

TRANSCRIPT

FAMILY AND COMMUNITY DEVELOPMENT COMMITTEE

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

Melbourne — 29 April 2013

Members

Mrs A. Coote

Ms G. Crozier

Ms B. Halfpenny

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Witnesses

Brother T. Graham, provincial, and

Ms R. Harris, chair, professional standards committee, Hospitaller Order of St John of God, Oceania province.

The CHAIR — Good morning, everybody. Apologies for the delay; we had a slight technical issue with our Hansard recording. In accordance with the guidelines for the hearings, I remind members of the public gallery that they cannot participate in any way in the committee's proceedings. Only officers of the Family and Community Development Committee secretariat are to approach committee members. Members of the media are also requested to observe the media guidelines. I ask that you all please ensure that your mobile phones are either turned off or switched to silent.

On behalf of the committee, I welcome from the Hospitaller Order of St John of God, Oceania province, Brother Timothy Graham, provincial, and also Ms Rosanna Harris, chair of the province's professional standards committee. I welcome you both and thank you very much for appearing before us.

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. Witnesses may be asked to return at a later date to give further evidence. All evidence given today is being recorded, and witnesses will be provided with proof versions of the transcript. Please note that these proceedings are not being broadcast. Following questions from the committee you will be given an opportunity to make a statement to the committee.

I would just like to open with some questions in relation to your organisation. Under our terms of reference we have been requested to look at policies and processes within religious and non-government organisations and whether there are systemic practices within organisations that have contributed to the abuse of children, and subsequently whether we need to look at changes in law that may help prevent criminal abuse of Victorian children into the future. I am particularly interested to hear about, if you would not mind just outlining to the committee, the structure of the organisation. Firstly, could you give us an outline of how your organisation operates?

Br GRAHAM — Yes. The Brothers of St John of God have been here in Australia since 1947. We established a school at Cheltenham in 1953. That school was transferred to a site in Greensborough in 1964, to more modern facilities. That school closed in 1990 due to changing government policy around special schools and also funding issues. Following the closure of the school, we worked closely with the Department of Human Services to create services for young adults with disabilities. We worked particularly closely with the Janefield deinstitutionalisation to provide services for individuals with disabilities and challenging behaviours who were finding it difficult to get day placement services.

Currently the brothers do not, canonically or civilly, auspice any services in Victoria. That has been transferred to an independent civil and canonical group called St John of God Health Care. The reason for that is, like all religious congregations, since the 70s our numbers have been ageing and diminishing and we were not able to provide the governance, resources or skills that we have had in the past.

Technically the brothers do not operate any services in Australia. It is run by a public juridic person called St John of God Health Care, which here in Victoria also runs hospitals in Geelong, Ballarat, Bendigo, all around the state. St John of God Accord is the name of the entity that previously was run by the brothers, and it is a service for young adults — or adults now. Some of those young adults are not so young anymore; they are getting on in years like the rest of us. Does that answer your question, Ms Crozier?

The CHAIR — Thank you very much. I understand that it does cover partly New Zealand and other parts of the Oceanic region?

Br GRAHAM — Yes, the province covers Australia, New Zealand and Papua New Guinea.

The CHAIR — Thank you. How many brothers are actually in Victoria? Are you saying that, because that has changed over recent years, there are no brothers actually operating?

Br GRAHAM — No, there four brothers in Victoria. Two Australians and two Vietnamese brothers who have just come to Australia to work in the archdiocese in the last 12 months.

The CHAIR — Thank you very much for the information you have provided to the committee. From your information we were particularly interested in looking at the complaints process and the numbers of complaints that have arisen from your organisation. From the files that you have provided to us, it is our understanding that

there were at least 15 brothers that had complaints made against them at the time. Could you confirm to the committee how many brothers were in operation over the course of the period when those 15 complaints were made?

Br GRAHAM — In total the number of brothers that have served in Victoria?

The CHAIR — Yes.

Br GRAHAM — I would have to get back to you with that information; I would have to look at our records. There would be more than 15.

The CHAIR — It is our understanding that there were around 60. Is that right?

Br GRAHAM — I would have to take that on notice and actually get that information back to you.

The CHAIR — Thank you, if you would not mind. Whatever the case, there have, as I said, been 15 brothers that we have been made aware of that had complaints made against them. It is a fairly high number in relation to what we understand were the total number of brothers operating in Victoria. Have you got an explanation as to why such a high percentage of brothers have had complaints made against them?

Br GRAHAM — In the submission that we presented to the Parliament we have put every allegation that has ever been made. As we indicated in the document that we gave you, in point 13, some of the allegations have ranged from very clear identification of perpetrators through to situations where there was no name, no allegation and no detail has been given. They have come through the class actions and they have moved through that class action. For the sake of completeness, we have given you every case. Some have been strenuously denied and not followed through. No brothers have been charged by the police despite intensive investigation by the police over many years. That is why the figures look as alarming as they do, because we have put in every single case and every bit of documentation that we can provide you with.

Ms HARRIS — Our concern also — if I could just add there — given particularly our specialised group of clients in that they suffer from intellectual disability, was to be very careful not to retraumatise them, so there was no insistence on any sort of forensic investigation of these complaints. However, we accept, sadly, that there were a number of complaints and that very vulnerable children in our care were damaged. For that we have apologised, and we continue to do so. We hope that this committee, in its inquiry, can come to some decisions that will help so that this will not happen in the future. We are glad that we have got a chance to come and help you do that, if we can.

The CHAIR — We understand that the order was involved in the care of very, very vulnerable children. We are very aware of that. Could you confirm to the committee how many complaints were involved in that civil action?

Ms HARRIS — There were in fact two civil actions, and they involved allegations of abuse against adults, because the order operated a service for adults at Lilydale — I think the committee has been advised of that. So there were 20 child-related complaints that formed part of that class action.

The CHAIR — Okay. You also indicated in your response to the question I asked Brother Graham that many of the brothers have now died or are no longer with us.

Br GRAHAM — Yes, I can tell you exactly.

Ms HARRIS — I think it is no. 16 in the submission.

Br GRAHAM — There are seven brothers who remain members of the order, all of whom are elderly, around the age of 80. The number that have left is nine. These brothers left the order some decades ago — some of them in the 60s. Eight are deceased.

The CHAIR — Were any of those brothers alive when the allegations were made?

Ms HARRIS — Yes, some were.

Br GRAHAM — Some were.

The CHAIR — How many?

Br GRAHAM — Probably one was alive — the deceased ones, you mean? Yes. I suspect one would have been alive. I would have to go back to check the figures, but from my recollection of the deceased members one would have been alive when the allegations were made.

Ms HARRIS — If you wanted to clarify, there were sort of three sets. At the time the allegations were made there were three sets of brothers. The smallest number was the brothers who were still in the order, and the larger number was brothers who were either already deceased at the time the allegations were made or who had left the order a long time ago. And that reflects, as I think the committee is probably aware from previous witnesses that you have had and you would understand, that it takes many, many years for these allegations to be made. There is a long lead time from the time of the commission of the abuse to when it is actually reported.

The CHAIR — Could you explain to the committee what action the order took in the instance when the allegation was first made?

Br GRAHAM — Most of the allegations were brought to us through legal representatives. In fact all our cases in Victoria have involved civil mediation. None of our cases in Victoria have involved Towards Healing — that is correct, isn't it?

Ms HARRIS — I think a couple did come through Towards Healing, and they were mediated and settled. I think our very first — this is from memory, but we have provided the committee with the actual case files.

The CHAIR — Yes, thank you.

Ms HARRIS — My recollection is that our very first one actually came to us through Broken Rites, which I believe the committee would be familiar with. They are a support group for people who have been abused. That is my recollection — that at least one came through Broken Rites without legal representation. A couple came through Towards Healing. But, yes, the majority have come — and that has obviously been the choice of the people who were abused.

The CHAIR — Are you saying that you have no record of any complaints prior to that process?

Br GRAHAM — The first complaint we received in Victoria was from 1993, and the first complaint in Australia, I think, occurred in 1992.

The CHAIR — So 1993 was the very first time you had a complaint?

Br GRAHAM — That is correct.

Ms HARRIS — In Victoria.

The CHAIR — In Victoria? And that is the only file and record? You kept a file of that complaint — —

Br GRAHAM — Absolutely, yes.

The CHAIR — — and then dealt with that allegation?

Br GRAHAM — Yes.

Ms HARRIS — We have done an audit of the documentation that we have. We have presented all of the documentation that we do have to the committee in the files that were submitted earlier in the year. Whether there actually existed other documentation, obviously we do not know, but that is all we now have.

The CHAIR — When did that audit take place?

Ms HARRIS — It started late last year and it has been ongoing. We are obviously continuing it. As you know, there is now a royal commission into these matters, so we will continue to process — —

The CHAIR — From that audit you can only go from 1992 to 1993 to say that there is the first complaint that was made. You have no idea whether complaints were made prior to that, through that audit process?

Ms HARRIS — There was nothing to show that complaints were made earlier than that time.

Br GRAHAM — And anecdotally I feel fairly confident that 92 was the first complaint that we received.

The CHAIR — But that was not in Victoria; that was elsewhere?

Br GRAHAM — That was in, yes — —

Ms HARRIS — New South Wales.

Br GRAHAM — New South Wales; 93 was the first in Victoria.

The CHAIR — Okay. Thank you very much.

Mr McGUIRE — Thank you for appearing before the inquiry today. I want to follow up on Ms Crozier's proposition to you. The figures we have show there were no more than 60 brothers in Victoria but at that time there were complaints raised against 15 brothers.

Br GRAHAM — And that would be across the time span from 1953 up until the present time.

Mr McGUIRE — That is an incredibly high number — 15 out of no more than 60. Do you agree?

Br GRAHAM — Yes.

Mr McGUIRE — That is an extraordinarily high number.

Br GRAHAM — Yes.

Mr McGUIRE — This goes to the critical point that people are concerned about: was your order targeted by paedophiles?

Ms HARRIS — I think an objective examination of our data would refute that, because it would appear that the brothers who offended operated independently. That is certainly what comes through from looking at the information in our files. There was no suggestion that there were rings of paedophiles or there was collusion between brothers. It seemed that the offenders worked independently and over quite a different time period.

Mr McGUIRE — I want you to provide more detail for the record on this. Your argument is that you did not have any complaints. That is because they were highly vulnerable intellectually disabled children. The patterning of behaviour of predatory paedophiles that has been raised before this inquiry is that they target the most vulnerable.

Ms HARRIS — Yes.

Mr McGUIRE — Do you agree with that?

Ms HARRIS — I do.

Mr McGUIRE — Okay. What system was in place to avoid that?

Br GRAHAM — Back in the 1950s and 60s and 70s?

Mr McGUIRE — Yes. What scrutiny and accountability mechanism did you have?

Br GRAHAM — You would have to say, given the outcomes, that there were not any. In a sense the social services, government, the church and most organisations have been struggling to get a handle on this whole problem of sexual abuse. I think in the last 20 years we have gained greater understanding of the actual problem. We have also gained greater understanding of the management of the safety of all children, but particularly vulnerable children. When all of this happened in the 90s there were no policies or procedures or manuals; we have had to develop this over time. I think as time has gone by we have attempted to create

policies and protocols that were able to secure as best as we can the safety of people involved. In the 50s, 60s and 70s, in hindsight I guess we wish we would have had this understanding, but in my own area of psychology the whole area of paedophilia was very poorly understood up until the 1980s. It is only in recent times — given the media assistance for people coming to understand what has happened to them and given the fact that they have been given greater courage to come forward — that we have all been able to explore, not just the church but government facilities and whoever, trying to get a better handle on this.

Mr McGuire — I am going to challenge that assumption. What was the church's view on child sexual abuse? What view did the church have on this?

Ms Harris — Obviously we cannot speak for the church, because we cannot speak for the whole of the church, but the committee has the Facing the Truth submission, which the church did provide. I think that deals quite extensively with the church's understanding of sexual abuse and its developing practices and protocols, which, as Brother Tim has said, really only started in the 80s and 90s as psychological and other understandings of this really difficult and complex area came to light. Sadly, before that there was not that understanding.

Mr McGuire — I want to put it to you that that is factually inaccurate. There was a document circulated by Pope John XXIII in March 1962 where he refers to what is called the 'foulest crime':

The term *crimen pessimum* ['the foulest crime'] is here understood to mean any external obscene act, gravely sinful, perpetrated or attempted by a cleric in any way whatsoever with a person of his own sex.

That is the historical reference within the Catholic Church. That is what was known and understood within the Catholic Church about these issues. Then you would be aware that within the state law of Victoria such offences used to be capital offences. The abhorrent crime of buggery of a child under 14 used to be a capital offence in Victoria, and it has always carried one of the most serious penalties — 10 or 15 years jail. So I am saying to you that you cannot just put it in a new historical context and say, 'We did not know'.

Br Graham — We are not doing that, and very clearly I think the church's position is quite clear that these acts are criminal acts and they are also acts that are contrary to the very thing we stand for. They are indefensible and deplorable, and I have been on record in the media as saying that. Very clearly the church's position is that the abuse of anybody, but particularly vulnerable people, is something that is completely contrary to everything we stand for, and those people that engage in those acts seriously betray the whole reason for the church's existence.

Mr McGuire — Is it fair, therefore, to say that on the figures themselves — complaints against 15 brothers when you had no more than 60 — that your order was targeted by paedophiles?

Ms Harris — I would not say that.

Br Graham — No, I would not say we were targeted by paedophiles.

Mr McGuire — I am just really wanting you to give an explanation of how you can match up those figures.

Br Graham — And as I say, we have put in cases where there has been strenuous denial by the accused person, and, as Ms Harris has said, these people have not been put through the ringer of the legal process. We do not want to re-traumatise people; we have accepted their story. We have tried to listen and hear what they are saying, and we have attempted to be compassionate in our response. That is why the figures look as they do.

Mr McGuire — But does it not really concern you that the figures are as high as that?

Ms Harris — Yes, it does. We are horrified.

Br Graham — Of course it does.

Ms Harris — And I think Brother Timothy would say that when he entered the order in 1977 he did not expect to be sitting here having to explain all these terrible betrayals. We are concerned about those figures, but they are the facts that we have. What we have concentrated on and what we will concentrate on always is trying

to deal with the people who have been abused as compassionately as we can. That is all we can do in the future looking back.

Mr McGuire — But do you acknowledge that there was systemic failure of scrutiny and accountability?

Br Graham — Clearly, because there are 31 cases, and 1 case is bad enough. One case is one case too many, but as Ms Harris says, ‘That’s the facts’ — that is the facts we are dealing with.

Mr McGuire — There is another issue that does concern me, and it came up in today’s *Australian* newspaper. You saw it there?

Br Graham — Yes.

Mr McGuire — It is a story pre-empting this inquiry, which could almost be contempt of the Parliament. You are supposed to come before the inquiry. This is conducted on behalf of the Parliament of Victoria and the people of Victoria, and there is one proposition here that really jumped off the page at me where Father Mackinlay said:

... during this period there were submissions to public inquiries to lower the age of consent to 12 or abolish it altogether.

This proposition is put into a denial proposition of a cover-up. I am just really concerned about whether the church is going to come before this inquiry and actually say, ‘Here are the facts. This is what happened’, and actually do something about it, rather than trying to say this. This is almost arguing society is to blame.

Br Graham — I find it extraordinary that the newspaper in question actually published a story about an inquiry meeting that had not even occurred. That is the first I saw of it this morning. Clearly any suggestion about issues around lowering the age of consent to 12 is just absurd. I mean, I do not know where this material comes from, and there seems to be a lot of this material swirling around in this conversation.

Mr McGuire — I will just go to it. Victorian church spokesman Shane Mackinlay is the source of this line of argument in this article. Journalists are entitled to pursue a story but it is up to the church to know what is the appropriate response and whether you go to the media or whether you come before this inquiry and actually put your case. I am not in any way arguing against the journalist here — the journalist’s job is to get the story — but before you have even come before this inquiry it looks yet again like the church is trying to minimise the proposition, and, as you say, that line seems absurd.

Ms Harris — We have not seen the entire article and we were not the spokesperson, so I really think it might be better to direct those questions to the spokesperson.

Mr McGuire — We will ask further. I just want to go to one other point that it explains. It says:

Catholic Church officials intend to deny the church knew of and shielded paedophiles over a period of decades when they give evidence at Victoria’s sex abuse inquiry today.

Two Catholic orders and a diocese at the centre of the church’s sex abuse scandal will give evidence: St John of God, the Salesian order and the Ballarat diocese.

The evidence they give will be a strong pointer to how the church intends to deal with the royal commission into child sex abuse.

Then it goes on to directly name Shane Mackinlay as the Victorian church spokesman and give an overall position from the church. If you can understand from the victims’ position and advocates’ position, the church in this case looks like it is taking an umbrella — overall — view to minimise the impact. Yet when people come to try to get compensation, the church defines itself as separate entities and organisations all the way through. Do you see how that looks disingenuous in the public domain?

Ms Harris — Perhaps.

Mr McGuire — I think it is clear, isn’t it? The church is seen to be arguing, when it comes to giving compensation and reparation and a remedy, that it is different entities and therefore it cannot be held accountable, and yet when it comes to arguing a defence, it wants to take the umbrella position.

Ms HARRIS — I just take issue with your suggestion about accountability. We are here representing the St John of God brothers. We are accountable for what our members did. Again, we cannot speak for the whole church, but the church has put a lot of time and effort into Facing the Truth and dealing with these sorts of issues. It is a bit difficult to try to respond to an article — I have not seen the article in full.

Mr McGuire — Thank you. Brother, you have seen the article?

Br GRAHAM — I did not see that part of it. I saw it on the web this morning. I certainly did not read anything about some of the details you are talking about. This is the *Australian* article?

Mr McGuire — Yes. What is your view on the propriety of that article?

Br GRAHAM — In terms of the criminal abuse that our members have perpetrated on people, it is our responsibility to ensure that victims are justly, fairly, patiently and compassionately dealt with. As I say, all of our cases have been civilly mediated through very large law firms — for example, Slater and Gordon — and any quantum, for example, which are only part of mediated outcomes, would need to be signed off by these firms in terms of having some external group that is going to say, ‘Yes, this is right and just’. I cannot speak for the whole church; we can only speak for our little part of it. We have tried to deal with these people, who are very vulnerable, in the best way that we can, and that is all we have been able to do.

In terms of the broader stuff, yes, the St John of God brothers are part of the Catholic Church. We also have a degree of independence. When I was thinking about this this morning actually I thought, ‘How would I explain the relationship?’. It occurred to me it is a bit like the Victorian Parliament, in a sense that there is an Australian Parliament that has its rules and regulations and laws, but sitting underneath that is the Victorian Parliament that has its own culture and laws and regulations. It seems to me some way of trying to describe how the governance of the church organises. As your bailiwick is the Victorian bailiwick, ours is the St John of God bailiwick, and we try to deal with that in the way that we have to given the specificity of our population and their vulnerability and the difficulty of dealing with people with intellectual disability who may also have behavioural issues and psychiatric problems. I do not know whether that answers what I am in some way trying to answer.

Mr McGuire — Thanks, Brother. I will hand it on to other committee members, but just a straight-up answer on this: was this an appropriate article for the Catholic Church to put out today, given that you are supposed to be coming here before the inquiry first?

Br GRAHAM — Well, you would have to ask the — —

Mr McGuire — No, I am asking you. What do you think: is it appropriate or inappropriate?

Br GRAHAM — My experience is that sometimes what you say is not actually what turns up in the printed word, so what actually occurred in that conversation between the spokesperson and the media, I do not know.

Mr McGuire — Therefore the appropriate response would have been not to respond, wouldn’t it?

The CHAIR — I am not sure that you can compare the Victorian and federal parliaments with the church, but I understand your point about your jurisdiction.

Br GRAHAM — I am trying to get a model.

The CHAIR — I just want to get confirmation. You have been with the order since 1977, is that correct?

Br GRAHAM — That is correct.

The CHAIR — So you would know how many brothers have been operating in Victoria. I just want to try to get some clarification about that issue in the numbers — or how you do not know, more to the point.

Br GRAHAM — People moved around quite a lot in those days, in terms of resourcing and manpower issues. We have a database and we could tell you exactly how many people have been serving in Victoria from day one until now, but people may have been serving for a year, two years, five years and then move on to another appointment somewhere else.

The CHAIR — In relation to your background, having a psychology background, surely when those allegations first arose do you not think the order should have undertaken an internal investigation in a very sensitive way at that point in time, knowing the gravity of what was being suggested?

Br GRAHAM — I guess when we are talking about the allegations coming forward, most of our allegations occurred in the late 1960s and the early 1970s. Our last occurrence of abuse was 1985. In terms of the allegations coming forward, all of our energies were spent trying to deal with the management of the process of dealing with the victims. As I say, most of our cases have been brought forward through civil litigation. There is that external audit — some independent person who is on the side of the victim trying to get an outcome that is fair and just for them.

The CHAIR — Just in relation to the audit, you said that that was commenced late last year. When are you expected to conclude that audit?

Br GRAHAM — We have had an external audit of our process done by a group called WestWood Spice in Sydney in 2007, which we have given you a copy of.

Ms HARRIS — We have given you a copy.

Br GRAHAM — The audit Ms Harris is referring to is an internal audit of our own documents to ensure that we can provide the best and most complete set of documentation to this inquiry.

The CHAIR — So that audit has been completed?

Ms HARRIS — The Victorian, yes.

The CHAIR — Could the committee have a copy of that audit?

Ms HARRIS — It is not a formal audit in the sense. It means that we have gone through our records — —

The CHAIR — I think we would be very interested to have a look at that if that would be possible.

Ms HARRIS — We have provided you with the 31 cases. That was the result of the audit.

The CHAIR — I am suggesting that we have a look at the internal audit process so that we can get an understanding of those processes that you found in that internal audit.

Ms HARRIS — We will be happy to provide you with that.

The CHAIR — Thank you very much.

Mrs COOTE — Thank you, Brother Graham and Ms Harris, for being with us here today. I would like to go back to Churinga and just talk to you about the nature of your very vulnerable clients, and if we could have a look at what they were composed of, for example. Could you tell me how they came to you?

Br GRAHAM — Yes, I can speak to you about Churinga. I served there in the mid-1980s. Churinga became quite a specialised facility in that we were dealing with children with quite severe intellectual disabilities but often with challenging behavioural problems that could not find a placement in other special schools. That created a problem for us in that the resourcing that we were getting did not match the level of support that was required, but I think the staff we had at the time were very dedicated and some very good outcomes were effected with those children. Cheltenham was quite different in the sense that it was more boys, young men, with learning disabilities, so at a higher end of the disability spectrum. Over time that shifted into children with higher intellectual disability needs and support needs in terms of their behaviour.

Mrs COOTE — Did you have children who had mental illnesses and physical illnesses as well?

Br GRAHAM — We had no physical disabilities. The profession is very loathe to ascribe psychiatric conditions to any children but particularly children with intellectual disabilities, but clearly there were behavioural issues in terms of their placement at Churinga.

Mrs COOTE — You said that you had very dedicated staff.

Br GRAHAM — Yes.

Mrs COOTE — The staff that were dealing with the people with disabilities, particularly behavioural issues, were they lay staff or brothers? Who were they?

Br GRAHAM — Most of the staff in my time were lay staff.

Mrs COOTE — For example, they would probably need quite a lot of personal care I would have thought.

Br GRAHAM — Yes.

Mrs COOTE — Who conducted the personal care?

Br GRAHAM — Personal care in my time was attended to by female staff members.

Mrs COOTE — Who were they accountable to?

Br GRAHAM — They would have been accountable to the — I think we called her the housekeeper. There was a lady who was responsible for the residential staff. These were residential schools, and she was in charge of the residential staff, all of whom were women.

Mrs COOTE — Did the brothers play a role in that? Did they take them for day activities or did they supervise their night-time attendant care?

Br GRAHAM — No, we had night supervisors who, again, were female staff members. In my case, for example, I worked in the school during the day; I was a special ed teacher in those days. The other brothers were involved in administration or they were involved in the cottages but working alongside female staff members. No brothers slept, in my time, in the cottages. But in the earlier days, in the 60s and 70s, again, we had mainly brothers with a smaller degree of lay staff members.

Mrs COOTE — Could you give me the role of accountability? These female personal care attendants helped — —

Br GRAHAM — Yes.

Mrs COOTE — And then you had female residential care overnight-stay supervisors as well.

Br GRAHAM — Yes.

Mrs COOTE — Who did they report to, and what was the chain of reporting?

Br GRAHAM — They would have reported to the lady in charge of the residential staff, who would have reported to the brother who was in charge of the facility.

Mrs COOTE — Were these children wards of the state or did they have parental support?

Br GRAHAM — Most of the children came from families. We probably had a dozen children who were wards of the state at that stage.

Mrs COOTE — If they wanted to make a complaint, who did these children complain to?

Br GRAHAM — They would have complained to their parents. Again, there are children — and this highlights our difficulty — with quite serious intellectual disabilities and communication problems.

Mrs COOTE — They still have a very clear way of being able to communicate to suggest things that are not right.

Br GRAHAM — Absolutely, yes.

Mrs COOTE — Who would they have reported to?

Br GRAHAM — We had two social workers who worked at the facility at the time. They would have been monitoring their behaviour. We had a lot of involvement from the Department of Human Services at that stage. Again, teachers — —

Mrs COOTE — Were the social workers brothers as well?

Br GRAHAM — No, they were all laypeople.

Mrs COOTE — Fine. After these complaints were made, what was the process then? What happened? Let us say the process was started by the parents. The parents were told, they went to the school. What happened then?

Br GRAHAM — These complaints were made after the fact.

Mrs COOTE — They usually are.

Br GRAHAM — Yes. All of our complaints were made after 20, 30, 40 years. No current complaints were made in my time at the school. We are dealing with historical cases of abuse, which is just as bad as contemporaneous cases. In terms of how would we have dealt with it, we did not have to do deal with it because the complaints were not forthcoming at that stage.

Mrs COOTE — When you did hear of them, what exactly was the process that you entered into?

Br GRAHAM — In Victoria, as I said earlier, each case was brought to us usually by their legal representatives or by in one case I think the professional standards group of Victoria, or, as Ms Harris indicated, by groups like Broken Rites. Particularly in the civilly litigated one, it has its own pathway that is dealt with through their legal representatives, and this is the pathway chosen by the particular individuals.

Mrs COOTE — I am interested in the comments you made before where you said you did not want to retraumatise these very vulnerable people. Surely you would understand that you could do this sensitively and without having to retraumatise them, so was that just a way of getting off the hook?

Br GRAHAM — No, in terms of not wanting to put them through an adversarial legal system.

Mrs COOTE — And who did you think was going to be adversarial?

Br GRAHAM — Well, our legal system is adversarial by its very nature, unfortunately.

Mrs COOTE — But were the brothers or the people who were the accused — were they going to be adversarial?

Br GRAHAM — The people in the cases we are dealing with in the main chose to go through the civil pathway, and we respected their choice in terms of not wanting to retraumatise them. There are other ways people can be traumatised in terms of how you deal with them, how you listen to their story and the various forms of pastoral support you try to give them in terms of counselling and in terms of helping make their quality of life so much easier. I guess that is what we mean by retraumatising.

Mrs COOTE — So once they have been through this process with the civil courts, did you continue to help them to be socialised and to give them counselling and additional support to get them through all of this, given that you are responsible in the first place?

Ms HARRIS — In relation to the class actions that came from Lilydale — we then discovered that there were 20 cases that were child related — a lot of those would still have been at Lilydale, so they would have been receiving ongoing services there. Just to go back — —

Mrs COOTE — Could you just explain that to everybody? Lilydale was very different, and that was a different age cohort, is that right? At Lilydale — a different age cohort?

Ms HARRIS — Yes.

Mrs COOTE — They were the adults at Lilydale.

Ms HARRIS — Yes.

Br GRAHAM — And some of these men were also children at Cheltenham.

Mrs COOTE — Right. Thank you.

Ms HARRIS — Just in relation to re-traumatising, in relation to the class action cases, I think in our presentation you will see that Victorian services actually went to the police who were investigating these claims to ensure that senior investigators would be interviewing these vulnerable people to ensure that they were treated as compassionately as possible in giving evidence of these very traumatic events that had happened to them.

Mrs COOTE — One of the things you had said before was that it was very difficult for people, particularly with an intellectual disability, to remember who the brothers were. Did these brothers change their names?

Br GRAHAM — No.

Ms HARRIS — I think part of the difficulty is that they had religious names as well as baptismal names, so some brothers were known by their religious names and even maybe by nicknames.

Mrs COOTE — You said they moved around a lot. Would they change their names in between? Would they use their religious name at one place and their other name at another place?

Br GRAHAM — No.

Mrs COOTE — It was always a religious name and a — —

Br GRAHAM — There was a point in the 70s, I think, where not just ourselves but other groups decided to do away with this very old-fashioned notion of having a religious name and go back to a baptismal name, but people did not change their names from one place to the next.

Mrs COOTE — In this adult class action you speak of, how many brothers were implicated in that?

Ms HARRIS — I would not be able to tell you without looking at the thing. We are only dealing here with information about child-related cases.

Mrs COOTE — So that will come out in the audit Ms Crozier is asking for?

Br GRAHAM — Yes, the detail is there.

Mrs COOTE — So, how many brothers and who they were, and that will be their baptismal name and their religious name?

Br GRAHAM — Yes.

Ms HARRIS — In the case files we have given you of the 31 child-related cases I think you will see that the brothers have been identified by both names where that is applicable — where they had a religious name as well as a baptismal name.

Mrs COOTE — Is the incidence of reports lessened once the brothers were no longer involved?

Br GRAHAM — As I say, I could not give you an exact percentage; I would have to go and do the maths. But the vast bulk of our offending occurred in the 1960s and early 1970s.

Mrs COOTE — In your annexure 2 on page 11 you say that there is a large number of complaints that named brothers who were removed from the ministry.

Br GRAHAM — Yes.

Mrs COOTE — This report from WestWood Spice says:

When the large number of complaints emerged in Melbourne, the named brothers were withdrawn from the ministry, initially temporarily, but according to Brother Terry none has returned since.

Why was it only temporary? Why were they not dismissed immediately and taken away from anything to do with children?

Br GRAHAM — I think the protocol is that — I do not think, I know — once an allegation has been made the person must stand aside until it is appropriately and properly investigated. That is the Towards Healing protocol, which we have observed strictly throughout this time. I think that probably some brothers, from memory, may have stood aside for as much as three years while the criminal investigation was occurring, so it was a lengthy period of time.

Mrs COOTE — So this was stood aside — on full pay?

Br GRAHAM — The brothers do not get paid.

Mrs COOTE — You supported them?

Br GRAHAM — Yes.

Mrs COOTE — You gave them a house, presumably, or somewhere to live, and fed them, presumably?

Br GRAHAM — Yes.

Mrs COOTE — Did they do any chores in support of the support they were getting?

Br GRAHAM — No, and many of them found that highly frustrating. It was very difficult for them to just sit and wait for some outcome.

Mrs COOTE — How many brothers are we talking about here?

Br GRAHAM — Again, we would have to look at our records to give you an exact number.

Mrs COOTE — That will come out in — —

Br GRAHAM — This is the class action cases.

Mrs COOTE — These are the ones that were withdrawn from the ministry, initially temporarily.

Br GRAHAM — Yes.

Mrs COOTE — I wanted just to know what happened to them. Would you put a price on how much food and accommodation would be for those particular priests?

Br GRAHAM — When we are talking about the brothers, in a sense we are talking about a community of people. Often congregations are called a religious family, and I guess we have an obligation to those community members — to those family members — to support them in a situation where we are attempting to deal with a very difficult issue in the best possible way we can. Trying to get a handle on this thing called religious life is very difficult for most Catholics, let alone anyone outside of the Catholic Church. Again, the term ‘the religious family’ is often used, and I guess there are many families out there who also have family members who find themselves in difficult problems, who have family members who may be dealing with allegations of abuse themselves. Again, it is a tenuous — what is the word? — a tenuous comparison, but it is the best comparison I can come up with to try and help you understand this thing called religious life and religious congregations.

Mrs COOTE — So presumably your obligation to them was to help pay their legal fees when they did go to that civil case? Is that right?

Br GRAHAM — In Victoria none of the cases have gone to court; they have all been mediated outside of court.

Mrs COOTE — And the mediation was paid for by you with your legal costs?

Br GRAHAM — Yes, as were the legal costs of the victims.

Mrs COOTE — Have you got any idea of what that amount was?

Br GRAHAM — Of the legal costs?

Mrs COOTE — Yes.

Br GRAHAM — That would be very difficult to ascertain 10, 20 years post the date in terms of — we could probably have a go.

Ms HARRIS — It was usual in the mediated settlements for the amount to include an amount for costs, and we do not always have a record of what that would be.

Mrs COOTE — Okay. Finally I want to ask you about Towards Healing. You have mentioned Towards Healing several times, but in this independent audit that you have had from WestWood Spice it says on page 6:

Another significant issue for the order was that its client group was predominantly people with a psychiatric and/or intellectual disability and therefore with more complex needs than Towards Healing ...

... Towards Healing had little or no capacity to assist the order with its particular needs at the time when the complaints started to emerge due to the large number of complaints and limited resources.

What exactly about Towards Healing at that stage was it that they could not cope with these very, very vulnerable Victorians?

Ms HARRIS — I think it was primarily the timing in that Towards Healing was in its infancy, and they just did not have the resources to deal with the large number of such a specialised group as well, bearing in mind too that Towards Healing is available to all other orders — other religious congregations and dioceses — so, yes, it was just overwhelming for them at the beginning of their protocols to take on such a difficult case.

Mrs COOTE — Do you believe that Towards Healing has now got that right for people with an intellectual and psychiatric disability?

Br GRAHAM — Yes, because currently we use the Towards Healing office out of Sydney, because that is where we are based. We find they deal with matters in a very effective and pastoral way.

Mrs COOTE — I think that is the end of the area that I wanted to ask about. Thank you very much indeed for your dignified answers. Thank you.

Ms HALFPENNY — I would like to ask a few questions more about the current times. The first one is earlier when you answered a question about what had happened in the past and why wasn't more done, and the response was about, 'It was terrible; we do not condone this', and, 'St John of God does not condone what happened', but also that there was a difference in the views and attitudes at that time, and that is one of the reasons why perhaps not more was investigated at the time, so therefore what we know today is very different to what we were looking at in the 60s and 70s.

Just with that in mind, I want to bring you again to the report that you sent to us — the WestWood Spice report, which was 2007. At page 11 one of the comments that was made by those writing the report was — and this was about some of the brothers in the order:

It is understood that some brothers in the order were disappointed with the way in which the Victorian cases and the settlement were handled by the order and the —

provincial professional standards committee —

They perceived that many of the cases were spurious and involved complainants who, due to their disabilities, could not have made the complaints independently. The other issue of concern was that many of the complainants used similar language to describe their experiences. Some of the accused brothers were only in Melbourne for a short ... time; there is a view amongst some members of the order that they and their colleagues were poorly supported ... and viewed the settlement of the case as a significant betrayal.

What I guess I am asking is obviously there is still a view within the order that is not the same view as what you are expressing today. What are you doing to change that view of individual brothers in respect of abuse of children?

Ms HARRIS — I think there is a difficult tension in trying to provide procedural fairness for victims and offenders. I am sure the committee has understood that as they have heard other witnesses. It is a very difficult and complex issue, and there is this tension there, but St John of God follows Towards Healing and its associated documents in relation to ministry.

Ms HALFPENNY — We have heard time and time again from victims when they raised complaints, where they have tried to have something that may have been historical dealt with, that they have gone through Towards Healing or the Melbourne Response and they might have got a small payment, or maybe in some cases a larger one, but there has been no support in terms of the community, where people perhaps did not believe them, where they were ostracised, where they were treated badly by other members of the community, and the church showed no leadership in trying to support them or to go out into those communities to explain that these things did happen and in some way to address these issues in a broader way. What I am asking is not about what you are answering but more about what is St John of God doing to ensure that brothers and supporters — the community — do accept that things happened and that it is not the victims who are the problem, it was from within the order?

Br GRAHAM — Very clearly one of the principles in another document we have provided you with is about listening and believing — —

Ms HALFPENNY — The individual, but what about the rest of the community? What about those who may not believe or, as this report says, where there may be brothers within the order who still do not believe complainants and victims?

Br GRAHAM — I think given all that has happened in that preceding time in terms of the media, in terms of the in-service training we have done, in terms of the regular gatherings with the brothers and discussing this issue, this is an incredibly painful issue, principally for the victims and their families, but it is very painful for other people too. It is very painful for the many brothers who have served faithfully in those places, and it is very painful for the staff members who have worked alongside them. I think there are elements in society that do not want to believe what people are telling them, but the most important thing from our perspective is we need to listen respectfully and believe and deal with it in the most appropriate way. I cannot be held responsible for what people believe out there. I can only have some responsibility — —

Ms HALFPENNY — I guess I am asking: what do you do in terms of having a leadership role, what do you do to try to influence or change people's views?

Br GRAHAM — I think our way of trying to influence and change people's views is through how we have tried to deal with the men, some of whom are now in their 50s and 60s, who have come forward to us in a way that we believe gives them some dignity, that gives them some hope and some sense that people understand what is happening for them. I can never understand what their life must be like. Only a person who has gone through that — —

Ms HALFPENNY — Do you deny liability in those out-of-court settlements, or do you accept liability for what has happened to those people?

Ms HARRIS — We accept what has happened to those people.

Ms HALFPENNY — But in terms of out-of-court settlements, do you deny liability or do you accept liability?

Br GRAHAM — That the action happened, you mean? I am not sure what liability means in a legal sense.

Ms HALFPENNY — Yes. When there are negotiations, and I think you referred to the fact that nothing has gone to court but there have been settlements out of court.

Br GRAHAM — Yes.

Ms HALFPENNY — You might have an apology, which I was going to ask you about, but there is also as part of the legal proceedings whether or not you accept liability. This committee has heard that St John of God does not accept liability in the legal sense when making settlements.

Br GRAHAM — My sense from my understanding of liability is that we do accept liability. In terms of the mediated process, there is a deed of release that accepts that liability. I do not know whether or not that answers your question.

Ms HALFPENNY — Okay. That is good if that is the case. We have heard — —

Br GRAHAM — I am not a lawyer, and sometimes the law baffles me a bit. But from my layperson's perspective, and from my position at this stage of being the person who manages ultimately this process, we accept the fact that this happened to people.

Ms HALFPENNY — Okay, thanks. My understanding of St John of God — and you were talking about the fact that technically speaking the brothers do not run health care.

Br GRAHAM — Yes.

Ms HALFPENNY — But they are still of course involved. They are still involved in these institutions — the various hospitals?

Br GRAHAM — In Victoria there are no brothers involved in the St John of God health-care institutions.

Ms HALFPENNY — So they do not visit or provide pastoral care or anything like that?

Br GRAHAM — Not in our institutions. Again, they are elderly. Both of the Australian brothers are pensioners here in Victoria. The two Vietnamese brothers are learning English to try to be of assistance, particularly to the Vietnamese community here, and clearly in terms of that community, from day one they have been made aware of their professional standards obligations.

Ms HALFPENNY — Just one final question in terms of the settlements. There is an indication here that there have been quite substantial settlements for some victims — up to \$200 000. But as we understand it, in other parts of the church most financial settlements are not much more than \$50 000. Is there a reason for the difference that you know of?

Br GRAHAM — In a sense we are an independent organisation dealing, in our case in Victoria, with sophisticated law firms that are looking out for the best interests of their clients. I cannot speak about what other independent groups of the Catholic Church do in terms of the quantum amounts; I can only talk about our amounts and how we have tried to err on the side of generosity.

Mr O'BRIEN — In relation to your last couple of answers to Ms Halfpenny, I just want to be fair to you. You might be not sure — I am not wanting to put words into your mouth — but are you saying that your deeds of release come with no denial of liability?

Ms HARRIS — No.

Mr O'BRIEN — It is often the case that they come with a denial — —

Ms HARRIS — They would be standard deeds of release.

Mr O'BRIEN — Which usually is the opposite.

Ms HARRIS — Usually, but without looking at them I could not say. But I imagine they are standard deeds of release. It is difficult trying to be pastoral, which is what we are trying to do, when we are dealing with these issues in a legal environment as well.

Br GRAHAM — Which is the pathway chosen by the individuals — to go down that pathway.

Ms HARRIS — We would hope that the legal firms representing the victims would be able to somehow explain the legal technicalities, if you like. But certainly in the mediated processes we would be making it clear

to those victims that we accept their story. We would want that message to be clear to them irrespective of what the legal niceties were, so to speak.

Mr O'BRIEN — We will talk about legal niceties, but I just want to be clear because this evidence will remain on the public record. Obviously you are not sworn but in relation to the truthfulness we would say that it is potentially a contempt if you intentionally mislead us, and I am not saying you are. I just want you to be clear that if you do not know something or you are making an assumption that you would like it to be the case, that is different from knowing. In the answer you gave to Ms Halfpenny I think it is almost the opposite. These agreements probably deny liability, to answer Ms Halfpenny's question, not accept liability. Is that what your real evidence is?

Ms HARRIS — Yes.

Mr O'BRIEN — All right. Just picking up your comment about the lawyers, Brother Graham, you said that these victims have a choice to engage lawyers.

Br GRAHAM — No, the choice is the pathway they go down, whether they go down a civil pathway, whether they go down the Towards Healing pathway, whether they report to the police, or a combination of all of the above. But in our case in Victoria, most of the victims who have come forward have chosen — we have heard first from them through their lawyers.

Mr O'BRIEN — But you would accept in a sense that they are victims? Mrs Coote has taken you through the vulnerable nature of these victims. They did not have a choice to be abused in the way that —

Br GRAHAM — Absolutely not, no.

Mr O'BRIEN — So therefore what engagement of what process? It is certainly a victim's right in a Western common-law democracy to engage lawyers.

Br GRAHAM — Yes, absolutely. We encourage it.

Mr O'BRIEN — All right. Just in relation to another matter on your legal advice, on page 11 you say in a sentence:

Instead the order relied on legal advice and responded to each case as it arose.

And in your evidence just then you said you were aware of these arrangements of sophisticated law firms.

Br GRAHAM — Yes.

Mr O'BRIEN — There is also another relationship at play, and that is the instructions from the client, being the church, to your law firms, including the instructions to ignore advice and to do what you might think would be the moral thing or the right thing to do. Is it your evidence generally that the way these claims have been handled and the way you have been responding to allegations and victims' claims is to essentially rely on the legal advice, or do you take ownership of your instructions that you have provided to your lawyers?

Br GRAHAM — To our lawyers? Yes. I mean, it cannot be driven by the legal process. It has to be driven by the pastoral process. We meet the victims wherever they choose to meet us in terms of the pathway they choose, but clearly it cannot be driven by the legal process and it cannot be driven by the insurance process, which is another issue that keeps coming up. It has to be driven essentially by the pastoral process. And what do I mean by that? I mean it has to be a relational process if the victim chooses for that to be a relational process. We will offer to meet with people, to talk with people, to provide them with counselling. As I indicated before, there are situations where we have helped people in small things like fixing the hot water system, for instance — things they have asked us to do in terms of how we can pastorally support them.

Mr O'BRIEN — Okay. If I could just pick up some of the questioning from the Chair in relation to your audit, have you actually undertaken your own inquiry or investigation into the systemic causes of the abuse that has occurred in your order and in your institutions?

Ms HARRIS — Not formally. I think the WestWood Spice audit would have been an attempt to try to understand how complaints were dealt with in the past.

Mr O'BRIEN — I accept that it is an attempt to understand complaints. I just wanted to cut you off there because understanding of complaints does not necessarily take us to systemic causes for the abuse in the first place. Do you accept that there is a difference there?

Ms HARRIS — Yes.

Mr O'BRIEN — And that some of the material that Mr McGuire might have been putting about whether or not — I think this was his language — the place attracted paedophiles is a matter that really can only be determined at the outcome, at the end of a systemic investigation into the causes of this abuse, based on the raw data that he has put to you. Do you agree with that?

Ms HARRIS — Yes, but — —

Mr O'BRIEN — But you have not undertaken such? I will let you finish, but you have not undertaken that yet?

Ms HARRIS — No, we have not formally. I think as we have progressed in looking back, we have asked ourselves, 'Why has this happened?'. Based on the raw data so far, we have found that there have been various offenders working independently over a large number of years. As to the actual reasons why that happened, we have not explored that yet in any detail.

Mr O'BRIEN — Are you prepared to?

Ms HARRIS — It is something that we would be looking at, especially as the royal commission is before us. We would be open to looking at anything that would help us understand what has happened, but our focus has to be on going forward and also remaining fixed on trying to do what we can to keep the process victim-focused and to have their concerns as our primary focus.

Mr O'BRIEN — And nothing I put to you would necessarily be contrary to that.

Ms HARRIS — No.

Mr O'BRIEN — You said you would. Does that mean you are, or are you saying to us effectively that you are prepared to undertake such a systemic investigation?

Ms HARRIS — We are certainly open to looking into it. As to how that would be done, I do not know; we would have to consider that.

Mr O'BRIEN — Can I just ask you some specific questions. At the conclusion and recommendations section of the WestWood Spice report on 26 September 2008, two of the recommendations that are made there are not quite what I was referring to, but they say:

That the order, in conjunction with the director of Towards Healing —
and other representatives —

... undertake ... review of the files relating to complaints and develop a comprehensive catalogue and status report for each complaint.

Is that the audit process that you have referred to, or is that something different again that has been directed by this inquiry?

Ms HARRIS — It is similar. Brother Timothy actually met with the director of professional standards in Sydney when this report came down, and all the files that were current then were discussed with him, and also one of the focuses was to ensure that any of the New Zealand cases that may have been put on hold because of criminal investigations were properly dealt with. That was certainly done immediately. As I say, the Victorian cases have been — I use the word 'audited', but the raw data has been looked at and systematised.

Mr O'BRIEN — Because you would accept that without understanding what took place between, say, two paedophiles, unless someone has bothered to go through that investigation process, it is impossible to say whether they were independent events or some part of a conspiracy in a sense to conduct themselves in a more systemic process of abuse?

Ms HARRIS — In instances where allegations were made against more than one person, there is no obvious evidence in the data that they were colluding. That is the best answer I can give you of that.

Mr O'BRIEN — Colluding in relation to that victim, but to take up Mr McGuire's assertions to you, how can you conclude that they were not, say, attracted to your order because they perceived it as a place where they could exercise their crimes?

Br GRAHAM — I guess we cannot objectively assess that at this point going back to the 1960s and 70s, especially when eight of them are dead and however many of them have left. How you would retrospectively assess that, I am not really sure.

Ms HARRIS — The only thing I could say is that paedophiles are obviously attracted to situations where they have access to their victims. In that sense, the institutions that the order ran would attract, but so would schools, orphanages and so on — government-run agencies dealing with children. That is a generalisation — scout groups, for example. I am sure the committee has heard evidence from victims of those sorts of groups. Whether you would say that anywhere where children are and children are vulnerable attracts paedophiles.

Mr O'BRIEN — Let us just deal with the specifics in relation to your order from the data that has been put to you and that you have provided to us. Another particular feature of your order, and obviously many other Catholic orders, is the question of celibacy, which, picking up this article in the *Australian*, according to the quote, as I understand it, Father Mackinlay suggested that:

... the blight of sex abuse in the church paralleled the collapse of social and ethical constraints generally in the 1960s and 70s and is more likely to have been a cause of abuse than celibacy.

That is what the quote is. Do you accept that proposition?

Br GRAHAM — When you think of the statistics, beyond our order, if we are talking generally, most of the abuse of children is occurring with people who are not celibate. We all know the statistics, and we are talking generalities here. I do not think the issue around celibacy is germane to the issue of paedophilia within religious groups. That is my personal belief.

Mr O'BRIEN — There might be other issues as well in terms of the closed order, brotherhood basis?

Br GRAHAM — In terms of closed institutions. The research suggests that closed institutions, whether they be jails, institutions, orphanages or whatever, run a greater risk of this type of abuse occurring.

Mr O'BRIEN — And closed orders, where there is a brotherhood, for example, say, your organisation, or I will say the Christian Brothers for example, where there is that camaraderie.

Br GRAHAM — What do you mean by a closed order?

Mr O'BRIEN — There are vows of obedience, there is a tendency to protect individuals within the order rather than to expose them. There is the viewing of crime as a sin and to forgive.

Br GRAHAM — The church is now acknowledging very clearly that paedophilia is first and foremost a criminal action. It is also a sinful action. It is both.

Mr O'BRIEN — I would like to draw you to these practices and again your assumptions if you have not undertaken the investigation. Mr McGuire put it to you that this order may have attracted paedophiles. Is it also the position in relation to, say, seminary life in the 1960s and 70s, for example, or earlier, if that is when to some extent paedophiles were created or fostered or harboured within these supposedly celibate orders, like yours?

Br GRAHAM — My understanding of the issue of paedophilia is that I do not think it is created in a sense of environmentally created. My understanding is that it is something innate within the individual. As I said, in my own discipline the understanding of paedophilia has only really become more clarified since the 1980s. We

have been struggling to get a handle on what this problem is in individuals and how best to treat people with this problem. And also, in terms of the issue of protecting individuals, looking back on my own experience I can honestly say that I have never observed this behaviour at work. Clearly people who sexually abuse children do it secretly. They tend to silence their victims through intimidation. They have all sorts of ways of controlling the situation. In terms of harbouring, colluding or hiding, I do not accept that from my own personal perspective.

Mr O'BRIEN — What about effectively attitudes that treat it as a sin rather than a crime? Do you think that has exacerbated the problem, that there was a potential to forgive when, as Mr McGuire has pointed out, these matters were crimes?

Br GRAHAM — Yes, and clearly, taking up Ms Halfpenny's point, in the past we were struggling to develop policies and procedures from scratch — not just the church, but every agency dealing with this issue. The church, in that period, may have seen that. It has shifted beyond that and is clearly indicating that it considers it not only a sinful activity but a criminal activity.

Mr O'BRIEN — If I could just take you up on those policies, Mr McGuire has taken you to some of them, but one of the documents we have seen from 1992 which is marked 'Strictly confidential (For Bishops Major and Superiors Only) — Protocol for Dealing with Allegations of Criminal Behaviour' for the plenary meeting April 1992, says at paragraph 3:

Bishops have duties and responsibilities to their priests, religious, and all of Christ's faithful according to natural justice and canon law. They have a responsibility to protect the good reputation of individuals and the church as a whole. They have a special concern for the victims of injustice and those who are vulnerable.

Do you accept that within the ranking the protocol, as it existed there, put the good name of the church in chronological and in a sense relative importance as well above the victims?

Br GRAHAM — And in a sense I can only speak for my little patch of the church.

Mr O'BRIEN — I accept that.

Br GRAHAM — I cannot make a statement for the whole church. In my little patch of the church we have always tried to be victim focused first. We are on the public record as being dragged through the — we do not have a reputation, in a sense.

Mr O'BRIEN — I will just take you to another part of this document, and then I will take you to one more document. 'Values to be promoted', says in 4.1:

In dealing with allegations of criminal behaviour against the accused, the competent ecclesial authority is obliged to take into account and preserve various values.

... To act with justice, mercy and charity.

...

... To act so as to prevent or remedy scandal.

Do you accept that a feature that occurred in the church, or in your part of the church at the time, was this desire to protect the good name of the church and to deflect or remedy scandal?

Br GRAHAM — I think it was designed to try and encourage a balance between the needs and the stories of the victims and the needs and the stories of the positive elements that have occurred in our little patch.

Mr O'BRIEN — If I could just take you up on the balance, do you accept that in retrospect — and I know you have not done a full investigation, but from what you know from your anecdotal knowledge and your presentation before us — that that balance was way out of kilter in favour of the church?

Br GRAHAM — In the 60s and 70s?

Mr O'BRIEN — Yes, through the process that has led to the cases that we have before us.

Br GRAHAM — Since the early 90s, when we have been, again, struggling to develop these policies and procedures and procedural fairness for victims, I would not accept that. What happened before, in the 60s and 70s, when I was still in primary school, I really cannot make an informed comment on that. I can only deal with the facts and the documents that we have, and the facts and the documents that we have would tend to suggest that we — I keep repeating myself, but I think I am repeating myself to make a point — have attempted to be as victim-focused as we are able, and it has been a work in progress from 1992 up until this point in time.

Mr O'BRIEN — Thank you.

Ms HARRIS — And that is not to say that we have always got it right in these very difficult and complex matters. I think that is reflected in Facing the Truth. The church as a whole has acknowledged that, yes, mistakes were made in the past. Perhaps emphasis was put on the wrong areas, but that is what we can say.

Mr O'BRIEN — Just to pick up Facing the Truth, there is an update to Facing the Truth on the Catholic Church's webpage. Under the heading 'Misconception: there have been widespread cover-ups' it states:

While in earlier years some offending clergy and religious institute members may have covered up fellow offenders, it is clear that the vast majority of clergy and religious simply could not believe that a colleague could do such appalling things.

That seems to be an implied admission that there may have been cover-ups of fellow offenders. I know you have not undertaken a formal inquiry in the manner we have put to you, but do you accept that there may have been cover-ups of fellow offenders in your organisation?

Ms HARRIS — It is possible.

Mr O'BRIEN — Do you think it is likely, given the raw numbers of paedophiles that existed in your organisation?

Ms HARRIS — Without looking into the statistics, I could not say.

Br GRAHAM — Being close to this matter, I would suggest that I do not think it is possible. We have been, in a sense, stripped to the bone by the media for many decades — for 20 years we have been exposed. We have given you every scrap of paper we own in relation to this. We have attempted to be as transparent, open and cooperative as we can. I do not think there is any more we can do.

Mr O'BRIEN — There is that internal investigation, but I will go — —

Br GRAHAM — Which in a sense Ms Harris has already done. How you would go back to the 1960s and 70s and actually try and work out culturally what was going on when so many people are dead, when so many people have left, when they are elderly — these are people in their 80s and 90s now, some of whom have dementia. I am thinking, 'Well, isn't it better to spend that energy on the now and on the future?'

Mr O'BRIEN — You have answered part of the question, on the things you would have to consider, but you have not taken the first step, which is to decide to do such an action. You have already said that to me.

Br GRAHAM — And the question is: how would you undertake such an assessment?

Mr O'BRIEN — Which you deal with once you have decided to do it.

Br GRAHAM — If somebody could come up with — I do not know whether such a process exists out there or whether anybody else has done it. It would be very interesting to look at other groups and whether they have attempted to do that.

Mr O'BRIEN — I will take you to some of the documents now. Do you know Brother Phillip O'Donnell? He would be one of the people you could speak to. I have a document here from Brother Phillip O'Donnell.

Br GRAHAM — No, I do not know him.

Mr O'BRIEN — A Brian Phillip O'Donnell?

Br GRAHAM — Brian O'Donnell? Yes.

Mr O'BRIEN — Sorry, Brother Brian Phillip O'Donnell. It is an unsigned statement, as I understand it. At page 5 it states:

In my experience, no allegations of sexual misconduct involving brothers ... was ever documented and would be currently held in archives or in other documentation within the order.

This practice was followed in order to deal with the situation in its actual context without compromising the good name of the person in the future. By that I am referring to the brother against whom the allegation had been made.

What was Brother Brian O'Donnell's status?

Br GRAHAM — I think he may have been the provincial in the 1970s.

Mr O'BRIEN — He is effectively admitting that there was not documentation taken, but people who are still alive could be spoken to. Do you agree with that?

Br GRAHAM — Yes.

Mr O'BRIEN — He goes on to say:

I made mention in my earlier statement to police that the attitude within the order was one of reacting to a religious failing to keep his vow of chastity. We were dealing with a sin rather than crime. The attitude was also that a sinner can repent and be forgiven and give up sinning. That's how we saw it then.

Do you accept what he says?

Br GRAHAM — Yes.

Mr O'BRIEN — He then says:

Today, of course, we would see the offence primarily as a crime against the victim and to be reactive to it in that context.

Is that an admission of the failings of the past, at least to that part?

Br GRAHAM — In terms of the way that the church viewed that, then it is on the public record as it was dealt with. As I say, we have moved on from that.

Mr O'BRIEN — I am not actually sure if this is on the public record. I am putting it to you.

Br GRAHAM — Yes. In terms of the church's approach as being a sin and dealing with it from that theological perspective, I think the church is now very clearly acknowledging that not only is it a theologically sinful situation but it is clearly a criminal situation that has to be dealt with criminally and theologically.

Mr O'BRIEN — I will skip a bit because of time and I know other members wish to take up some issues, but if we just go back to the process, he says:

This would be a matter of referral to the provincial and again, from my experience, it was all conducted verbally and without documentation —

that was in the context of being transferred elsewhere with a chance to turn over a new leaf —

This would also happen if a brother was stealing money or having a relationship with a woman. The reason documentation wasn't kept was because there is a record of the sin which could jeopardise his future within the order.

Would you also accept that it would also have been convenient protection for the church's good name?

Br GRAHAM — I cannot answer how that would have been perceived by the individual at that time, but it looks like that at this stage.

Mr O'BRIEN — It certainly does, doesn't it? Would you accept that?

Br GRAHAM — Yes, it does, but whether that was the case I cannot comment.

Mr O'BRIEN — Would you accept it is consistent with the view to avoiding scandal?

Br GRAHAM — All I can speak of is my current experience and the experience of the last 20 years is that with the avoidance of scandal, the media has served a great role in terms of exposing all of this very critically and very clearly.

Mr O'BRIEN — It also concludes by saying that the victim was not taken into great consideration back then. Could I put to you my final question. Given you have accepted that it would be difficult now to undertake such an investigation of systemic practices, can I put it to you or ask why it has taken so long and indeed the formation of this inquiry to even consider undertaking an investigation into systemic issues underlying the behaviour within your order so as to either put to rest Mr McGuire's assertions or to prove them and expose them?

Br GRAHAM — My response would be that our energies have been spent dealing with the here and now needs of the victims. That would be my answer. How you would go about doing a systemic audit of cultures and people from the 1960s and 70s, I would be very interested to see models of how people have attempted to do that. We would be open to looking at doing that. As it stands, I just scratch my head thinking: how you would actually do that assessment?

Mr O'BRIEN — Do you concur with this general proposition? Do you accept that to prevent the mistakes of the past occurring in the future, it is always better to understand what happened in the past?

Br GRAHAM — Yes.

Mr McGuire — Brother, I accept the proposition put earlier that when you joined the order you did not expect to be here today answering these sorts of questions, and I just add that neither did we when we started as MPs. Nevertheless we have to ask the questions without fear or favour and let the consequences fall, all right? That is what we have to do.

Br GRAHAM — Yes.

Mr McGuire — I want to go back to this issue about whether your order was targeted. The way I am framing this, just so you understand, the evidence that has already been put to this inquiry is that predatory paedophiles did look for access and then they targeted vulnerability. It is a critical point for your order that you had some of the most vulnerable children under your duty of care. Do you understand it more from the point I am making?

Br GRAHAM — Yes, absolutely.

Mr McGuire — Do you accept that?

Br GRAHAM — Theoretically that is perfectly clear, yes.

Mr McGuire — Therefore it beggars belief that you are now telling this inquiry only today that you will for the first time conduct an investigation to determine whether your order was targeted by paedophiles.

Ms HARRIS — I think Brother Timothy's answer is that our resources have been concentrated on dealing with the complaints as they have come in, trying to respond to the victims, and it has not been in looking back and understanding what did go on.

Mr McGuire — You had to do both, didn't you?

Ms HARRIS — Yes, we have to do both.

Mr McGuire — You should have done both by now.

Ms HARRIS — And this inquiry has given us an opportunity to do that, but we have always used our resources primarily in dealing with the victims as they came forward. That was our priority.

Br GRAHAM — In a sense, theoretically you have stated the fact: the research says as you have stated, and clearly we are not exempt from the outcomes of that research. As you say, paedophiles target groups that have

access to children and to vulnerable children, and how are we going to be any more exempt from that than a government institution or the police force or the boy scouts et cetera?

Mr McGuire — But I do want to go to the other point that the Vatican categorised child sexual abuse as the foulest crime in 1962. The St John of God order had complaints against 15 of its brothers, who amounted to no more than 60 in Victoria, and really what you are saying is that you did not conduct your audit until this inquiry was up and publicly launched.

Ms Harris — Yes.

Mr McGuire — That is not good enough, is it? Seriously, it is way too late. I mean, what do you say to the community, to Catholics, to victims? What do you actually say? How do you explain that?

Br Graham — I think the fact is that the cases we were dealing with have been brought to a satisfactory conclusion for the victims and their legal representatives. Currently we have one active case in Victoria that we are working with, again in the same pathway chosen by the other victims in terms of a civil mediated process through Porters Lawyers. We have kept meticulous records, of which we have provided you with complete sets of documentation. The audit that Ms Harris is talking about is going through that, ensuring that we have summary data for you in terms of rather than having to go through all of that which we provided you in our first communication. I think that we have tried to be as faithful to the process as we have been able to be.

Whether going back and looking at the culture from the 1960s and 70s would be useful, as I said earlier, I would be interested in seeing some models about how that can be done, whether it has been done in other places and whether that would be a useful activity in terms of supporting the safety of children now and into the future. Given that we have accepted the theory that, yes, paedophiles have targeted organisations like ours in the past — and I cannot give you whether there was one, two or however many that would have been — whether that is going to add to ensuring the safety of children now and into the future I do not know.

If it were, then fine, but if it is not going to add to pushing this issue forward, to developing systems where we can ensure to the best capacity that we are able, no matter what organisation it is, that children are going to be safe.

Mr McGuire — The numbers alone would make it something that you have to do, surely. You cannot remedy the past, but we are looking for mechanisms for the future. What do we say to try and prevent this in the future? It would certainly be of benefit there.

Br Graham — As I said earlier, we have put in cases where there are strenuous denials, and hopefully you have seen some of the cases. We have erred on the side of the victim. I acknowledge the figures look bad.

The Chair — You have just made a point about one active case. I do not want you to go into the detail of that but I want to understand. When was that case?

Br Graham — Sorry?

The Chair — You have just made mention of one active case currently. I do not want to go into the detail of that, obviously, but when was that related to, what time frame?

Ms Harris — The 50s and 60s.

The Chair — You have just said you have meticulous records in relation to that case. Could you explain a little bit more about that, because I am trying to understand your record system?

Br Graham — The records we would have would represent whatever school records were kept at that stage — again, we are talking about the 1950s and 1960s — and whatever material has come forward as a result of the civil mediation process, and that case was actually included in your documentation.

The Chair — I am sorry. I thought you did not have any significant records prior to the 1990s.

Br Graham — There would be school records in some cases. Whatever we have, we have given to you.

The CHAIR — Thank you. Just one other thing, in relation to the WestWood Spice independent audit that was undertaken when you took over as provincial in 2007 and in relation to the current audit that you have just finished, can I just try and understand: that audit was looking at the order's professional standards, protocols and practices? That is the information you gave to us on Friday. So you are saying in the five or six years that have passed you have identified another issue with your policies and procedures?

Br GRAHAM — The WestWood Spice was around the praxis and the policies and procedures. The process that Ms Harris has been dealing with has been around the data in our files, gathering it all together in usable format for the inquiry and for later use in the royal commission, trying to discern patterns in that. As I say, we can say that most of our offending in Victoria occurred in the 1960s and the early 1970s, with a small number of cases in the 80s, finishing in 1998. That is the sort of analysis of the data that we have done. So the first was about process and praxis; the second was about getting all of that material together and going through it all, trying to put it into a usable format for inquiries such as this and for our own refreshing of our memory, because particularly the class actions were completed in the early 2000s, so that is 13 years ago.

The CHAIR — That audit will indicate how many abuse cases, both sexual and other forms of abuse, with children and adults have occurred?

Br GRAHAM — Yes, and that is summarised in our submission to you and in the previous documentation, the first lot of documentation, we gave to the inquiry.

Mrs COOTE — Thank you, Brother Graham again and Ms Harris. When you gave your analogy between the state and federal parliaments and related it to the church and St John of God — —

Br GRAHAM — It may not have been a good analogy.

Mrs COOTE — one element you left out was your relationship with Rome and the Vatican. Could you explain? Are you directed by Rome? What is your relationship with the Vatican?

Br GRAHAM — Our provinces are quite independent. I am responsible to a brother called the prior-general in Rome, and in a sense direct relationship with the Vatican does not exist. My line of accountability is to our prior-general in Rome. I guess technically his line of accountability would then be to the Vatican.

Mrs COOTE — We have been hearing today from various dictums that have come out from the Catholic Church and from the bishops here in Victoria — for example, the document that Mr O'Brien spoke of, which was from the Australian Catholic bishops conference, *Protocol for Dealing with Allegations of Criminal Behaviour*, which was produced in 1992. Are you bound by that? How does that work in relationship to St John of God?

Br GRAHAM — We would be bound by the spirit of that, yes, but in terms of actual accountability, no. As a religious order, we are quite independent from the dioceses but in relationship with them, if that makes sense. That is why I was trying to use the Parliament example. There is a relationship but there is not a direct accountability, if that makes sense. Again, this is a very difficult thing, as I say, for a lot of Catholics to try to understand, but for someone who is not a Catholic it must be incomprehensible, trying to work out the whole governance structure.

In terms of the Brothers of St John of God, we are here in the archdiocese of Melbourne, for example, by the invitation of the archbishop at the time, but we are an independent — or, being technical, a religious — order of pontifical right. Which means we have — this is getting quite complicated now — quite a degree of independence from the local archdiocese. But in terms of Towards Healing, we have signed up to the Towards Healing protocol, as have most religious congregations in the country and most dioceses, and we observe that rigorously. Whatever the bishops say, we are in good standing with the dioceses that we are in and we try to keep good relationships with them. Does that answer your question?

Mrs COOTE — You say it is complicated. I would say it is not all that complicated; it just sounds very convenient to me, that you can pick and choose.

Br GRAHAM — Well, that is the structure as it is.

Mrs COOTE — You can pick out the bits and pieces that you want. I would like to go back to 1962, when there was another issue from Rome. I am not certain and I would like you to clarify how your relationship with this particular issue would have worked. It was to do with the Holy Office. They had an instruction that required the maintenance of confidentiality in any incidences of notification to the Vatican about an issue called crimens sollicitationis. There was an instruction sent by the Supreme Sacred Congregation of the Holy Office to all bishops in 1962. Basically this says that there is to be a cover-up — in fact if there are any serious allegations of sexual abuse, they are not to be recorded or talked about or dealt with at all, because of the embarrassment to the church. How did you relate to that order?

Br GRAHAM — In 1962 I was three years old.

Mrs COOTE — But you are responsible by all due respects.

Br GRAHAM — Absolutely, and in terms of our current practice, we would not even consider that. We have always encouraged our victims, as one of our primary emphases, to go to the police.

Mrs COOTE — You are talking about today, and we have already established this morning that your attitude today is very different from what your attitude was in the 1970s, for example, when you were a little older than three.

Br GRAHAM — Thirteen.

Mrs COOTE — The reality is that is all very well and good, but what was your understanding at the time of how the brothers adhered to the to the directives from Rome?

Br GRAHAM — I have no idea how to answer that question. I mean, I can only answer from my time onwards, and as I said our practice now would be — —

In New South Wales we actually have mandatory reporting of historical cases as well as contemporary cases. In Victoria, if we are looking at what we would hope for in the future, may be that Victoria might consider that. It takes — I was going to say guesswork, but that is not what I mean. There is a clear pathway about what you have to do in terms of historical cases.

Mrs COOTE — I do not want to go down the line of the confessional and the Catholic Church's attitude towards the confessional and mandatory reporting. I do not want to go down there because I would like to follow this through with your relationship with Rome.

Br GRAHAM — Yes.

Mrs COOTE — As convenient as it may be, the reality is that we have been told by other organisations that in fact records were to be kept by the Vatican, by the former pope, Pope Benedict — indeed when he was Cardinal Ratzinger — and in fact he had apparently, through the Congregation for the Doctrine of the Faith, kept all records of child abuse. Would it be your understanding that any of those records that you do not have of the child abuse that related to the St John of God may have been verbally sent through to Rome?

Br GRAHAM — I cannot answer that, but I can say that any current cases have not gone outside of this country. There has been no communication of current cases. What happened with in 1962, what happened before 1970 — I cannot answer that. I do not know the answer to that.

Mrs COOTE — When you become a provincial and the head, do you have a manual that is given to you from the former provincial? How does it work?

Br GRAHAM — No.

Mrs COOTE — You do not get someone saying, 'Well, here is a filing cabinet; this is hot property. Be careful'.

Br GRAHAM — No.

Mrs COOTE — You are not given a list of how to deal with various issues that have been in the past or historical documents that are in the past. Is it just one day you are a brother and the next day you are provincial? Is that how it works?

Br GRAHAM — Basically yes.

Mrs COOTE — There is no record keeping internally or guidance on how to become a good provincial?

Br GRAHAM — No, in terms of this particular issue, we have had a professional standards committee since — —

Ms HARRIS — The early 90s.

Br GRAHAM — The early 90s. Again there are various document pertaining to that, of which you have received the end product. That professional standards committee has been composed of some quite eminent people in various professions. In a sense they have been managing this particular issue. This 1962 element would have been the first time they would have heard of that as well. My predecessors, and this is going back 50-something years — —

All I can say is in terms of our current practice the obligation on us is to encourage victims to go to the police and report the matters.

Mrs COOTE — In the handover, again, between you and the former provincial, they did not say, ‘This is the relationship you should have with the Vatican in Rome,’ or did they just have this vague sort of ‘Take it as you like it’?

Br GRAHAM — No, because, as I say, in our order the provinces — Australia, New Zealand and Papua New Guinea — are quite independent. We operate independently but in relationship with, if that makes sense. It probably does not.

Mrs COOTE — As I said before, it is very convenient.

Br GRAHAM — That is the model as it is, and it is the model that we have.

Mr O’BRIEN — Perhaps to further answer Mrs Coote’s questions regarding relationships with Rome and your posing the question back to me of what could we do to investigate, have you made any inquiries to Rome as to the existence of any complaints in that pre-period that you are not aware of?

Br GRAHAM — No, but I will.

Mr O’BRIEN — And you are prepared to?

Br GRAHAM — Yes, absolutely.

Mr O’BRIEN — Thank you for that.

Br GRAHAM — I would be interested to know myself.

Mr O’BRIEN — All right. The other thing you could do is speak to those people who were alive as perpetrators or supervisors or were around the order to understand what they knew. Have you done that?

Br GRAHAM — I think the WestWood Spice people did that. Is that where you are getting the Brian O’Donnell — —

Mr O’BRIEN — They were spoken to about complaints processes, but in terms of systemic causes?

Br GRAHAM — Yes, that is a possibility.

Mr O’BRIEN — The other thing is this other documentation, as you mentioned, in relation to Brian O’Donnell’s statement. He says that there were documents held in various archives — provincial

correspondence, photos and other historical material. He refers to mutation books. Can you tell us what they are?

Br GRAHAM — A mutation book refers to the date when a brother starts in a community and when he leaves a community. In fact in your material we have given you excerpts of those mutations of where people have been.

Mr O'BRIEN — There are also references to students in and around schools. Are mutation books for students or just brothers?

Br GRAHAM — Yes, enrolment books.

Mr O'BRIEN — All right. That is some of the other material that could be analysed with these discussions. There is also references to admission books and local chapter books which record the minutes of the monthly meetings. Have they been examined? Could they be examined for these systemic issues?

Br GRAHAM — They could, but I know these books and they are of a fairly mundane nature. They are about very ordinary day-to-day issues around the community, like do we buy a new car or that sort of thing. It is not the sort of material that I think you are alluding to.

Mr O'BRIEN — If one is on a chain of inquiry, it can be helpful to identify coincidences.

Br GRAHAM — You could put it in, absolutely. All of those materials are in our archives.

Mr O'BRIEN — Then there is also the personal file held for each brother. Those who are deceased or who left — a file would be held in archives. Those of current brothers are held at St John's offices at the Burwood headquarters.

Br GRAHAM — Yes.

Mr O'BRIEN — So those files exist.

Br GRAHAM — Yes, and Ms Harris has already reviewed those.

Mr O'BRIEN — In the way we have discussed? I just want to identify documents at this time.

Br GRAHAM — Sure.

Mr O'BRIEN — It also refers to a red book and they say, 'They no longer remain in the respective communities. We recalled them about two years ago and that information is retained at the provincial office on a database'.

Br GRAHAM — A red book?

Mr O'BRIEN — I am happy to find out.

Br GRAHAM — I think it might be the mutations. A red book — no, I am not aware of what a red book is. There is a mutations book. Each house has to keep one of those. We now keep it centrally. The communities do not do that. We keep it centrally because it is a much more effective way of doing it. What a red book is I am not quite sure.

Mr O'BRIEN — It says there would also be a red, hardcover book which would have the title 'Lists of religious' — that book records the arrival and departure dates of members of the —

Br GRAHAM — That is the mutations book.

Mr O'BRIEN — It says it is a red book. I will let you answer that.

Br GRAHAM — That is mutations.

Mr O'BRIEN — I will just conclude with this, though: the final paragraphs of Phillip O'Donnell state:

It has been suggested to me —

and I will not say the name —

that as a result of the number of allegations received in and around this time that I as provincial saw the need for a clean-out at Marylands Christ Church. It has also been suggested that —

and I will not say the name —

were moved on because of the sexual allegations and that I put Brother Timothy in as Prior to bring about the necessary changes.

Br GRAHAM — Another Timothy, I might add.

Mr O'BRIEN — Not you, I know. It is Brother Timothy Boxall. I should say that, and I was going to confirm that. The next sentence is interesting. It says:

This is in a sense correct; however, it was not instrumental because of the sexual allegations. This was done because I considered it to be a bad attitude amongst staff in the Christ Church community.

He says:

During my time as the provincial I decided to change the entire community gradually.

Again, would you accept that a sort of investigation could determine whether that bad attitude existed and whether it still remains, and that it would be worthwhile to know that than not?

Br GRAHAM — I think your point about attempting to do a recreative understanding of the culture of that time could actually be quite useful but difficult. I am quite interested to know how that could be done, and it would need to be done by someone external to the organisation, not by the organisation itself, for transparency.

Mr O'BRIEN — Thank you. I leave you with that mission in terms of our questions.

Br GRAHAM — A very helpful suggestion.

Mr O'BRIEN — Thank you for your appearance.

The CHAIR — I think Ms Halfpenny has one last question.

Ms HALFPENNY — Sorry, just a quick one. I think earlier you said that there were two retired brothers and that there were two new people who have come into Victoria to work in the Vietnamese community.

Br GRAHAM — Yes.

Ms HALFPENNY — I was just wondering: are you planning to build up the order in Victoria? Is there a reason for those brothers working with the Vietnamese? I am trying to understand your current-day practices, I guess.

Br GRAHAM — There are two reasons for our Vietnamese community in Melbourne. One is, as you say, that our numbers are diminishing and ageing, as are most dioceses and most religious congregations, both male and female, so it would be really useful for us to have some younger men who are in their 40s and 30s with certain skills to be able to particularly serve the Vietnamese community here in Melbourne.

Ms HALFPENNY — So is it on a parish basis, doing that sort of parish work?

Br GRAHAM — No. One is currently attempting to increase his English skills so he can be of greater use, but it would be around the area of pastoral care, particularly of the elderly. There is a lot of traumatisation in the Vietnamese elderly community. These are older people who really appreciate the religious coming to talk with them and to pray with them. So there is a lot of healing to be done in that post-75 group of people coming from Vietnam, and they have good pastoral skills. Equally the situation in Vietnam is difficult for the brothers to open new services, so they very generously volunteer their men to go to other parts of the world to help where — —

Ms HALFPENNY — So they are brothers?

Br GRAHAM — Yes, they — —

Ms HALFPENNY — Are there any sort of checks in terms of — —

Br GRAHAM — They have to go through all the processes associated with visas, and that is police checks and health checks and all that sort of stuff. It is quite difficult to get a visa to come to this country; you have to go through a lot of hoops to get here. Also we have spoken to them about the professional standards responsibilities they have, and when they do go back to Vietnam they can try to encourage this whole area of professional skills development in other countries too. So they learn from the experiences of the church here in Australia, and again, beyond our borders, hopefully they do not make the same mistakes we made in the past.

Ms HALFPENNY — Just one final question. In terms of having so few brothers, what do you think the reason for that is?

Br GRAHAM — It is very interesting, the demographics of this. There was a blimp in the number of priests and religious following the war — basically the baby boomers. Since the 70s that number has been reverting back to what normally has been the situation — so, far fewer. That large group of personnel was available to build up institutions and services. Now that people are not joining the priesthood and religious life in such degrees it is very hard to maintain those services in terms of governance of those services. That is the reason. For young people, priesthood and religious life just is not on their radar.

Ms HALFPENNY — Thank you.

Mr McGUIRE — Brother, just one final thing following on from Ms Halfpenny there. Just specifically, what new screening mechanisms have you introduced for recruits to avoid paedophilia again and being — if you were — targeted? What specifically on that issue have you done?

Br GRAHAM — At one level this is a hypothetical question because we do not have any new recruits, and — —

Mr McGUIRE — These recruits you are talking about coming through.

Br GRAHAM — Yes, from Vietnam.

Mr McGUIRE — I am not speaking about them personally, but I am saying from a systemic nature, what have you introduced? What screening mechanisms have you introduced? Given all that has happened what have you done now?

Br GRAHAM — In terms of these particular Vietnamese brothers, as I say, it is a very stringent visa process.

Mr McGUIRE — Not the visa process; the process to screen them so you do not repeat the systemic failure of the past. Have you done anything?

Br GRAHAM — In terms of their psychiatric assessment here in Australia?

Mr McGUIRE — Correct.

Br GRAHAM — Things like that? No.

Mr McGUIRE — So you are now telling us that after all of this you have still done nothing to stop this happening again?

Br GRAHAM — There is a greater awareness in the — —

Mr McGUIRE — More than awareness. What have you put in place that is a mechanism as world's best practice to screen, as best you can — —

Br GRAHAM — As best we can.

Mr McGUIRE — Are you telling us now that you have not done that?

Br GRAHAM — What we have done is the in-service — these brothers attend, we meet as a province at least three times a year, we have discussions around these issues, we have professional standards monitoring people's performance where —

Mr McGUIRE — But you have not gone to this issue, have you? That is what you are saying?

Br GRAHAM — I am sorry?

Mr McGUIRE — You have not gone to this issue yet?

Br GRAHAM — In terms of assessing them before they came?

Mr McGUIRE — Psychological profiling; whatever is necessary? You have not done it?

Br GRAHAM — Not with those two particular individuals.

Mr McGUIRE — What does that say to the community — seriously?

Br GRAHAM — Again, the implication is that these people are — —

Mr McGUIRE — I am not making it personal, not in any way.

Br GRAHAM — No.

Mr McGUIRE — I am asking about the systemic responsibility and duty of care given the vulnerability of the children who you care for and what we know and understand from the evidence from your past and brought before this inquiry about how they are specifically targeted. You have a higher duty of care.

Br GRAHAM — Yes. I take your point on that particular issue. Yes. Retrospectively what you would do I am not quite sure.

Mr McGUIRE — Will you take steps now to fix that? Can you give us at least that assurance? You will look at what needs to be done?

Br GRAHAM — I can assure you that of the two individuals under consideration one is not engaged in the ministry at this stage because his English is not good enough, but they are formed and educated in their responsibilities — professional standards responsibilities, their Towards Healing responsibilities. In terms of going back and psychiatrically assessing it, well, I suppose we could.

Mr McGUIRE — Do you think that would be beneficial?

Br GRAHAM — That would be fine; absolutely, yes. If that would satisfy the public, I would be more than willing to put them to undertake that.

Mr McGUIRE — It is a systemic issue I am raising, not a personal one. Do you understand that?

Br GRAHAM — Yes. I understand exactly.

Mr McGUIRE — It is your duty of care to do the best you can.

Br GRAHAM — Yes, I understand. In terms of even from my time in the 70s, we had to undergo psychological assessment before we entered. In the 50s and 60s that probably would not have occurred, but certainly from the 70s onwards there has been assessment that needs to occur before anyone enters the order. I think, just as professional standards policies and procedures have developed and become more sophisticated, so has the education and formation of priests and religious since the 50s and the 60s.

Mr McGUIRE — Thank you.

The CHAIR — Thank you very much, Brother Graham and Ms Harris. I am wondering if you would you like to make any concluding remarks to the committee?

Br GRAHAM — You have been given our document, our presentation, in full. I do not propose to read through that. Maybe I will just read as our final statement the conclusion from that as a way of ending our conversation today. I have actually added a little bit that is not in that this morning.

In conclusion, the Hospitaller Order of St John of God considers the criminal abuse of any person, especially vulnerable children, as deplorable and indefensible. It is totally contrary to everything we believe in.

This is what Ms Harris was alluding to before. When I joined the order in 1977 I would never have believed that these terrible things could take place or that I, on behalf of the order, would have to acknowledge and painfully accept allegations of historical criminal abuse that stretch back to the 1950s. We shamefully acknowledge the great harm that has been perpetrated by some of our members. All of our brothers daily live the shame of the devastating harm that has been wreaked by some of their number in the lives of vulnerable people in our care.

Beyond acknowledgement of the harm, the Brothers of St John of God humbly ask the forgiveness of our victims if they are able to give it, we humbly ask forgiveness of their families and friends, and we humbly ask the forgiveness of the members of the church and the people of Victoria. Equally the brothers daily live the pain of the indifference to the obvious good that has also been achieved in the order in Australia in the areas of psychiatry, palliative care, welfare and disability services.

At all times we have sought to manage allegations of historical criminal abuse in a best-practice, victim-centred manner so as not to retraumatise victims. We have moved quickly to involve the police when allegations have arisen. We have arranged for victims to obtain the best legal advice in the area of institutional abuse. The order has sought to support, heal and compensate victims compassionately and justly as the allegations have surfaced over the last 20 years. We are grateful to the Victorian Parliament for undertaking this important parliamentary inquiry. We appreciate the opportunity to contribute to this inquiry, and we thank you for your time today.

The CHAIR — Thank you very much. Ms Harris, would you like to make any remark to the committee?

Ms HARRIS — No, but thank you for the opportunity.

The CHAIR — On behalf of the committee I thank you both very much indeed for appearing before us. The evidence has been most helpful.

Witnesses withdrew.