SUBMISSION TO ROYAL COMMISSION INTO INSTITUTIONAL RESPONSES TO CHILD SEXUAL ABUSE.

RESPONSE TO ISSUES PAPER 11

CATHOLIC CHURCH FINAL HEARING

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INTRODUCTION

1. This submission is made by a small group of Queensland Catholics concerning many of the factors which contributed to the occurrence and scale of child sexual abuse in Catholic Institutions and which affects the institutional response of the Catholic Church, past, present and future.

2. In particular, and having regard to the specific issues listed in Issues Paper 11, we will briefly cover the following:

- The structure, governance and culture of the Catholic Church.
- Leadership.
- Canon Law.
- Clericalism
- Secrecy and Silence.
- Factors unique to the Catholic Church.
- Disengagement of majority of practising Catholics.
- Role of the Vatican.
- Current and future approaches of Church authorities to:
  ---- Responding to victims and secondary victims;
  ---- Responding to those subject to allegations of abuse;
  ---- Protection of children and prevention of abuse.

3. Over the past 3 years our small group of Queensland Catholics has been active in communicating with all levels of the Catholic Church in an attempt to secure support for the victims of child sexual abuse and their families. In the process, we have been conscious of supporting the work of the Royal Commission and we have done this by submitting 5 submissions relevant to our expertise, interest and experience.

4. In our response to Issues Paper 11, and mindful of the importance of bringing all our work together, we shall briefly refer to key points from these 5 submissions, which are as follows:
Submission 1. Submission dated 30 August 2013, regarding the Towards Healing process.

Submission 2. Submission dated 30 June 2014, regarding the financial structure and commitments, including taxation, of religious institutions.


Submission 4. Submission dated 30 November 2015, dealing with advocacy, support and therapeutic treatment services.

Submission 5. Submission dated 29 May 2016, dealing with Canon Law, the absence of mandatory reporting requirements and the question—"Why the sexual abuse of children is a secret in the Vatican?"

NOTE: Ms Denise Sullivan, a co-author of this Submission, has forwarded to the Royal Commission, in response to Issues Paper 11, a separate comprehensive report, “Canon Law, the maintenance of secrecy and the failure of the Catholic Church to protect children from clerical abuse”.

SUMMARY OF SUBMISSION

5. In this submission we examine the underlying factors, identified in Issues Paper 11, which contributed to child sexual abuse in Catholic Institutions, that affected the institutional response to both victims and secondary victims and that are relevant to the protection of children and prevention of child sexual abuse in the Catholic Church. In simple terms we are concerned with the sexual abuse of children in Catholic Institutions, past, present and future.

6. The Royal Commission is interested in the extent to which the underlying factors are relevant to the sexual abuse of children in Catholic Institutions. Accordingly, we have concentrated on those factors which impact across the spectrum of past, present and future.
7. We believe that *secrecy and silence*, surrounding all aspects of child sexual abuse, together with the absence of any *reporting requirements* by clergy, have already been identified through the Catholic case studies in the Royal Commission as very significant factors behind the abuse and scale of abuse and, indeed, these same factors were highlighted by Commissions in other parts of the world such as Ireland and America.

8. Perhaps even more importantly, we submit that children are still, today, at risk because the requirements for clergy to keep everything secret and not to report to police in Australia arise from specific provisions in *Canon Law* that still apply today.

9. Until these *secrecy laws in Canon Law* are repealed, current and future children will continue to be at risk and may not be protected. We will demonstrate that it was the bishops and clergy in the Catholic Church who led the way in enforcing these secrecy laws.

10. It is true that there were many other factors that accompanied the obsession with secrecy and silence in the Catholic Church, with devastating effects on thousands of children, and we have dealt with each of these in some detail in this submission. We have also introduced to the Royal Commission a new factor—"Disengagement of majority of practising Catholics", which we believe is critical to an understanding of the very poor response by the Catholic Church to victims and their families.

11. We firmly believe that the Catholic Church, in the absence of any credible system of governance that just might have provided a wake up call at some point, was under the control of the *Vatican*, through the specific operation of *Canon Law*. This control by the *Vatican*, exercised through the Popes, Bishops and most senior clerical leaders of the Church ensured that the *vision* for the Catholic Church was to protect the image and reputation of the Church, to protect all the clergy for their own good and for the good of the Church, to ensure structures were in place to protect wealth and to take any necessary action to avoid scandals.

12. Furthermore, to ensure this vision was implemented, we submit that *leadership and clericalism* by the bishops and senior clergy of the Catholic Church played a dominant role as outlined below:
FACTORS INFLUENCING ABUSE AND SCALE OF ABUSE

# Ensuring Catholic Institutions maintained absolute secrecy on all allegations and proceedings regarding child sexual abuse;

# Ensuring there was no reporting of child sexual abuse to police unless bishops were required to do so by Australian law;

# Transferring offending priests from one parish to another;

# Ensuring sexual abuse of children was covered up by all means, including lying to parents and communities that no children had been sexually abused by priests;

# Focussing on the welfare and health of the offending priests in complete contrast to neglecting the physical, psychological and spiritual healing of the victims;

# Adopting processes and sanctions that ensured very few offending priests were taken out of circulation or brought to account for their crimes.

FACTORS AFFECTING INSTITUTIONAL RESPONSE OF CATHOLIC CHURCH

# The failure to lead parish communities in support of victims and their families;

# The failure to lead and educate Catholics about the abuse, the Royal Commission and the needs of victims;

# The failure to lead the way in promoting and supporting the Loud Fence movement;

# The failure to welcome victims back into parish communities and bring God back into their lives if they wish this to happen;

# The failure to lead and encourage practising Catholics to accept any responsibility to address the needs of victims, as part of the wider faith community in which the atrocities occurred;
# The failure to publicly acknowledge child sexual abuse in every parish and community where it is known to have occurred.

13. In summary, it is evident that, in regard to the Church's response to the victims of sexual abuse the same *culture of silence*, of inaction, of keeping laypersons in the dark, which directly contributed to the occurrence of the abuse in the first place, continues in the Catholic Church today and this can be seen as a direct result of the *senior leadership* of the Church. Moreover, it is also clear that the *leadership* of the Church is intent on ensuring the masses of Catholics in the parishes are *disengaged from* the whole issue of child sexual abuse and will, therefore, refrain from supporting the victims as part of a parish community.

14. Whilst we believe the Church has to answer for its appalling failure to deliver on its promise to put the needs of victims first and deliver compassion, care and justice to victims, we agree that a critical matter before us is to ensure the *safety and protection* of children, now and in the future. To this end, we repeat our strong recommendation that the *secrecy laws in Canon Law* must be repealed to ensure our children are safe in Catholic Institutions in future.

15. We explain in our submission that most of the factors identified by the Royal Commission are ensconced in Canon Law. We have also submitted that the formal laws administered by the Vatican not only contributed to the occurrence of sexual abuse in Catholic Institutions, but also instructed the actual institutional responses to be taken by the Church. Furthermore, as with the secrecy provisions, these laws are still in existence and they create a clear danger to the future safety of children.

16. We have demonstrated in our submission that if the Catholic Church, through the actions and leadership of its bishops, invoked the relevant provisions of Canon Law in dealing with cases of sexual abuse of children by clergy, we would have witnessed the same abuse and the same institutional response by the Church that the Catholic case studies in the Royal Commission have presented to us over the past 3 years.

17. This leads us to consider an absolutely crucial issue and it arises because officials in the Catholic Church, who are aware of the impact
of Canon Law on child sexual abuse and institutional responses to that abuse, argue that actions by bishops in regard to secrecy, cover up, transfer of offending priests etc. were not actions which followed the directives of Canon Law. Instead, these were actions resulting from a culture that presented an instinctive defensiveness by bishops, leaders and officials to keep the sexual abuse of children hidden to safeguard the reputations of both the priests and the Church.

18. In response to that argument we would make two important points. Firstly, it cannot be denied that, if this culture of instinctive defensiveness exists in the Catholic Church, it is reflected in, and formalised by, Canon Law. This point is clear. The second, and most important point from the viewpoint of protecting children, now and in the future, is that, if the secrecy and other Canon Laws, which we have shown historically to have a devastating impact on child sexual abuse, are not repealed, these laws will continue to apply to the detriment of children into the future. This will be the case no matter what initiatives are introduced by the Catholic Church to change the culture of the Church in relation to the defensive attitude of the clergy.

19. To put this critical issue in perspective we submit that we cannot afford not to change these Canon Laws that are a clear and present danger to the safety of children placed in the care of Catholic Institutions.

20. In the submission that follows, we devote some attention to what we describe as the “Disengagement of majority of Catholics” because we regard it as a most important factor resulting from clerical leadership of the Church. Indeed, we consider that it is the leadership and inactions of the clergy that determines the mindset and responses of the Catholic lay faithful. It is this fundamental process whereby the Catholic Church exercises control over the Catholic lay faithful.

21. If the Catholic Church believes it is only the clergy that has the right to lead the Catholic lay faithful through the scourge of the sexual abuse of children and if, the Australian Catholic Bishops Conference fails to convince the Vatican to remove the Canon Laws which threaten the future safety of children, how will it be possible to change this assumed culture of instinctive defensiveness of the clergy of the Catholic Church so that clergy and lay faithful work together to protect innocent young children in future?
DEVELOPMENT OF SUBMISSION

22. To begin, we should clarify our focus over the 3-year period from mid 2013 to the present time. Until the past 2 to 3 months our efforts have concentrated on supporting past victims of child sexual abuse and their families, mainly in attempting as part of a local parish to reach out publicly from the faith community to those who historically have been ostracised.

23. From the very beginning we learned that the grand statements and promises from current senior church leaders to put the needs of victims first and to deliver compassion, care and justice to victims were not followed by the required meaningful actions.

24. In submission 1 we reported the church’s statement that “Towards Healing is evidence of the Church’s professional approach to the scourge of sex abuse” and also that “The Towards Healing protocols have radically improved the Church’s handling of sex abuse allegations and its treatment of victims of abuse”. Whilst we acknowledge the possibility of a National Redress Scheme taking over the role of a truly independent and transparent body, funded by the Church, to investigate and determine complaints of abuse against the Church, it is submitted that Towards Healing has never been a credible healing process for victims and we provided detailed reasons for our view in submission 1. In any event, the Truth, Justice and Healing Council “TJHC”, through its CEO, Francis Sullivan, has said on a number of occasions that the case of the Church investigating itself is long gone.

25. When the Royal Commission began in 2013, victims who still wanted to be part of the Church would have been entitled to believe that Church leaders would embrace them back into the fold and lead the Church parish communities in doing everything possible to help in the healing process. Indeed, in an address delivered on 22 June 2013, Francis Sullivan reproduced key statements from current senior Church leaders that echoed the words of Pope Benedict XVI about the need for victims to receive compassion, care and justice. Statements made by Cardinal George Pell, Archbishop Denis Hart,
Archbishop Mark Coleridge and other senior Church leaders included references to:

- Putting the victim first;
- Giving practical help and support to those who have suffered;
- Bringing the truth to light;
- Bringing justice and healing to those who have suffered;
- Emphasising that protection of children is of prime importance, not the protection of the organisation;
- Victims and their families must receive respect, justice and compassion;
- There must be no attempts to disguise, diminish or avoid the actions of Priests and Religious who have betrayed their sacred trust.

26. Indeed, it is worth noting that, for the past 3 years, the TJHC has, on behalf of the Catholic Church, placed at the beginning of each submission it has made to the Royal Commission a statement of commitment. This statement includes the following commitment:

   "The leaders of the Catholic Church in Australia commit ourselves to endeavour to repair the wrongs of the past, to listen to and hear victims, to put their needs first, and to do everything we can to ensure a safer future for children".

27. If the Church Leadership were genuine in putting the needs of the victims first we would have seen, over the past 3 years, bishops and parish priests throughout Australia, active in leading local Catholic parish communities in welcoming victims and their families back into a loving parish community where they might have a chance to achieve some measure of justice and healing from members of the same Church which betrayed them as children.

28. Again, if the Church Leadership were genuine in acting on their commitment, we might have witnessed the following activities:

CATHOLIC BISHOPS WOULD:

- Show pro-active leadership by undertaking to listen to what the victims specify as their needs.
- Lead the way and ensure that the needs of the people in Catholic parishes are supported in their own aims for care of victims i.e.
showing that the victims are welcomed and respected as an essential part of their local faith-based family.

# Instruct priests and religious to demonstrate the leadership required to ensure that the emotional, spiritual and practical support needed by victims for their future well being is provided at a local parish level.

# Establish good _communication structures_ between dioceses and parishes, and parish to parish, for the purpose of sharing information and assistance to properly and appropriately respond to the needs expressed by victims and secondary victims.

**PARISHES AT A LOCAL LEVEL WOULD BE DIRECTED AND ENCOURAGED TO:**

# Make public statements of apology, acknowledgement and support recognising the impact of sexual abuse on victims.

# Offer regular liturgies and public prayers in every church for the victims of sexual abuse, their families, friends and wider community.

# Ensure that such prayers are promoted publicly from the altar by all clergy in all churches and are a permanent part of weekend Masses when the communities are gathered together in prayer.

# Create care groups at a local parish level to provide a space for victims, secondary victims and those who have been ostracised or cut off from their faith-based communities, to find a place of belonging within them and to heal with the benefit of a caring faith-based community if they choose to do so.

29. Sadly, it must be reported that, in direct contrast to its public statements of help, support and commitment to victims, the Catholic Church has, in the main, not only refrained from pursuing the sort of support for victims described above, as a whole of church approach, but it has prevented groups of Catholics such as ours from providing such support and representing their parish in doing so. We regard this failure of the church to provide the institutional response promised, effectively, as a continuation of the abuse.
30. Around December 2013, we realised that our group wanted to reach out and provide support, as a parish, to victims of child sexual abuse. We asked for approval from the diocese to arrange a liturgy and ongoing prayers for the victims and we said we would like to, at the local parish level, acknowledge the harm caused to victims and their families and to encourage victims to join us in prayer and provide them with support as valued members of our church community.

31. In reply, we were informed that we could certainly reach out to survivors of child sexual abuse as individual lay faithful and we were encouraged to do so. However, we were informed that we would need the approval of the parish priest to act in the name of our parish and we would need the approval of an Archbishop to act in the name of the diocese. It was made clear that approval of our request to support victims in the manner described would not be forthcoming.

32. In seeking reasons for the decision two comments were made that are directly relevant to the Royal Commissions' consideration of the Church's response to child sexual abuse and, in this respect, highlight the role of structure and leadership in the Church responses to victims.

33. Firstly, it was explained that it was not within the competence of an archbishop to direct a parish priest in these matters. Secondly, it was explained that the Catholic Church in Australia had opted for a "Whole of Church approach" in engaging the Royal Commission and to have individuals or individual groups or parishes heading off on their own in some way would be foreign to the spirit of the "Whole of Church approach".

34. Our group has not been allowed to act in support of victims, as a parish community, except on two occasions. Firstly, after considerable difficulty and after petitioning on both parish and archdiocese level, our parish priest allowed our group to organise a Mass for victims of child abuse. This most significant event was not advertised, or spoken about from the altar, and was held at 8.30 AM on a Saturday between Christmas and New Year, 2013. Notwithstanding this, over 150 people attended it, including some people who had not attended a Church service for over 20 years. After notifying Francis Sullivan of the successful event, the Mass and
accompanying prayers and songs were placed on the TJHC website, where it has remained ever since.

35. The second occasion, being a parish event actually sanctioned by our parish priest, but organised by our group, was a presentation given by Francis Sullivan on 10 June 2015. We viewed this occasion, also attended by over 200 people, as a big success for both victims and our parish community and this too was publicly acknowledged by the TJHC, in the form of a media release dated 11 June 2015.

36. To summarise the position we have reached, it is correct to report that, for the past 3 years, the senior leaders of the Catholic Church have proclaimed (Via the TJHC) that, above all, the victims come first. During the same period we, as a small group of practicing Catholics in Queensland have attempted to support victims and their families but have been prevented from doing so because the support we proposed is not an appropriate “Whole of Church approach”. We have never been made aware of any “Whole of Church approach” for a parish to follow.

37. From our perspective the important issue to examine now is the institutional response of the Catholic Church to the victims of child sexual abuse and, in this regard, apart from referring a victim to the largely discredited Towards Healing or Melbourne Response, can the Catholic Church in Australia demonstrate that the victim really does come first? This, of course, is a question for the Catholic Church to answer. We thought the Church would answer this question in responding to the Royal Commission’s Issues Paper number 10, dealing with advocacy and support, but we note the Church did not make a submission to that paper.

38. However, perhaps a more important issue for the Royal Commission, in terms of Issues Paper 11, is to examine the underlying reasons behind the incredible decision not to allow parish communities to provide the simple support measures proposed. Also, what part do culture, clericalism, structure and Leadership play here?

39. Before proceeding to analyse the dilemma we have faced over 3 years in reconciling the Church’s promises and actions, we need to emphasise a relevant point we have made in earlier submissions. We believe it is clear that Francis Sullivan is an honest man who displays moral courage both in his representation of the Church (Through
TJHC) and in his genuine commitment to help victims in a range of ways.

40. However, notwithstanding the presence of the Church’s most senior Archbishops and Bishops on the supervisory group of the TJHC, we honestly believe the Catholic Church has treated the victims of sexual abuse so badly that, from the viewpoint of the victims, the Church continues the abuse. This can be seen by the failure of bishops and senior clerical leaders of the Church in their role of leadership as follows:

# The failure to lead parish communities in supporting victims and their families;

# The failure to show leadership in educating Catholics about the abuse, the Royal Commission and the needs of victims;

# The failure to show leadership in promoting and supporting the Loud Fence movement and, in particular, the disgraceful act of removing the ribbons from St Patrick’s Cathedral within hours of victims leaving for Rome to witness a Royal Commission hearing.

# The failure to welcome victims back into parish communities and bring God back into their lives if they wish this to happen;

# The failure to lead and encourage practising Catholics to take any responsibility to address the needs of victims, as part of the wider faith community in which the atrocities occurred.

41. So we now come to a fundamental question. In the light of the excellent leadership by Francis Sullivan of the TJHC, why is it that the Catholic Church’s record of supporting victims is so abysmal? A comment made to one of the authors of this submission, in a private conversation with a senior member of the clergy, may provide a clue to the answer. After the author praised Francis Sullivan for his efforts in leading the Church in support of victims, including Mr Sullivan’s vision and open comments about the need to reform the Church, the comment was made to the author—“Oh, but he is not clergy is he?”
42. At the time this comment was merely taken as “sour grapes”; however, it is now viewed as much more significant. To illustrate the significance we could give many examples but, perhaps, the best example relates to the beautiful Mass we organised for victims which, as we said earlier, was placed on the website of the TJHC. In August 2014 when the Sunshine Coast was hosting the National Council of Priests Conference, and still very little had been done on a spiritual level, from a “Whole of Church approach”, to support victims and their families, we decided it would be useful to share this liturgy. We sent the link for the Mass to over 1000 parish priests throughout Australia, together with an invitation that they use the liturgy to celebrate Mass in their parish for victims of abuse.

43. We only received 20 or so responses from this initiative, the majority of which were extremely grateful. Of considerable concern, however, is that we did not get any response from over 900 parish priests and we can only wonder at what the reasons might be for this fact. We would, however, like to pose the following question—"What would the response have been if the parish priests had received a similar communication from their Bishop or Archbishop?” and, an even more important question—”Why was this request for a prayerful response not one that emanated from the Church hierarchy as part of a “Whole of Church approach”.

44. It appears to us, from both witnessing the evidence given by different levels of clerics in the Royal Commission and from our own experiences in dealing with bishops and clergy around Australia, that there are no clear lines of communication or authority within the clerical ranks and yet, there appears to almost be an intrinsic understanding by clergy as to what they can and cannot do. To illustrate the point, we mentioned previously the diocesan statement that it was not within an Archbishop’s competence to direct a parish priest in such matters (Regular masses for survivors and families). We accept the statement but believe it is a measure of this overriding authority that he does not have to give specific directions to his parish priests in order for his wishes to be carried out. His directions to parish priests only need to be implied and will then be followed automatically.

45. There is little doubt that, whatever the formal structure of the Catholic Church might be, unless the bishops in the Church genuinely implement a “Whole of Church” approach, and request or direct
parishioners in the Churches, through their priests, to undertake certain actions, they simply will not happen. The hierarchy of the Catholic Church must understand very well that, unless the bishops demonstrate leadership in this manner, the undertakings and commitment of the most senior echelon of the Church to do everything necessary to help the victims of sexual abuse will, simply, not filter through to parishes throughout Australia.

46. During the past 3 years it has been most disturbing for our group to witness the continued refusal of the clergy to demonstrate leadership by encouraging the lay faithful in the Church pews to support the victims of sexual abuse. However the decisions of the clergy to stay silent on this critical matter is merely reflecting the leadership of the bishops who, in turn, have remained silent in this regard.

47. Of course, we now know that the support of victims in the desired manner is not to be pursued as a whole of church approach and we believe the bishops of Australia have made that decision. It clearly does not matter what structure the Catholic Church operates in or what relationship exists between bishops and their priests, the parish priests and associate priests do not have the courage to go against the known or implied wishes of their bishop.

48. And so, in regard to the Church’s response to the victims of sexual abuse the same culture of silence, of inaction, of keeping laypersons in the dark, which directly contributed to the occurrence of the abuse in the first place, continues in the Catholic Church and this can be seen as a direct result of the senior leadership of the Church.

49. We have reached the point now where it is abundantly clear that the clerical leaders of the Catholic Church will, generally, do all in their power to ensure the masses of Catholics in the parishes are disengaged from the whole issue of child sexual abuse and will, therefore, refrain from supporting the victims as part of a parish community. As a result, the victims are actually perceived by many Catholics as the “enemy” of the Church. Again the defensiveness is apparent throughout the parish communities.

50. The Catholic Church is, apparently, resigned to the fact the Royal Commission will investigate its history of sexual abuse of children
and make appropriate findings. We believe the Royal Commission has asked institutions, including the Catholic Church, not to wait until it is finished before putting their house in order, to do what they can to help survivors and ensure children are protected in future. With regard to helping survivors, our open question to Australian Bishops is— "What has the Church done to actively support the thousands of victims and secondary victims of Church abuse and bring to them some measure of compassion, justice and healing?"

51. The clear leadership message that Church leaders do not want their membership becoming engaged, as a Church, with moves to tackle the whole sexual abuse disaster head on, and support victims in the process, is also demonstrated by the reluctance, and in some cases refusal, of senior Church clergy to lead the way in promoting and supporting the "Loud Fence" movement.

52. Apart from some courageous members of the clergy, including Father Kevin Dillon of Geelong, Victoria, and Bishop Bird of Ballarat, Victoria the lack of support from senior Church officials has been lamentable. Again, whilst the official position of the Church is that it supports the Loud Fence initiative, as a visible show of support to victims, our own contacts with Bishops and clergy around Australia tells our group a very different story.

53. The pockets of support for Loud Fence by a few wonderful groups of victims' supporters do not change the fact that it is, clearly, another example where the Church leadership has tried to suppress public support for child abuse victims.

54. We have said previously that it is the leadership and inactions of the clergy that determines the mindset and responses of the Catholic lay faithful. It is this fundamental process whereby the Church exercises control over the Catholic lay faithful. It is also the process which the Church employs in the hope that, despite the clergy being responsible, directly and indirectly, for the abuse of thousands of young children in Australia, it is only the clergy which has the right to guide the Catholic lay faithful through this scourge of sex abuse.

55. It is interesting to reflect at this stage the different messages that are conveyed to Catholics by different people engaged by the Church to educate Catholics about the impact of child sexual abuse on both them and the Church. On 1 September 2013, the Catholic Leader
printed an interview with Dr Monica Applewhite, a Texas based researcher and practitioner in the field of abuse. Dr Applewhite had conducted workshops for Brisbane archdiocese clergy and pastoral workers in 2013 when she gave the interview. When talking about the Royal Commission she said—“I think the critical thing for Catholics to say: We can weather this storm; we’ve weathered plenty of others. We should not forget that this won’t kill us—-it may hurt to know the harm that has been done to those who experience abuse, but in this process the standards of care will change. That part is very positive”

56. Francis Sullivan has, over the past couple of years, consistently communicated a different message, one talking about the necessity for the Catholic Church to be reformed. For example, in a speech to the Australian Catholic University on 20 October 2015, he talked about opportunities arising out of the Royal Commission. He mentioned the need to—“re-establish the Church as a credible organisation, willing to acknowledge failings, accept criticism and put in place reforms and move forward”. In this we believe it is critical for the church leadership and its attitude, to reform.

57. With regard to the structure of the Catholic Church, we draw attention to submission number 2, dated 30 June 2014 in response to Issues Paper 7 dealing with Statutory Victims of Crime Compensation Schemes. At paragraph 27 of that submission it was recalled that the TJHC had informed the Royal Commission that the Catholic Church in Australia is not a single or discrete entity but as a community of faith, is made up of many different groups and individuals. In fact, according to the TJHC, there are 34 dioceses and over 180 religious institutions and societies within the Church in Australia.

58. To deal with “Who” or “What” is the Catholic Church in a structural sense, submission number 2 proceeded on the assumption that there would be well over 200 Church bodies or entities in Australia that qualified for tax exemption as they were legally treated as “Religious Institutions”. This is simply because a Church body may well have more than 1 tax entity. In the context of dealing with the financial or taxation aspects of the structures adopted by these Church entities, two conclusions were offered to the Royal Commission in submission number 2(Paragraphs 39 and 40) which are relevant to Issues Paper 11.
59. Firstly, it was submitted that some Church entities have by deliberate and calculated legal manoeuvres, either ensured they would not be required to make compensation payments to sex abuse victims or, alternatively, minimise such payments. It was submitted that these Church entities would have lost their entitlement to income tax exemption.

60. Secondly, it was submitted that other Church entities had engaged in conduct in relation to the overall treatment and management of child sex abuse victims, which is so contrary to that expected of a religious institution and is so offensive against ordinary laws, that such conduct would disqualify those entities from tax exemption.

61. Therefore, to the extent that Catholic Institutions were deliberately structured with the result that they were not liable to make compensation payments to sexual abuse victims, in the event of litigation by a victim, this approach achieved the outcome that the assets of such institutions were preserved. It can be argued, therefore, that the structure of Catholic Institutions had a direct impact on the institutional response of those Catholic Institutions.

62. Whilst dealing with the institutional response of the Catholic Church, in terms of funding compensation payments, we note the major reform announcement by Francis Sullivan on 12 March 2014, to the effect that every bishop, diocese and religious order would make available a legal entity, covered by insurance and wealth, that survivors of child sexual abuse could sue. However, we also note the recent announcement by Bishop Bird of Ballarat to the effect that victims can sue the Church through him. We assume this means that the undertaking by the Church, announced by Francis Sullivan, has not yet been implemented. This is a matter for the Church to clarify.

63. Before concluding the analysis of the impact of structure and culture of Catholic Institutions on the abuse and institutional response to the abuse, it is worth looking briefly at the issue of governance. From what we have learned these past 3 years, including witnessing many Royal Commission case studies, it appears that the various Catholic Institutions examined do not score highly on the chart of good governance. When assessing good governance we normally examine the process for making and implementing decisions and, to this end, we expect to witness the following characteristics:
# Accountability
# Transparency
# Responsive to members or community needs
# Equitable and inclusive
# Effective and efficient
# Participation
# Decisions which follow the rule of law.

64. We do not need to deal with this topic in any detail. We submit that, after witnessing 3 years of case studies before the Royal Commission, it is clear that, in the Catholic system, all religious institutions exhibited basically the same tragic story. It is abundantly clear that, on all the measures of good governance, the Church and its religious institutions failed miserably except that its process for making and implementing decisions, in relation to the sexual abuse of children under its care, did indeed follow and was controlled, by a very particular set of laws.

65. Unfortunately, as we shall soon see, it was the rules of Canon Law in the Vatican that were strictly followed, not the common law rules of Australia. Accordingly, taken as a group of religious institutions, it is submitted that, in the absence of any system of effective governance, the culture of the Catholic Church in Australia, in order to avoid scandal, has clearly focussed on the protection of its own reputation and the reputation of the accused clerics and religious, alongside a total obsession with secrecy.

66. The issue of secrecy, and also silence, with regard to all aspects of the sexual abuse of children in the Catholic Church is pivotal to the Royal Commission's terms of reference. Indeed, we suggest the Royal commission in Australia and Commissions in other countries have already highlighted that the silence and secrecy surrounding the sexual abuse of children was a major factor in both the abuse itself and the scale of the abuse in the Catholic Church. What is important now is to assist the Royal Commission in determining the underlying reasons why the Catholic Church ensured clergy and officials maintained absolute and permanent secrecy regarding allegations, investigations, proceedings, decisions and penalties applied to offenders.
67. From what we have seen, the Royal Commission hearings do not throw much light on this matter. Many of the bishops and senior clerics told the Royal Commission that they did nothing when confronted with the most serious allegations of sexual abuse of children by priests. Reasons given included "they passed it on to their superior", "they did not know what to do" and "the victim did not ask them to do anything". In general, the clergy did not communicate this information to those who needed to know, in particular parents and guardians, and they did not act on the information to protect children. Whilst it now appears to be accepted that the secrecy and silence, in a general sense, was to cover up or protect the Church and the Offender, it is impossible to accept or believe that that motive was adopted in every single case of sexual abuse of a child by clergy around the world and, in particular, Australia. How is it possible that a single bishop or senior cleric somewhere, in a Christian faith based organisation, when confronted with the reality that a priest had sexually abused a child, did not take immediate action to ensure another child was not abused by that priest? As far as is known, this just did not happen so there must be another explanation as to why every case of sexual abuse by clergy was enshrined in total secrecy. The answer appears to jump out of the Catholic Church’s Canon Law and, perhaps not surprisingly, we also find the Church’s Canon Law explains many other factors which both contributed to the occurrence of sexual abuse and impacted on the institutional response to that abuse.

68. We have dealt with the Church’s Canon Law and, in particular, the issues of secrecy and mandatory reporting requirements in a comprehensive report titled” Why The Sexual Abuse of Children is a Secret in the Vatican”. (Submission 5) This report, dated 29 May 2016 has been referred to the Royal Commission and it is not intended to reproduce it here. However, some of the content is of direct relevance to consideration of the underlying factors behind the abuse and institutional responses by Catholic Institutions to that abuse. Even apart from highlighting an obsession with secrecy and silence and a refusal to compel clergy to report incidents of sexual abuse against children, an examination of Canon Law throws a completely new light on the other factors being considered in this submission, including priorities for the Church, structure, governance and culture, clericalism, leadership and, of course, the role of the Vatican.
69. The remainder of this submission will only summarise key elements of Canon Law, relevant to Issues Paper 11. We encourage the Royal Commission and readers of this submission, in order to appreciate the full impact of Canon Law, as it relates to the sexual abuse of children by clergy, to read our submission number 5 and, also, to read an exhaustive study of Canon Law prepared by one of our group of Queensland Catholics, Denise Sullivan. Ms Sullivan’s submission is also being referred to the Royal Commission in response to Issues Paper 11.

70. Anyone researching the sexual abuse of children by clergy in the Catholic Church could not help being drawn into the role and impact of Canon Law. This is because of a very significant statement made by Pope Benedict XVI on 19 March 2010. Following the Murphy report, released on 26 November 2009, dealing with the horrendous sexual abuse of children in Ireland from 1975 to 2004, Pope Benedict XVI sent a Pastoral letter to the Catholic Faithful of Ireland on 19 March 2010 which included the following comments “My brother bishops—It cannot be denied that some of you and your predecessors failed, at times grievously, to apply the long-established norms of Canon Law to the crime of child abuse...Besides fully implementing the norms of Canon Law in addressing cases of child abuse, continue to cooperate with the civil authorities in their area of competence. Clearly, religious superiors should do likewise”. (Refer paragraphs 116-118 of submission 5).

71. On face value, Pope Benedict XVI’s comments to the Catholic Faithful of Ireland might suggest that he was attaching blame to the bishops for the sexual abuse of children in Ireland, or, at least, the scale of abuse, because they did not apply the norms of Canon Law. There is also the implication that the bishops did not cooperate with civil authorities. We would submit that the Pope’s instruction to apply the long established Canon Law, in truth, actually means to maintain total secrecy, only reply to requests from civil authorities when legally obliged to and not to report abuse to civil authorities voluntarily.

72. Indeed, it is our view that the Canon Law will always prevail and, even if cases are properly dealt with in accordance with Canon Law, abusers will not be brought to justice in the criminal justice system and children and parents will not be warned of the potential threat of harm.
73. Our analysis of Canon Law is covered in some detail in our Submission 5. We demonstrated in that report that the current provisions of Canon Law ensure that clergy in Catholic Institutions maintain absolute secrecy on all allegations and proceedings relating to child sexual abuse. In addition, we have highlighted current Canon Law that prohibits bishops from reporting sexual crimes to civil authorities unless the bishops are required to do so by civil law. Previously, in this submission, we suggested it was imperative to determine the underlying reasons why the Catholic Church ensured clergy and officials maintained absolute and permanent secrecy regarding allegations, investigations, proceedings, decisions and penalties applied to offenders. We also, in effect, posed the question—"How come no one broke ranks and breached the code of secrecy and silence to protect children?"

74. We now know that it was the secrecy and silence surrounding the sexual abuse by clergy that facilitated the opportunity to abuse in the first place, that allowed it to flourish to epic level, that permitted bishops in Australia and around the world to hide the abuse by moving offending priests and religious from one place to another, and, finally, it was this secrecy and silence imposed on the victims themselves which resulted in a life of devastation and, as we know, in many cases, suicides.

75. We submit that the Catholic Church knows full well that the inclusion of sexual abuse by clerics in the Pontifical secret provisions and the formal refusal to require that clergy report abuse to civil authorities, under Canon Law, are driving factors behind the abuse and scale of abuse.

76. We shall now look briefly at whether Canon Law can explain some of the other factors we have considered in this submission, relevant to the occurrence of child sexual abuse in the Catholic System and the institutional response to that abuse. Again, for the sake of brevity, we shall only summarise material covered in detail in our submission number 5 and covered, comprehensively, in the separate submission prepared by Denise Sullivan.

77. It may surprise readers of this submission, but not the Royal Commission, to learn that all of the factors listed for review in Issues Paper 11 are found in Canon Law. Indeed, we will submit that the
formal laws administered by the Vatican not only contributed to the occurrence of sexual abuse in the Catholic Institutions, but also instructed the actual institutional responses to be taken by the church. Furthermore these laws are still in existence and they create a clear danger to the future safety of children.

78. As we have already made the important point that it is the leadership and actions of the clergy that determines the mindset and response of the catholic lay faithful, it is appropriate to begin by looking at Canon Law in regard to leadership, culture and clericalism. We add that we are not only looking at the factors in the context of past abuse but also in the context of the future safety of children.

79. It is probably true to say that historically, priests and religious, have been personally placed on a pedestal by catholic society for hundreds of years. A look at Canon Law shows this is still the case. In 2011 the Vatican's Cardinal William Lavada explained the new norms of Canon Law, concerning the relationship between a bishop and his priests and the fundamental attitude to be shown by the bishop. He described this in terms of bringing the priest back to safety, to walk with him and restore the offending priest to the integrity of his personal and ministerial life. He talked of protecting the faithful from exposure and scandal, while resolving the abuse problem for the good of the priest and for the whole church. He did not discuss the devastating impact on the victims or the church’s responsibility to attend to their need for healing, including the spiritual possibility of the restoration of God in their lives.

80. As we said in Submission no 5, it is clear that the Catholic Church, over nearly a 100 year period, has had a preoccupation with introducing Canon Law provisions, norms and instructions, which protect both the institution of the church and the accused from scandal and ill repute, before its obligation for the protection of children.

81. We also saw in our revue of Canon Law that the church followed different trends in relation to its approach to canonical penal law. In simple terms the changes to Canon Law reflected changes from a decentralized approach (authority and discretion of local bishops) to a centralist approach (authority reserved to the Congregation for the Doctrine of the Faith). Importantly for most of the time when priests were abusing children in Australia, as highlighted in the Royal
Commission, the church concedes that *Canon Law* resulted in bishops pursuing a "pastoral attitude" to misconduct by priests and also that a "therapeutic model" prevailed in dealing with clerical misconduct with the bishop being expected to "heal" rather than "punish".

82. We also covered in some depth the provisions of *Canon Law* which covered the circumstances whereby bishops and superiors of religious orders, could transfer offending priests from one parish to another. To this day, canon law protects abusing priests in enabling their transfer even after a complaint has been made but providing an investigation has not begun.

83. It is relevant at this juncture to reflect on what has been learned from the Royal Commission over the past 3 years. We submit that it cannot be denied that, in the catholic system, the following factors characterise the sexual abuse of children by clergy.

- Obsession with secrecy
- Avoidance of scandal
- Protection of both the church and the offending priest
- Concern for the offending priest and his welfare
- Little concern for the abused children and their welfare

We submit, as we have briefly described above, that *canon law* in the Catholic Church relates directly to these characteristics.

84. Before proceeding to look further into the fractured and confusing leadership of the Catholic Church, particularly at the highest levels, and the connection with *Canon Law*, we need to say a little more about the distinction between the Catholic Church’s treatment of victims and its own abusive priests. We regard this aspect as critical to both why victims were abused in the first place on such a massive scale and, also, why the church has continued to treat survivors so harshly.

85. We have already described briefly, how the church protected its abusing priests, attempting to cure rather than punish, in order to safely restore the integrity of their personal and ministerial lives, under the guise of protecting the faithful from exposure and scandal. All problems would be resolved in the light of protecting these priests, for their own good and that of the church. These methods and goals for protecting the abusing priests did not rise from the
ramblings of a rogue cleric, they were, in fact, firmly entrenched in the directions found in Canon Law regarding steps to be taken in dealing with cases of the sexual abuse of children by clerics.

86. Whilst Canon Law, over a very long period of time, told bishops how to protect and help priests who have sexually abused children placed in their care, what does Canon Law, or the church, over the same period, say about the protection and care of the victims? In terms of helping victims deal with the abuse what we have found, at best, is that the victims were included with the accused among comments such as: "The secrecy provisions safeguard the dignity of all people involved". In truth, research of Canon Law shows that no one in the Vatican spoke up for the victims. The Church only had concerns for its priests and its reputation.

87. The Royal Commission and readers of this submission should never forget that we are talking here about a faith based institution, following the teachings of Jesus Christ, and, in particular, the sexual abuse of young boys and girls by Catholic priests and religious within that institution. In this context, how is it possible that the highest level of leadership of such an institution, as reflected in its Canon Laws, and the actions of its most senior officials in implementing those laws, has never highlighted the devastating affect of the abuse on those children? Nor, has the Church, at this level, ever directed its bishops and clergy to take personal responsibility to do everything possible to heal those children.

88. It is clear that, under Canon Law, the bishops can bring abusive priests back to safety and restore the integrity of their personal and ministerial life but the innocent young children who have suffered criminal abuse from these priests and had God effectively removed from their lives in the process, are on their own. The Church's laws and leadership are not directed to the physical, psychological and spiritual healing of the children. This scenario is, of course, the main picture painted in this submission. We submit, again, that the Church has not acted to assist the survivors of sexual abuse and this is, yet again, another example of the leadership of the Church acting under the banner of Canon Law.

89. We have mentioned that when a child is abused in the Catholic system, particularly by a priest, one of the impacts of the abuse is that God is taken out of their lives. In our view, as Catholics, the
acknowledged presence of God in a faith-based community is the paramount belief that shapes and steers their daily lives as well as giving undeniable hope for the future. These children enjoyed their lives as part of a larger, loving, Christian community where almost all they did was linked to networks of support (Example, church and school).

90. For the abused children, and their families, the loss of these networks and community support had drastic consequences. Victims, of course, were, particularly when they disclosed the abuse, completely isolated and, for many, this led to a life of isolation and depression with little or no support from the institution that was responsible for the abuse in the first place. Furthermore, in the case of secondary victims, the absence of these members represented a loss to the communities whose strength and growth depended on the active and healthy participation of each generation as they mature.

91. Against the background of the Catholic lay faithful being completely disengaged from the issue of child sexual abuse and what is happening in the Royal Commission, the tragedy of this situation is that the huge majority of Catholics, who practice their faith religiously, are not even aware of the plight of thousands of their Catholic brothers and sisters who are no longer part of these loving Christian communities. The lay faithful are also not aware, of course, of the part played by the Vatican and Canon Law in, effectively, ensuring that God is not restored to the lives of the victims.

92. A simple, theoretical example might help Catholics to appreciate the devastating impact on a young child being sexually abused by a priest. Imagine 400 Catholics in Church on Sunday for Mass. The priest stands at the front of the altar and says to the congregation—"I'm sorry to tell you but, through no fault of your own, your relationship with God has ended. The loving God portrayed to you by your Church has turned his back on you—You are on your own". We invite Catholics to imagine how they would react if God was completely taken out of their lives, through no fault of their own!

93. We would now like to briefly cover leadership, communication and governance in the Vatican. The fragmented leadership and both inconsistent and confusing communications from the most senior clerics in the Vatican can, perhaps, best be illustrated in considering
the issue of whether bishops and clerics are required to report suspected cases of child sexual abuse by clerics to civil authorities.

94. We have previously commented on the inexplicable behaviour of so many bishops and senior clerics who gave evidence in Catholic case studies before the Royal Commission over the past 3 years, that when informed of the occurrence of sexual abuse against a child, they did nothing to protect other children. Apart from dealing with the offending priest in the manner already described, they also did not act to bring the offending priest to account for his crimes. Of particular significance is the fact that, in almost no cases, did they notify the police and report the crimes.

95. The question of who is required to report sexual abuse of children in Catholic Institutions has been at the center of examinations by Royal Commissions and Commissions right around the world. It must be acknowledged as a fact that if clergy, upon receiving a complaint of abuse against a child, reported the incident to civil authorities (Police), this would have had a significant impact in reducing the overall abuse.

96. We have already seen the damaging part that the secrecy provisions in Canon Law played here. However, what does Canon Law and the Vatican say about bishops and clergy reporting incidents of sexual abuse against children to civil authorities? This is covered in detail in our submission 5 but, because we are dealing here with leadership, communication and governance in the Vatican, which reverberates around the world, we need to cover the key points here.

97. In July 2010, Father Federico Lombardi explained the Vatican’s revised procedures for handling sexual abuse cases involving priests. His explanations included the following: “These norms are part of Canon Law; that is, they exclusively concern the church. For this reason they do not deal with the subject of reporting offenders to the civil authorities...” Father Lombardi is also reported as saying that, while the Vatican norms do not directly address the reporting of sexual abuse to civil authorities, it remains the Vatican’s policy to encourage bishops to report such crimes wherever required by civil law.

98. After 2010, the fragmented leadership and conflicting communications on this issue continued in the Vatican. In 2016, when a report surfaced that French Monsignor, Tony Anatrella, told
bishops in a training course that “bishops had no obligation to report abuse charges to law enforcement”, Cardinal Sean P O’Malley responded by making a statement that Catholic bishops have a “moral and ethical responsibility” to report suspected abuse to civil authorities.

99. So now we arrive at the crux of the problem. The concerns of many Catholics may be assuaged by senior Church leaders like Cardinal O’Malley, and others who express similar views, because they believe his statement represents the current Church view and will be applied to protect children in future. However, as we clearly demonstrated in submission 5, this is plainly not true and, moreover, it is dangerous because it leads people to believe that bishops around the world, including Australia, will follow suit. The correct position in the Church is that Canon Law prevents bishops from reporting suspected abuse to civil authorities unless they are required by the civil law to do so. Bishops who do disclose such abuse will face severe penal sanctions, including dismissal by the Pope.

100. As we said above, while the Vatican norms do not directly address the reporting of sex abuse to civil authorities, and it appears that it is the Vatican’s policy to encourage bishops to report such crimes wherever required by civil law, the fact remains that the norms enacted in 2010 repeated the provisions that make it unlawful to divulge information relating to these cases to anyone not involved in the case whether inside or outside the Church. Whilst the Vatican policy may give comfort to some, it needs to be remembered that very few countries in the world, including Australia, require clergy to report sexual abuse of children. In addition, having regard to the history of bishops around the world, including Australia, not having the “courage” to report sexual abuse of children over the past 40 years or so (under the same Canon Law which existed then, and still exists today), it is clear the current Vatican policy continues to place children at risk of harm.

101. Finally, as we noted in our submission 5, in Australia, where mandatory reporting of child sexual abuse is legislated at state level, no child protection legislation includes priests or church employees in the categories of professionals who are required to report child abuse or possible child abuse.
102. We believe that two clear and decisive actions are required if these problems associated with the reporting of sexual abuse of children in Catholic Institutions are to be overcome and children are to be protected in future. These are:

# Australian Bishops must call on the Vatican to enact Canon Law that requires mandatory reporting of sexual abuse of children in Catholic Institutions to civil authorities, irrespective of the applicability of civil laws of countries around the world. This must apply to clergy, officials and all employees of Catholic Institutions.

# The Royal Commission should consider recommending that the Australian Government introduce a national, uniform regime for mandatory reporting of sexual abuse of children. The legislation for such a regime should include clergy, religious and church employees and should, specifically, override any moral, ethical or Canon Law around secrecy.

CONCLUDING COMMENTS

103. To conclude our submission, we shall address the three principal issues that we see emerging from Issues Paper 11. These issues are:

# The extent to which the various factors listed in Issues Paper 11 (e.g. Canon Law, Secrecy) contributed to the occurrence of child sex abuse in Catholic Institutions.

# The extent to which those same factors affected the institutional response to both victims and secondary victims.

# The extent to which the factors are relevant to the current and future protection of children and prevention of child sexual abuse in the Catholic Church.

104. To assist the Royal Commission in this task we will deal, firstly, with those factors that directly impact on all three issues. If we take Canon Law, for example, we have demonstrated that the provisions of the code of Canon Law, together with accompanying Norms and Instructions can be seen as directly contributing to both the abuse and scale of abuse, the institutional response to that abuse and, most
importantly, in the context of protection of children to still place children at risk today.

105. The other important point that must be explained up front is that these factors are not mutually exclusive and, as we said in our submission, almost all of them seem to fall out of Canon Law. For example, we have demonstrated that the obsession with secrecy, the cover up of abuse, the movement of priests from one place to another and the terrible impact of clericalism can all be traced back to specific provisions in Canon Law.

106. There are some factors that, in our submission, undeniably not only contributed to the abuse of children, in the first instance, but ultimately increased the scale of abuse to horrendous levels. These included the use of secrecy and silence, the refusal by clergy to tell anyone other than bishops, the preferential treatment given to offending priests as against child victims, the movement of known offending priests from one place to another and the adoption of processes which ensured very few offending priests were taken out of circulation or brought to account for their crimes.

107. As we have already indicated, all of these factors are still present in Canon Law and unless changes are made, particularly to remove those secrecy provisions that relate to the sexual abuse of children by clergy and to introduce mandatory reporting of sexual abuse by clergy in Catholic Institutions, then clearly current and future children will be at risk.

108. In relation to those factors, particularly secrecy and silence, affecting the institutional response to victims and their families, two comments are relevant. Firstly, we have submitted the Church seems intent on suppressing both the victims and their needs, despite public statements to the contrary and, indeed, it is no co-incidence that the "Loud Fence" initiative echoes the phrase—"NO More Silence". Secondly, as it is accepted that only one in six victims ever come forward to tell anyone of their abuse, there are many thousands of Catholic victims who, clearly, have not sought any response from the Catholic Church, and probably would not do so under current Church leadership.

109. With regard to the critical factors of leadership, clericalism and governance we would like, firstly, to look at the local scene, where the
abuses took place. We will look at these same factors, in connection with the role of the Vatican, separately.

110. **Leadership and clericalism** played a dominant role in both the sexual abuse of children and in the institutional response to that abuse. As we have said, this may be due, to some extent, on the fact that, on all measures of good governance, the Church and its religious institutions, failed miserably. However, it must be said that, even without processes in place for making and implementing good decisions, one would have thought the clerical leaders of a faith based organisation would still be capable and mindful of leading the way in protecting young, vulnerable children.

111. But no, this was definitely not the case and, instead, we saw bishops and Church leaders whose primary concern was to make decisions which protected the institution (Church), which protected and cared for the welfare of the offending priest and which neglected the physical, psychological and spiritual welfare of the victim. In this situation the leadership decisions of Church leaders, including maintaining secrecy and silence, not reporting to authorities or parents, moving priests from one place to another and, in some cases, lying to Catholic communities that they knew nothing about offending priests, had the disastrous consequences that the scale of abuse increased considerably and Catholic communities were completely disengaged from what was happening to their children.

112. The abuse of **power and authority** in the manner described above, in a sense a demonstration of extreme clericalism, has continued and we submit, in terms of institutional response to sexual abuse, the senior leadership of the Church failed to support the victims of sexual abuse by the following:

# The failure to lead parish communities in support of victims and their families;
# The failure to show leadership in educating Catholics about the abuse, the Royal Commission and the needs of victims;
# The failure to show leadership in promoting and supporting the Loud Fence movement;
# The failure to welcome victims back into parish communities and bring God back into their lives if they wish this to happen; and
The failure to lead and encourage practising Catholics to take any responsibility to address the needs of victims, as part of the wider faith community in which the atrocities occurred.

113. Leadership can be defined in terms of creating a vision and then motivating and inspiring people to engage with that vision. In addition, as we have suggested, in the Church it is the leadership and actions of the clergy that determines the mindset and response of the Catholic lay faithful.

114. We submit the statement of commitment of the Catholic Church and, in particular, the promise to put the victims’ needs first, is a clear vision of the Catholic Church in repairing the wrongs of the past and bringing justice and healing to those who have suffered. However, we must also submit that Church leaders have done very little to motivate and inspire Catholics to engage with that vision.

115. Indeed, it is our experience that, in regard to the Church’s response to the victims of sexual abuse, the same culture of silence, of inaction, of keeping lay Catholics in the dark, which directly contributed to the occurrence of the abuse in the first place, continues in the Catholic Church and this can be seen as a direct result of the senior leadership of the Church. We also believe the Catholic Church will do all in its power to ensure the masses of Catholics in the parishes are disengaged from the whole issue of child sexual abuse by clergy and will, therefore, refrain from supporting the victims as part of a parish community.

116. With respect to leadership, clericalism and governance, as those factors impact on current and future protection of children and prevention of sexual abuse in the Catholic Church, we note in Francis Sullivan’s blog of 1 June 2016 where he reports that changes have already begun and that progressive policies like zero tolerance, continuous improvement and best practices, benchmarked training and rigorous personnel screening have been in place for some time.

117. Naturally, we commend the Catholic Church in Australia for any efforts that might safeguard children now and in the future. We do not doubt that the leaders of the Church in Australia are genuine in their desire to introduce procedures and protocols to ensure children in Catholic Institutions are safe now and in the future. However, against the background of the poor leadership in failing to support
victims and secondary victims over the past three years and in the light of the Church’s poor record on governance, the current leaders have a big task to ensure a complete system of safeguarding children is introduced.

118. To give an example, and to provide a constructive criticism on a matter we intend to pass onto the Church, we understand that the training course which is currently being delivered to all Church personnel, volunteers, etc. will be subject to external audit. We also understand the purpose is to ensure all Catholics who deal with children have a comprehensive understanding of what to do and what not to do, regarding the care and safety of young children in Catholic Institutions and, in particular, reporting obligations to supervisors, police, etc.

119. Some of the authors of this submission have recently attended the training course and we have also spoken to other Catholics who attended the course. There is little doubt that both confusing and misleading information is being provided and it also appears the Church itself is confused as to its reporting obligations under Australian law, including the obligations of clergy.

120. We will deal with this further under the heading of Canon Law and the Vatican; however, we should point out that an external audit of who attended the courses will be fruitless, whereas an audit which determines that all attendees receive the same, correct information on appropriate actions and reporting requirements will demonstrate the training activities to keep children safe are effective.

121. Turning now to the structure of the Catholic Church at the local or diocesan level, we have seen that there are no clear lines of authority and direction. Subject to what we say about the Vatican, shortly, it has come through the Royal Commission case studies, loud and clear, that bishops have largely done their own thing, without scrutiny and, in terms of the relationship between bishops and their priests we have demonstrated that, generally, priests do not have the courage to go against the known or implied wishes of their bishop.

122. However, in other situations such as where the Church wishes to protect its wealth, we have witnessed deliberate and calculated legal structures to create entities, for example, which would not be required to make compensation payments to sexual abuse victims.
We do not know, but would imagine, the creation of such financial structures was pursued on a national level throughout the Church entities in Australia.

123. We turn now to the role of the Vatican and the impact of Canon Law on the abuse, the institutional response to the abuse and current and future protection of children in Catholic Institutions. For purposes of this submission, when we refer to Canon Law, we are referring to the laws of the Catholic Church, as encapsulated in Codes of Canon Law, Norms and Instructions, approved by the various Popes since 1917 when Pope Benedict XV promulgated the Code of Canon Law.

124. It is our firm view that if the Catholic church, through the actions and leadership of its bishops, invoked the relevant provisions of Canon Law in dealing with cases of sexual abuse of children by clergy, the following scenarios will be the result.

(a). Bishops and clergy will maintain absolute and permanent secrecy regarding allegations and proceedings of child sex abuse by clergy, through the "Pontifical Secret".

(b). Bishops and clergy are, because of secrecy provisions in Canon Law, prevented from reporting suspected or known sexual abuse of children. Because Australian States do not have legislation that includes clergy or church employees as categories of professions who are required to report, clergy who do report abuse may face severe sanctions such as dismissal.

(c). When a complaint of sexual abuse has been received but an investigation not begun, bishops will protect abusing priests by transferring them from one place to another.

(d). Canon Law will protect the church itself from scandal in a number of ways. As well as secrecy and silence, Canon Law contains statutory time constraints and a process to deal with complaints which discourages victims from taking action, as multiple complaints are required before action can be taken against the offending priest.

(e). Bishops will also act to prevent scandals by imposing a "penalty" rather than "punishment", even in the case of a grave offence.
(f). Canon Law will operate to prevent disclosure of any documents where they may endanger reputations or give rise to scandal.

(g). Even if the general disclosure (for example to parents) of the activities of an abusive priest in a local parish were seen by the bishop as being “for the greater good”, such a disclosure would not be made as it would breach the “Pontifical Secret” provisions of Canon Law, and would leave the bishop open to sanctions such as dismissal.

(h). Bishops will be authorised to do what is necessary to cover up the whole sexual abuse scandal.

125. A series of crucial questions now arise and we submit the Royal Commission will need to address them. Firstly, is it a series of coincidences that all of these actions by the church, which had a profound impact on both the sexual abuse and the institutional response to the abuse, were evidenced again and again in the Case Studies involving the Catholic Church which have been before the Royal Commission over the last three years? A second but related question, which flows from the first is - if these actions are not a direct result of bishops implementing Canon Law, how is it that very few bishops in Australia, or for that matter in other countries such as Ireland and the U.S.A., appear to have broken the mould and been prepared to put the protection of innocent children before the protection of the abusing priests?

126. We concede that, one proposition that has been put forward in answer to these questions, is that there was in place a culture that presented an instinctive defensiveness by bishops, leaders and officials to keep things hidden to safeguard the reputations of both the accused cleric and the church with the total maintenance of secrecy. We also noted that, in all the explanatory memoranda emanating from the church over the same period, we could find nothing that addresses the dire consequences of sexual abuse on the child victims. The concern has always been about the offending priest, bringing him back to safety and health. It has never been about the welfare of the child.
128. We are also aware of the argument that, it does not really matter whether the factors we describe as contributing to the abuse and institutional response to the abuse were the result of bishops and clergy following, the directives of Canon Law, or the result of a culture of instinctive defensiveness designed to protect abusive clergy and the Church. We understand and appreciate these arguments. However we wish to make two key points that we regard as vital to making a decision on how best to respond to this problem. Firstly, it cannot be argued that, if this culture of instinctive defensiveness exists in the Catholic Church it is reflected in, and formalised by, Canon Law. This point is clear.

129. The second and most important point relates to the protection of children now and into the future, from sexual abuse. The provisions of Canon Law, which we have covered in some detail in our Submissions, clearly provide a present and future danger to the safety of children. The secrecy provisions and absence of mandatory reporting provisions are the best example. If these, and other Canon Laws, which we have shown historically to have a devastating impact on child sexual abuse, are not repealed, these Laws will continue to apply to the detriment to children into the future. This will be the case no matter what initiatives are introduced by the Catholic Church to change the culture of the Church in regard to the defensive attitude of all clergy.

130. To put this most critical issue in perspective we cannot afford not to change these Canon Laws that are a clear and present danger to the safety of children placed in the care of Catholic Institutions.