

TRANSCRIPT

FAMILY AND COMMUNITY DEVELOPMENT COMMITTEE

Inquiry into the handling of child abuse by religious and other organisations

Melbourne — 10 December 2012

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Dr T. Keating.

The CHAIR — Thank you very much, and on behalf of the committee I welcome Dr Tom Keating. Thank you for your willingness to appear before this hearing. All evidence taken by this committee is taken under the provisions of the Parliamentary Committees Act, attracts parliamentary privilege and is protected from judicial review. Any comments made outside the precincts of the hearings are not protected by parliamentary privilege. This hearing today is being recorded, and you will be provided with a proof version of the transcript. Following your presentation the committee members will ask questions relating to your submission and evidence provided today. We thank you for your submission and the additional information that you have provided to us. We look forward to hearing from you. Thank you again for appearing before us.

Dr KEATING — Thank you for the opportunity to speak with you today. You have a copy of the submission that I put forward. Attached to that also is an article that I wrote some time ago, which details my experiences and those of a number of my peers at St Joseph's College in Pascoe Vale. I have included that, I suppose, because it does give some detail of what that experience was. But it is not only my experience; it is the experience of a group of about a dozen other men who were similarly affected.

What I would like to do today, if it is okay with you, is to make some additional comments, which I have also provided to you, that are an elaboration of what is in the submission. I do not intend to particularly talk about my experiences at Pascoe Vale, though I am happy to respond to any questions that you may have about any of the other material that I have provided to you.

I should say by way of background that I have worked in the child protection field for a long time. I was involved in setting up a child protection program in Victoria in the early 80s. I was a regional director, human services, for more than 20 years, pro-vice-chancellor of La Trobe University, had other academic appointments in this country and elsewhere and have undertaken quite a bit of research in the child protection area, although in recent times my interests have been mainly in the health area. My interests or the things that I want to say are largely in relation to, I suppose, some of the systemic and structural issues that I think are important in dealing with the issue of abuse by religious organisations.

I would like, if I could, first of all though to respond to Cardinal Pell's suggestion that child sexual abuse has been exaggerated and that the Catholic Church has been unfairly targeted. I think it is important to understand the aetiology of abuse. We know from research that abuse which takes place in the developmental period is particularly damaging and can have a lifelong effect. There is evidence that it has neurophysiological impacts. That is essentially impacts upon brain chemicals, cortisol in particular, which impacts upon brain formation, and while that is most acute in the first three years of life, it continues through the developmental period. That means that the effects become a part of the person; they cannot be compartmentalised and put to one side, and they are not amenable to rational persuasion. However much you can say to someone, 'You are successful, there is this which is good in your life; this is positive', it is very hard to persuade someone who believes, quite fundamentally, that they are worthless that that is the case.

It is most commonly experienced as an overwhelming sense of personal worthlessness that is recurrent, debilitating and persistent throughout a lifetime. It is frequently accompanied by post-traumatic stress, which involves relived experience, intense anxiety attacks and soul-destroying depression. Prepubescent and early pubescent boys, typically between the ages of 10 to 13, are particularly vulnerable. This, of course, is the group which is most commonly targeted by clerical predators.

I have heard reference to 'stealing the childhood of victims', but the reality is that it is frequently stealing their entire lives. You do not recover from childhood rape; you try to find some way to live with it, and often you fail. I have experienced post-traumatic stress for all of my life, but I have had the companionship of a wonderful wife and five extraordinary children. My life's work has been concerned with building sustainable social infrastructure. These things have given my life purpose, but many of my peers have not been so blessed. If Dr Pell believes that the depth of experience of abuse has been exaggerated, he understands little or nothing of psychological pain.

Equally, the breadth of effect has not been exaggerated. Brother Keith Weston, who was responsible for the abuse of many at St Joseph's College at Pascoe Vale, was a chronic serial paedophile. At the time of his court case he admitted to five of the seven cases for which he was charged and reached a plea bargain in order to avoid jail time. When I spoke with the police last there were 13 identified cases, and I believe that the figure is now much greater. We know that offenders with his profile, without intervention, abuse repeatedly over a

lifetime. His pattern appears to have been five-plus victims per year. Over a working lifetime of 40 years we can anticipate that he will have assaulted dozens, if not hundreds of young, vulnerable boys, who tended to be 10 to 11 years of age. Far from an exaggeration, it is clear that the incidence and effects of abuse by Catholic clergy have been seriously understated.

If I could talk about abuse as a systemic phenomenon, church authorities have sought to identify the source of abuse in the psychopathology of individuals. Without absolving individuals from responsibility for their crimes, it is important to understand the systemic context within which abusive situations arise. We know that abuse occurs in any social care situation where there is a significant power differential. We have seen it with children, with the elderly, with the mentally ill and with the disabled. That is why it was essential to close the large congregate institutions for care during the 70s, 80s and 90. Whenever there are situations in which one group has uncontrolled power over others, there will be a proportion of people who will abuse that power.

Religious had extraordinary power over children in their care when we were growing up. They were in socially unassailable positions, operated in environments of secrecy and claimed authority from the highest possible source. We have seen the consequences of that power. Church authorities claim that this is a thing of the past. However, the current leadership of the church has over a number of years sought to wind back the reforms of Vatican II and the greater openness and accountability that that represented. The reassertion of authoritarian clerical control, the suppression of dissent, the alienation of women, the persecution of gay and lesbian people, and the adoption of arcane and alienating language in the liturgy are marks of an organisation which seeks to restore unaccountable power and within which abuse is more rather than less likely to occur.

I believe that the culture of the Catholic Church needs to fundamentally change if it is to cease to represent a continuing risk to the vulnerable. The unassailable position of authority of clerics and other religious needs to change, and while it is outside the remit of this committee, I believe that the church desperately needs the influence of women in its senior management and ministry in order to modify its paternalistic and potentially abusive culture.

The remedies for abuse of power are a redressing of power imbalances, transparency and the engagement of independent third parties. Children and their parents need to be aware of their rights to safety, structures and processes need to be open to scrutiny, and transgressions need to be quickly identified and acted upon. Care situations must be subject to independent auditors.

If I could refer to the adequacy of current processes, in systems theory terms we would say that the Melbourne Response and Towards Healing are perfectly designed to produce the effects that they in fact produce. They are perfectly designed to protect the reputation of the church and to limit claims upon a church's wealth. In my experience church authorities involved in resolving cases are entirely unencumbered by ethical or pastoral concerns. They refuse to accept that they have failed in their responsibility to provide a safe and ethical educational environment. They are unconcerned with a just outcome for those harmed by their actions and show little regard for the wellbeing of the victims of their members' abuse.

The process is one in which survivors of abuse have no rights. They are subjected to an investigation which is conducted by a person who is contracted by the church. They are assessed by clinicians engaged by the church, and they participate in a conciliation or negotiation, the outcome of which is entirely in the hands of the church representatives. The current arrangements reinforce the power of the church authorities over the person concerned and are an extension of the abuse of power that they experienced as children.

If I could refer to opportunities for reform, it is clear the church authorities have consistently acted to protect abusers from prosecution, hide from scrutiny the church's own failure to protect the vulnerable and to protect church resources from claimants. This cannot be allowed to continue.

In Weston's case there is good reason to believe that his offending was well known within the Christian Brothers but went unchecked. He, as other abusers, was moved from one place to another to continue his offences. He was supported by the Christian Brothers to live in Queensland, outside the Victorian jurisdiction, and to resist extradition for four years. When I challenged the brothers on this, they said that he is a free agent who would take his own legal advice, and if he chose to remain in Queensland, that was his choice. When I put to them that they were paying for his legal advice, paying for his accommodation and board and surely they could have made a condition of that that he come and actually face his accusers, they had no answer for that.

Comment has been made about the desirability of introducing mandatory reporting of suspected child abuse by religious. Mandatory reporting of child abuse has, in my view, done much harm in the child welfare system. That is another discussion. However, mandatory reporting is not relevant in this instance. Mandated persons are required under sections 182 and 184 of the Children, Youth and Families Act 2005 to report where on reasonable grounds they believe that a child is in need of care and protection. This is concerned with circumstances in which the principal caregiver is unwilling or unable to protect a child. Notifications are made to the Department of Human Services. Instances of abuse by clergy are simply not relevant, and the child protection service would be required to reject such a notification, particularly if it referred to a historical situation, because except in very unusual circumstances the clergy are not the principal caregivers of the child, and in most circumstances parents and guardians would be doing all in their power to protect the child. They simply do not know that the abuse has taken place. These are not child protection situations; they are occasions of criminal assault. The crimes with which clergy may be charged are clear if they are in fact reported. It is less clear what sanctions are available for church officials and organisations which fail to report known cases of sexual abuse or who take actions to conceal them.

Perverting the course of justice is a common-law offence in Victoria, and there is ample case law covering instances of commission, suppression of evidence, witness tampering et cetera. It is less clear that acts of omission — that is, the failure to report a crime — are captured. Section 326(1) of the Crimes Act concerns concealing offences for benefit. This applies where a person knowing or believing that an offence has been committed accepts any benefit for not disclosing that information. It is my understanding that ‘benefit’ is interpreted broadly in that context; it does not need to be monetary benefit. Benefit associated with avoiding reputational risk or avoiding litigation could be considered a benefit, but it is something of a longbow it seems to me.

Section 325 of the Crimes Act concerning accessories may have more relevance. It states that where a person has committed a serious indictable offence, any other person who knowing or believing the offender to be guilty of the offence without lawful authority or reasonable excuse acts to impede the apprehension, prosecution, conviction or punishment of the offender is guilty of an indictable offence.

I am not a lawyer, and there may well be other provisions of the criminal law with which I am not familiar which do cover the requirement to report an offence against children. It seems to me, however, that there should be a clear and well-understood provision for misprision of a felony in these circumstances. It should have severe penalties attached to it, and it should be rigorously prosecuted. Religious organisations must be required without exception to report the commission of a crime, and they should be prosecuted individually and institutionally for a failure to do so.

The most fundamental change which I believe is required is for church organisations to be made subject to civil penalties where abuse takes place by their members or within organisations for which they are responsible. Currently the church is a body at law for the purposes of owning property, receiving government grants and being exempt from paying taxation. It is not a body at law with respect to civil penalties for neglect or malfeasance.

Financial settlements are meagre and take no account of the suffering over many years of survivors. They are provided ex gratia rather than arbitrated as a right. Most importantly, they provide no incentive for the church to put in place systems and procedures which prevent abuse taking place.

When I was negotiating with the Christian Brothers my solicitor remarked that the only thing they understand is money, and sadly I believe he was right. Were church resources seriously under threat through civil suit, I believe that church authorities would quickly take action to limit their exposure. They would become vigilant and act to ensure that children were not placed at risk. At present they have very little to lose.

There may well be an argument for the establishment of a tribunal to adjudicate settlements without an order to avoid the costs of litigation. If this were to occur, it should only do so where the rights of claimants were protected, where there was recourse to civil law where agreement could not be reached, where expert assessments were independent, and where adjudication was independent of church authorities.

I suppose those last comments are the most important things that I would like to say today. I believe structurally it is the most important thing, the most significant thing which could be done which would actually change the balance of power in these situations.

The CHAIR — Thank you very much indeed, Tom, for that presentation and for giving us your insights and thoughts. You talked about opportunities for reform in your presentation to us just now. Is that part of what accountability means for victims, do you think? Could you elaborate to the committee a little bit more about what justice looks like for victims and accountability in relation to how you were treated and from your personal experience in talking to other victims?

Dr KEATING — I am not sure if I understood the question well. I suppose at the moment there is no accountability in the church whatsoever.

The CHAIR — So does the reform process you speak of — is that part of the accountability?

Dr KEATING — Yes, it is. It is about bringing the church into line with the other civil structures that we have which force organisations to act in an accountable way. It makes them responsible for what are, in effect, their employees. At the moment clergy are effectively free agents, and the church accepts no responsibility for their actions. In any other corporation that would be entirely unacceptable. For any other organisation in society it is unacceptable that an organisation might be responsible for harms being done and for it not to be subject to subsequent penalties. So I believe it is part of accountability, as far as victims are concerned, for the church to be brought into the same sort of accountability structures which operate for any other organisation in society.

The CHAIR — Is that part of the justice you think victims are looking for too, or is there anything further you think they might benefit from?

Dr KEATING — As I said, my view is that having gone through a fairly protracted negotiation with the brothers in relation to recognition — in fact my discussion with them essentially was requiring them to own responsibility for what they have done — they were happy in the end to make a payment; they were not ever prepared to say, ‘We are responsible’. They will say that individuals are responsible and they did the wrong thing, but in my view the organisation has to take responsibility, and until it does, that organisation cannot be trusted to ensure that future arrangements are safe.

There are a number of concerns which need to be addressed. I have talked about ethical considerations. Essentially that is about what is just — that is, acknowledging the harm that has been done and seeking to make good the harm that has been done. There is a pastoral responsibility which in my experience is entirely neglected. In fact, really, the only considerations which are there, I believe, in those negotiations are the reputation of the church — that is, ‘How can we keep this as quiet as possible and controlled?’ — and, ‘How can we actually limit the financial impost upon the church?’. I think those other considerations — the pastoral considerations and the ethical or justice considerations — are the ones which need to be brought into any system of adjudication and remediation.

Mr McGUIRE — Thank you, Dr Keating, for your testimony today. It is important for us to hear these issues, particularly the insight not just from a personal level but across your experience professionally as well. I would just like to get you to elaborate on some of the things you spoke about. You have said that within the legal structure you think there are laws that can capture these issues of cover-up and moving on but it might be better if we actually come up with a specific proposition to deal with that. How important would that be not only to make it clear and concise but also to send a message about that?

Dr KEATING — I think it is extremely important. As I say, I am not a lawyer. I have had a good look at the Crimes Act to try to see what areas might actually capture the situations we are talking about. The only one which seemed to come close was that concerning being an accessory to a crime. Even then I suspect the lawyers would have a field day with it, because it generally would be applied to other sorts of situations where someone assists a fugitive to escape or whatever. In circumstances where it might be argued, ‘No, this is what religious orders do; they move people around from place to place, and it is not necessarily with the intent of avoiding prosecution’, I suspect there is a good chance that that as a prosecution might fail.

I think there should be a very explicit provision within the act which requires organisations, whether they are religious organisations or others, that become aware of offences, particularly offences against children, to report them to police, and to fail to do so or to assist a perpetrator to avoid their responsibilities should be a crime.

Mr McGUIRE — And in your view that should carry a heavy sanction or heavy jail sentence?

Dr KEATING — Most certainly.

Mr McGUIRE — Just on the cultural issues, I think that that is of note as well. You refer to winding back the reforms of Vatican II of greater openness and accountability, the reassertion of authoritarian clerical control and women being pushed off to one side — and other minority groups. What would you suggest is a way or a mechanism of dealing with that? Is this a cultural issue — I know that, but just from a cultural perspective.

Dr KEATING — Yes. Look, I suppose it is those areas which are to some extent outside the responsibilities or the realm of this committee, but I think, as someone who identifies as a Catholic, for me this is very fundamental. I think that some of the hopefulness that many of us had at an earlier time when the church was becoming much more open, facilitating participation of a broader range of people — but the current leadership, particularly within this country, has been taking things the other way. When a bishop can be removed merely for suggesting that we may need to consider the ordination of women at some point in the future, personally I find that scandalous, but it also suggests to me a church which is becoming more authoritarian, more narrow in its perspective and less open. The point I suppose I was wanting to make is that if we are going to avoid abusive situations, we need greater openness, not less.

Mrs COOTE — Could I call you Tom?

Dr KEATING — Most certainly.

Mrs COOTE — Thank you. I am particularly interested in the obtaining of documents, and you had an experience with the brothers. I would be keen to know about your belief on how forthcoming the Catholic Church will be with documents down the track in your own personal experience.

Dr KEATING — The answer is not at all. The response is always, ‘This was a long a time ago; records are inexact’. I actually requested that an attempt be made to contact all of the students who were at Pascoe Vale at the time that I was, as part of our negotiations, because I believe, in fact, that there were a very large number who were subjected to abuse by Keith Weston, and the response was, ‘We do not have any of those records. We have actually looked and tried, and it has not been possible’. I do not believe any of that. I do not think there has been any interest whatsoever in making available documentation. I think it is desirable — and I am not sure whether it is possible through this process or through the national royal commission in the end — for police to have fuller access to all church documents with respect to internal documents concerning personnel and reports which have been made of them. I think it would be a great revelation, because certainly in my experience a great deal has been known about the behaviour of these people, and it either has not been acted upon or people have been moved, sometimes outside the country.

Mrs COOTE — That is particularly helpful; thank you very much, indeed.

Ms HALFPENNY — Two things. One, I sort of get what you are saying about the mandatory reporting and of course the need for legislation and laws to bring organisations into account, like the church, financially. But in terms of the way it operates, I suppose at a policy level, can you see anything that the government could do in terms of regulation — in addition to things like legislation — in terms of the operation of, say, the priest who as an individual sort of has control over the parish and is able to pretty well operate in an autonomous way? In trying to change the culture I suppose as well, are there any other mechanisms that the government could use?

Dr KEATING — I would have to give that some thought, I think. I mean, I do not think we want a situation in which we would say that no religious can be present with children without another — —

Ms HALFPENNY — Yes, of course.

Dr KEATING — I think this is unreasonable and inappropriate. But I think that there are issues which could be required in terms of the training of people who act in those roles. I think the issue, particularly in educational situations, of external auditors, and in care situations. I mean, we have had some terrible situations at

St Augustine's down in Geelong, basically — and the St John of God situation, I think equally — where there was simply not sufficient external scrutiny. What we have found in the child welfare system is one of the most important factors in safety and care is for there to be significant other adults in the lives of children — so for children who are in care it is not just their caregivers or their formal case worker that is involved with them, but there are significant other adults. The community visitors scheme in disability has been very important in bringing an external perspective, so that someone can be looking at a situation and saying, 'This doesn't feel right. There's a problem here'. I am not sure what the equivalent might be in a church situation. I think our schools are generally more open than they were. But I think external review, external auditors, is critically important.

Ms HALFPENNY — Just in terms of what you have said about tribunals separate from the church, so that you still have the ability for criminal and civil actions but perhaps there is a space for some other sort of redress schemes, we have heard from others about how there are some that have been developed overseas. As well I think people have ideas, for example, that there could be some sort of a health package included, so when you look at post-traumatic stress, veterans also experience that. Do you think there has been enough, I guess, research around the health implications and what sort of programs there should be? And also, what would you see this tribunal looking at? Would it just be financial compensation or could it also be other aspects of supporting a person?

Dr KEATING — Look, most certainly I think there is a need for appropriate what I have described as pastoral responses, but they are health and wellbeing responses, psychological services which are going to assist people. No, there has not been sufficient research in relation to that. We have had in this state, or in this country, a closed system anyway of tribunals. What happens is that a psychiatrist is appointed by the church once a decision is taken that this is a legitimate claim. That psychiatrist will say, 'Yes, I think 15 sessions will be sufficient for this person', and that gets fed into some discussion about financial compensation. In the end the issue is about finance; it is not about the care of the person. I think that there needs to be a mechanism for providing that support which is independent of that process, and I think clinicians most certainly need to be independent of the church. I think that there is potential to have a tribunal, if all parties are agreeable, which could be making assessment of what is a fair and reasonable settlement of issues as much about clinical support as about financial settlements. But at the moment — I suppose the point that I have been trying to make — that is entirely controlled by the church. There is no external validation of it whatsoever, and the victim or the survivor has no rights in the process. Either they take what they are given, or they get nothing. They cannot take it to the court because there is nobody for them to sue. There is no point at which they can actually say, 'No, this does not meet my needs'.

Mr WAKELING — Dr Keating, thank you very much for your presentation. Can I, firstly, just pick up on a question of Ms Halfpenny's in regard to the mandatory reporting? I think, given your position and your experience in this area, it is obviously of quite a lot of interest to this committee. Many people, as you may be aware, as part of this process have identified the extension of mandatory reporting to the church as being a possible solution. It was interesting to see your commentary regarding that in terms of its actual practical application. We would be clearly interested to see what would be possible in that space, because I think there is a community view that mandatory reporting will automatically fill that void. I would be interested in, firstly, any commentary regarding that.

Dr KEATING — Look, I suppose the point I am making really is that mandatory reporting is largely irrelevant to this situation, because mandatory reporting is concerned with the principal caregiver or the guardian of the child, and ensuring that they are actually protecting the child. The only circumstances in which it might apply might be if a child was in full-time care, in which you might say that the religious authority or whoever is responsible is not taking actions to protect or care for the child. But that is an unusual situation now, particularly given that there are very few congregate facilities around now. The child protection legislation is simply not relevant to these situations. If a social worker in an intake unit in child protection receives a notification from someone saying, 'I think this priest or this religious is interfering with this child', their response would have to be, 'This does not fit our guidelines. You should go and talk to the police about that. This is not a child protection issue'.

So yes, you could well extend mandatory reporting to religious, which would mean that a parish priest who was concerned that a family was not protecting its child properly, it was an unsafe situation, might be required by law, in the same way that teachers are and welfare workers are, to make a report to the Department of Human

Services. But that is the situation that we deal with. We would not deal with a situation where there was abuse taking place by a religious themselves. So it would have virtually no effect.

Mr WAKELING — So in your opinion, then, expanding the scope to incorporate the reporting of offences to DHS is still not going to be the appropriate course of action? You believe that any reporting should be done directly to police?

Dr KEATING — You need to understand that this is not reporting that a child is at risk, it is reporting a crime, and reporting a crime needs to go to the police, not to the Department of Human Services.

Mr WAKELING — I am only seeking clarity because it has been a significant issue. And one more question, if I may. I am just interested in the process that you went through in terms of the handling of your complaint. You made the point where your solicitor indicated that the only thing they were interested in was money, as I understood it. Given your background — obviously you had a senior position in DHS and you are obviously well-qualified — I would be interested in your experience of the process because I am sure there are many people who went through that process who were very vulnerable. I am not inferring at all that there were not difficulties for yourself, but given the strength of the person you were, I would be interested in your experience in that process.

Dr KEATING — I have spoken to very few people who have gone through the process who have not found it soul destroying. I would not by any means be suggesting that those whom I have spoken to are a representative sample. They are the people with whom I have had contact, and they would generally have been people who had negotiations with the Christian Brothers in particular. As I said, I suppose what they have experienced has been an extension of the abuse of power that they experienced at an earlier point. They have not felt respected, they have not felt that their needs have been heard. In many cases they have come to the process hurt and angry, and they have left in the same situation.

Mr WAKELING — So they lack compassion.

Dr KEATING — I think that they would say that that is certainly the case, and that was certainly my experience of it as well. Once you actually got to that point of conciliation or negotiation there was no compassion there whatsoever.

Mr O'BRIEN — Thank you for your evidence today, Dr Keating. Yours is an important perspective to us, not only as a victim but also your subsequent life as an academic and regional director of DHS. I would just like to firstly pick up the line of questioning from my colleague Mr Wakeling. In relation to your mandatory reporting evidence, firstly, you are coming from a background that there is an existing limitation within section 162 of the Children, Youth and Families Act 2005, which perhaps people who have been following the debate are not presently aware of. Is that correct?

Dr KEATING — That is right.

Mr O'BRIEN — For your benefit and for those following, section 162(1)(c) and (d) read:

the child has suffered, or is likely to suffer, significant harm as a result of physical injury —

in (c) and sexual abuse in the case of (d) —

and the child's parents have not protected, or are unlikely to protect, the child from harm of that type ...

If I understand your evidence — and I am saying this in the context of your whole submission where you make a particular criticism on page 2 outlining your feeling of the process of Towards Healing — you do advocate a process by which allegations are referred to the police in the first instance, is that correct?

Dr KEATING — Yes.

Mr O'BRIEN — And you do not support a parallel process within the church as a primary access point for victims. In other words, go to the church first, and if the church counsels you to go to the police, then you go to the police. You would rather the system be that you either go to DHS or the police first, would that be correct?

Dr KEATING — I suppose that there is a range of ways in which a case might come to light.

Mr O'BRIEN — Yes, take us through them.

Dr KEATING — Very often that in fact may involve someone going to someone within the church, seeking counselling and support. I believe the church should offer that to them; I would not for one minute be suggesting that the church should be cut out of that process. But I believe that where a church official becomes aware that there is the possibility or likelihood that a member of the church has committed a crime in relation to that child or that person when they were child, they should have an obligation to report it to the police.

If in a counselling situation they became aware that a child may be at risk in a more general sense, the normal expectations of them reporting to DHS should apply. If they had what was genuinely a child protection concern, they should do what they should do with respect to the child protection issue. But where there is a crime involved, they should be required to report it to the police. I have thought about this, I suppose, in relation to the issue about the sanctity of the confessional that Dr Pell is very concerned about. I do not share his concern about a situation where a perpetrator might say in a confessional that they have offended against a child. But there is a difficult situation where someone who themselves has been the victim of abuse seeks support and says, 'Now, I don't want you to act on this'. That is the only complicating situation that I can see. It seems to me that you would deal with that as a counsellor would, working through the issue with the person, helping them get to a point where they can take a decision that it ought to go forward as a complaint to the police, particularly where there is a risk that there may be other persons at risk.

Mr O'BRIEN — Thank you for that. If I could just summarise then: you would support a mandatory reporting obligation of any crime — and child abuse is a crime, as you know — to the police if someone receives a report of that.

Dr KEATING — Yes.

Mr O'BRIEN — You have identified, I think helpfully, existing limitations that are perhaps not well understood in relation to section 162 in relation to the current mandatory reporting obligations, which may or may not be tied up with further, broader obligations, but are effectively the reason why reporting only occurs presently if there is a case of the parents not protecting the child.

Dr KEATING — Yes. The whole of the child protection system operates on that basis.

Mr O'BRIEN — Yes, I understand that.

Dr KEATING — The child protection system is concerned with the care and protection of children in the current situation with their current carers and guardians. That is what it is about.

Mr O'BRIEN — Because the church has not been in that, perhaps this debate has not been thrashed out. For a non-lawyer, I do appreciate your insightful evidence. There is one other matter I would just like to touch on if I could. You said in your handwritten submission we received today:

I believe that the culture of the Catholic Church needs to fundamentally change if it is to cease to represent a continuing risk to the vulnerable.

I would like you to elaborate on some of the matters that you think need to be changed. In asking this I must preface it because one of your next sentences says:

While it is outside the remit of this committee, I believe that the church desperately needs the influence of women ...

We have received some other evidence of that. I am interested in your evidence, but I could say for myself, as a committee member reading the terms of reference, I would not like to say that anything like that is necessarily outside or within our terms of reference, particularly the term of reference 3, which I will bring to your attention and which says:

... whether changes to law or to practices, policies and protocols in such organisations are required to help prevent criminal abuse of children by personnel in such organisations and to deal with allegations of such abuse.

Ignoring whether it is within or without and having free licence, which you have, to provide us your way forward in terms of those organisations and also accepting it may well be a matter for the people in those organisations to take the lead in relation to this, as we perhaps have seen in recent weeks with some of the

developments within the Catholic Church, could you just outline some of the matters that you believe need to culturally change within that organisation to help prevent child abuse in the future?

Dr KEATING — Sure. At the most basic level I believe, as I have said in the submission, that the most significant cultural changes are to do with openness and transparency. Participation of people who are non-clerics in a broader way, much openness of the ministry to other people, particularly women, I believe would create a greater openness in the church. The obverse of that is what is happening at the moment — that is, that I think that the church is becoming more secretive and more controlled by a small group essentially of the clerical elite.

At the parish level that is not always the case; there is often a good level of participation. But clearly authority and responsibility resides with a small number of people. The church was moving away from that. It has now moved back in a much less transparent direction. I think the lack of transparency and lack of openness, lack of involvement of people who are not clerical is what leads to an abuse of power. One aspect of that is the actual physical, sexual or emotional abuse of the vulnerable, but there are many aspects of the abuse of power. I think the exclusion, the victimisation of homosexual people is an abuse of power.

Mr O'BRIEN — Can I ask you if you have a view on the celibacy question — with the chair's indulgence? Is that a causal issue? Is that a way forward, or is it something that ought not be challenged?

Dr KEATING — I think it is complex. There are those who would argue that celibacy has no effect on whether people develop aberrant sexual behaviours. Others who would say it is an unusual social environment which attracts people who have aberrant behaviours. I have known many fine priests and religious who have led celibate lives and that is part of their life and is not an issue for them. My own view is that there is no theological basis for celibacy. I do not think the church gains anything from it. I think it would be enriched if we had women priests, married priests. If we had a much broader sense of ministry, it would create the sort of openness that I think the church needs to adapt and go forward in a modern world. That is a personal view of mine as a Catholic.

Mr McGuire — Thank you, Dr Keating. I would also like to go to the issue of remedy and the proposition that you put forward where you were arguing for the establishment of a tribunal to adjudicate settlements without the cost of litigation, and for this to be independent. You understand our processes: we will have to report to the Parliament and make findings and recommendations, and then it will be up to the government from there to make its decision on it. But if you could just add a little bit to that. Say we were looking at this issue and how this might actually apply, does there need to be an extra sanction to enforce such a tribunal? Say if the church then said, 'Well, that might be the view. But the way that you put it at present we have little to lose so we do not want to go down that path'. Should there be something added into the end of that to say, 'If you do not participate, this is the sanction.'?

Dr KEATING — The most effective sanction would be if civil remedies were available — that is, the alternative is this goes to court and you run the risk of much more serious findings through the jury system. There would be a lot of issues which would need to be sorted out if this was to be an option — who would auspice this, where it would get its authority, what are the processes for appointing officials to it et cetera, what are the constraints on the parties? There would be a lot of work which would need to be done in relation to it. I think it is at least an idea which should be explored. As I said, I think that it is only viable in the context of there being civil remedies available.

Mrs COOTE — Tom, in your presentation today you said care supervisors needed independent audits, and also that there were acts of omission. You spoke of the community visitors in the disability sector and how important the role that they play is. Do you envisage perhaps that we as a committee going forward have a look at some sort of independent, to use your term, auditing of the structures and the opportunities of omission, abuse or whatever in — we are dealing with your submission — the Catholic Church, but obviously it would relate to other areas as well, something along the lines of a commissioner? I know you are very familiar with the commissioner for child safety, but something along those lines. Do you see that would be something we should be investigating?

Dr KEATING — I think it is certainly worthwhile exploring that. There is, as I understand it, an independent auditing of schools, for instance, though that really does not look to the internal operations of the

school. Something along the lines of the children's services commissioner is worthwhile thinking about. It certainly has a complaints capacity that has been, I think, rather more successful than the disability complaints system. I think that is certainly worthwhile exploring.

The CHAIR — Tom, before we conclude, are there any final comments that you would like to make to the committee?

Dr KEATING — No, I feel as though I have had the opportunity to say the things that I wanted to say. Thank you very much for the opportunity.

The CHAIR — On behalf of the committee, I thank you very much. We do appreciate your time. Your evidence this afternoon has been most helpful. Thank you again.

Committee adjourned.