tribunal would wish to award the maximum, being excluded for arbitrary reasons. Everything I have seen of the Royal Commission suggests that you will never allow anything arbitrary to get in the way of a just outcome.

Issue 3: Amounts of Monetary Payment
For a full reply I need more time on this issue:
I think the figures are too low, whilst not entirely disagreeing with your top model of an average of $80,000, there is a need for a higher top payment of at least $250,000.

Perhaps if certain organisations agree to **extra payments in settlement of potential civil liability** claims on a non-contest payment these can be assisted through a joint process. The organisations must be continuing to be providing a low cost service in education or welfare or other "good works" and be at risk of not being able to continue. There would be an extremely fast tracked process, but there would need to be some level of tribunal or judicial oversight. There would still need to a level of proof, though not at the high end of the scale for the event. What would generally

be seen as extraneous material might be used as evidence. In particular the organisation accepting that the abuse occurred would be automatic entry into the process. Claimants could elect to sue separately but all previous acceptance material by the organisation would be subject to potential exclusion at trial. Claimants would be warned of the potential loss of the non-contest process in pursuing civil litigation. Judges in the civil matter could require that the non-contest process be re-instated but preferably in the early stages rather than later. The top level of the non-contest process would be $200,000 to $250,000 for levels of compensation that the parties agree would normally attract more than $500,000 in damages. This would give claimants at the top end of the scale of damages access to a total of $400,000 and $500,000. A level of need criteria could also be imposed. It sounds like a lot of money but I would remind the Royal Commissioners that in most parts of Australia it would barely purchase a house, and in many others it would just be a deposit.

Issue 4: Civil Litigation
Basically my argument is that if claimants at the top end of civil liability damages can't access between $400,000 and $500,000 through a non-contest process the Royal Commission should recommend that all Australian jurisdictions remove all legal impediments based on arbitrary limitations of time elapsed since the original incident, establish that ongoing institutions be made entirely responsible for the acts of people who were their servants or who a reasonable person would believe were their servants; recommend that lesser but still reasonable levels of evidence be accepted, though possibly with eventual lesser levels of payments. Further, institutions should not be able to evade resposibility through administrative arrangements. As an example the Catholic Church should not be able to devolve responsibility to its many and fragmented sub-institutions, archdioceses, dioceses, different orders, but must take responsibility as a responsible body of last resort at a national level. Other organisations must be forced to take similar levels of responsibility.

Yours sincerely