



## CATHOLIC ARCHDIOCESE OF MELBOURNE

31 July 2013

The Honourable Georgie Crozier MLC  
Chair  
Family and Community Development Committee  
Parliament House  
Spring Street  
MELBOURNE VIC 3000

Dear Ms Crozier

### **Rights of Reply**

On 17 May 2013, you announced that the Committee has to date received 405 written submissions, and that the total number of hearing sessions conducted was more than 160, including 45 organisations that have appeared in public hearings. The remaining hearings included sessions with victims, their families, whistleblowers, experts, and other professionals. Of these, just less than half were held in-camera.

There have been many claims that the Inquiry has heard evidence and allegations from hundreds of victims who have been dissatisfied with the Catholic Church's processes, the *Melbourne Response* and *Towards Healing*. Based on the figures above and other information that you have published, such claims are incorrect, unfair and misleading. While it is regrettable that there is not universal satisfaction with the Church's processes, and while the Catholic Church in Victoria is committed to on-going improvements, the Committee must have regard to the facts.

For example, during a public hearing on 30 April 2013, at which Independent Commissioners, Peter O'Callaghan QC and Jeffery Gleeson SC appeared, you stated (page 7 of the transcript):

***The CHAIR** - We have seen over 140 victims who have got a similar story that they have been telling us. They have been highly dissatisfied with the process, so we are just trying to understand why that has been the case.*

***Mr O'CALLAGHAN** - So am I, and notwithstanding the absolute necessity to maintain confidentiality, if you can go to the files in relation to those 140 persons, I suggest that you will not have any disquiet from seeing the way the process operated.*

***Mr GLEESON** - Can I indicate that I asked for some research to be done as to the number of people who made submissions to this Committee and/or appeared before the Committee who were complainants to the Melbourne Response, which is the limit of our involvement. I do not know the number off the top of my head but it is in the range of 30 to 40. So of the 100-plus that*

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you referred to, Chair, *perhaps 30 to 40* were people who had been through the Melbourne Response. Not all of them were victims of child sex abuse. There was some small number who were in fact beyond the terms of reference of the inquiry, but let us say it is 30.

During a public hearing on 3 May 2013, at which representatives of *Towards Healing* appeared, Mrs Coote then stated (page 9 of the transcript):

*Mrs COOTE — We have had 32 people who have come to this committee and talked about Towards Healing and, sadly for Towards Healing, have not had a very positive experience...*

## 1. **Actual number of written submissions and witnesses who appeared at public hearings in relation to the Melbourne Response and Towards Healing**

Based on the information available to us, it appears that the Inquiry has heard evidence (either via written submissions or at public hearings) in relation to the *Melbourne Response* and *Towards Healing* from a **total of 61** primary and secondary victims within the scope of the Inquiry. These figures are discussed further below.

Of the 611 primary victims who have had abuse complaints upheld under the two Catholic Church processes up to 30 June 2012 (304 under the *Melbourne Response* and 307 under *Towards Healing*), **50 (just over 8%)** have engaged with this Parliamentary Inquiry by way of a written submission for publication or an appearance at a public hearing. This figure does not support claims that the Inquiry has heard evidence from hundreds of victims who have been dissatisfied with the Catholic Church's processes.<sup>1</sup>

### 1.1 **Written submissions**

Of the 405 written submissions received by the Inquiry, **200** have not been published at the time of writing (175 named submissions and 25 name withheld).

Of the written submissions where the author is identified, the information we have indicates that the Inquiry has received a **total of 45** submissions from victims within the Terms of Reference of this Inquiry who have been through the *Melbourne Response* or *Towards Healing* processes. The Inquiry has received a **further 9** written submissions from secondary victims. The figures are as follows:

- 16 are from victims of sexual abuse within the Terms of Reference of this Inquiry who went through the *Melbourne Response* process. **One** of those 16 written submissions has been published.
- 29 are from victims within the Terms of Reference of this Inquiry who went through the *Towards Healing* process. **Seven** of those 29 written submissions have been published.
- 5 are from secondary victims within the Terms of Reference of this Inquiry who have had contact with the *Melbourne Response* process. **Two** of those 5 written submissions have been published.

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<sup>1</sup> This figure does not take into account the 25 "name withheld" written submissions or in-camera hearings.

- 4 are from secondary victims within the Terms of Reference of this Inquiry who have had contact with the *Towards Healing* process. **Two** of those 4 written submissions have been published.

Accordingly, the Inquiry has received a **total of 54** written submissions from victims within the Terms of Reference of this Inquiry in relation to the *Melbourne Response* and *Towards Healing*.<sup>2</sup> **12** of those 50 written submissions have been published.

## 1.2 Public hearings

The Inquiry has heard oral testimony in public hearings from a **total of 7** further victims within the Terms of Reference of this Inquiry who did not submit written submissions and who have been through the *Melbourne Response* or *Towards Healing* processes.<sup>3</sup>

- five are victims of sexual abuse who went through the *Towards Healing* process;
- none are victims of sexual abuse who went through the *Melbourne Response* process;
- two are secondary victims who have had contact with the *Melbourne Response* process.

## 1.3 Total figures including written submissions and public hearings

In total, the information you have published indicates that the Inquiry has heard evidence (either via written submissions or at public hearings) in relation to the *Melbourne Response* and *Towards Healing* from a **total of 61** primary and secondary victims.

Of the 611 primary victims who have had abuse complaints upheld under the two Catholic Church processes up to 30 June 2012 (304 under the *Melbourne Response* and 307 under *Towards Healing*), **50 (just over 8%)** have engaged with this Parliamentary Inquiry by way of a written submission or an appearance at a public hearing.<sup>4</sup> This is very different from the claims that the Inquiry has heard evidence from hundreds of victims who have been dissatisfied with the Catholic Church's processes.

We assume that not all of the 25 "name withheld" written submissions and not all of the in-camera hearings relate to the *Melbourne Response* and *Towards Healing*. We also assume that some of the written submissions and in-camera evidence that does relate to the *Melbourne Response* and *Towards Healing* may be from victims outside of the Terms of Reference of this Inquiry. I note that in this context that some submissions and some witnesses who have appeared in public hearings raised issues outside the scope of your Inquiry.

## 2. Rights of Reply

The Catholic Church remains ready to respond to any particularised and actual assertions and allegations that are made against it.

<sup>2</sup> This figure does not take into account the 25 "name withheld" written submissions.

<sup>3</sup> This figure does not take into account hearings held in-camera.

<sup>4</sup> This figure does not take into account the 25 "name withheld" written submissions or in-camera hearings.

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However, it is of the utmost concern that a number of written submissions and oral testimony received by this Inquiry from a number of witnesses contained assertions and allegations that are false, seriously misconceived and misleading.

As Independent Commissioner, Peter O'Callaghan QC, has noted repeatedly in his Rights of Reply, vague, anonymous and unsubstantiated assertions and allegations simply cannot be accepted by the Committee without proper investigation. The lack of particularisation, identification of persons and/or evidence to support such assertions and allegations makes it impossible to respond meaningfully.

The Inquiry has also received written and oral testimony that contains factual inaccuracies which can be easily disproved by documentation, much of which has already been made available to you, including the contemporaneous records of the Independent Commissioners and the Assessors under *Towards Healing*. One obvious example of this is the Police Evidence, which has been disproved and discredited by the documentation provided with our comprehensive Right of Reply of 6 June 2013.

The files of the Independent Commissioners, *Towards Healing*, the Archdiocese, the Ballarat Diocese and those of several Orders have all been made available to the Committee, and legal advisors for the Inquiry have attended the offices of Peter O'Callaghan QC and *Towards Healing* to inspect some of those files. To date, and as we understand it, members of the Committee have not personally inspected any of those files.

We again urge you and the other members of the Committee to inspect the files personally, as they comprise important contemporaneous records and primary documents. Those records must be favoured over vague, anonymous and unsubstantiated assertions and allegations and must be referred to by the Committee when assessing the veracity of the serious allegations that have been made by some against the Church.

Despite the difficulties outlined above, there has also been criticism and allegations to which we have responded. We have done so via formal written Rights of Reply and testimony at 10 public hearings attended by the following representatives of the Church:

- *Melbourne Response* - Archbishop Denis Hart and Mr Francis Moore, Executive Director, Administration for the Catholic Archdiocese of Melbourne;
- *Melbourne Response* - Cardinal George Pell, Catholic Archdiocese of Sydney (former Archbishop of Melbourne);
- *Melbourne Response* - Independent Commissioners, Peter O'Callaghan QC and Jeffery Gleeson SC;
- *Melbourne Response* - Chairman of the Compensation Panel, David Curtain QC;
- *Towards Healing* - Sister Angela Ryan, Former Executive Officer, National Committee for Professional Standards, Ms Narelle McMahon, National Protection and Prevention Officer, National Committee for Professional Standards and Mr Paul Murnane, Assessor;

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- Christian Brothers - Brother Brian Brandon, Executive Officer for Professional Standards, Brother Julian McDonald, Deputy Province Leader and Mr Shane Wall, Co-Executive Officer, Professional Standards Office;
- Hospitaller Order of St John of God, Oceania Province - Brother Timothy Graham, Provincial and Ms Rosanna Harris, Chair, Professional Standards Committee;
- Salesians of Don Bosco - Father Greg Chambers, Provincial and Father John Papworth, Vice-Provincial;
- Catholic Diocese of Ballarat - Bishop Paul Bird and Bishop Peter Connors; and
- Catholic Education Commission Victoria (CECV) and Catholic Education Office Melbourne (CEO) - Mr Stephen Elder, Executive Director & Executive Director, CEO Melbourne and Mr Dennis Torphy, Manager, Wellbeing and Community Partnerships, CEO Melbourne.

We also refer to testimony provided to the Committee in camera.

The following formal written Rights of Reply have also been submitted, some of which have not yet been published on the Inquiry website:

- Our letter of 17 October 2012 and comprehensive Right of Reply of 6 June 2013 in reply to the submission of the Victoria Police provided by Chief Commissioner Ken Lay dated 21 September 2012, and the testimony given by Deputy Commissioner Graham Ashton to the Inquiry at a public hearing held on 19 October 2012 (**Police Evidence**).
- Our letter of 11 April 2013, in reply to the transcript of Barry Coldrey.
- Rights of Reply of Carelink of 8 March and 4 July 2013, in reply to the transcript and written submission of Raymond D'Brass.
- Right of Reply of Carelink of 4 July 2013, in reply to the transcript of Mr James Boyle and Ms Jill Mather.
- Right of Reply of Independent Commissioner, Peter O'Callaghan QC, of 26 April 2013, in reply to the Police Evidence.
- Right of Reply of Independent Commissioner, Peter O'Callaghan QC, of 27 May 2013, in reply to the transcript and written submission of Ian Lawther.
- Right of Reply of Independent Commissioner, Peter O'Callaghan QC, of 16 July 2013, in reply to the transcript of Helen Last, Claire Leany and Pam Kristic.
- Right of Reply of Independent Commissioner, Peter O'Callaghan QC, of 26 July 2013, in reply to the written submission of Glenn Davies.
- Right of Reply of Independent Commissioner, Peter O'Callaghan QC, of 26 July 2013, in reply to the transcript of Father Kevin Dillon.

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- Right of Reply of Independent Commissioner, Peter O'Callaghan QC, of 26 July 2013, in reply to the written submission of 'Jim'.
- Right of Reply of Independent Commissioner, Peter O'Callaghan QC, of 26 July 2013, in reply to the written submission of Robert Mitchell.
- Right of Reply of Independent Commissioner, Peter O'Callaghan QC, of 26 July 2013, in reply to the transcript of Dr Wayne Chamley of Broken Rites.
- Written submission of Paul Murnane of 28 February 2013, in reply to the Police Evidence.
- Rights of Reply of Bishop Paul Bird, Bishop of Ballarat and Ms Audrey Brown, Director of Catholic Education in the Diocese of Ballarat, of 23 July 2013, in reply to the transcript of Mr Michael and Mrs Carol Crowe.

### **3. Reply to specific submissions**

#### **Victoria Police**

1. We strongly reject the written submission of the Victoria Police to the Inquiry provided by Chief Commissioner Ken Lay dated 21 September 2012, and the testimony given by Deputy Commissioner Graham Ashton to the Inquiry at a public hearing held on 19 October 2012 (**Police Evidence**).
2. Our reasons for this are set out in our letter of 17 October 2012 and our comprehensive Right of Reply of 6 June 2013 both of which have now been published on the Inquiry website.
3. A detailed Right of Reply to the Police evidence was also submitted by Peter O'Callaghan QC on 26 April 2013 and has been published on the website of the Inquiry.

#### **Glenn Davies**

4. As with the Police Evidence, Mr Davies' submission contains allegations that are false, seriously misconceived and misleading as well as a number of factual inaccuracies.
5. Mr Davies' credibility as a witness and his submission must be considered in the context of the circumstances of his resignation from the Victoria Police. On 15 May 2012, he pleaded guilty to two charges of unlawfully disclosing information to the media about sexual assault allegations against sports stars and was required to resign from the police force. Mr Davies was placed on a two-year adjourned undertaking and ordered to pay \$5000 to charity.
6. Mr Davies' submission indicates on page 3 that he provided a briefing note to Victoria Police in which he reviewed much of his extensive interactions with the Archdiocese of Melbourne and his assessments of the Melbourne Archdiocese's process in dealing with reports of abuse and sexual abuse on children or vulnerable adults and that he was assured that these would form part of the Victoria Police response.
7. Further, Mr Davies' written submission contains allegations that he knows to be patently wrong and misleading. For example, dot point 4 on page 5 of his written submission alleges that the

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Catholic Archdiocese of Melbourne *"failed to engage in a meaningful way police liaison in their process"*. As is clear from the correspondence referred to in our Right of Reply to the Police Evidence dated 6 June 2013 (copies of which were attached and are available on the website of the Inquiry), Mr Davies himself was engaged in meaningful discussions with the Catholic Archdiocese from 2009 until he resigned from Victoria Police. Those discussions centred on the development of a protocol between the Archdiocese and Victoria Police. To then allege that the Archdiocese *"failed to engage in a meaningful way police liaison in their process"* is a blatant untruth.

8. Our detailed rebuttals of the Police Evidence dated 17 October 2012 and 5 June 2013 and the right of reply of Mr O'Callaghan QC dated 26 April 2013 speak for themselves. We rely again on those rights of reply in response to the evidence of Mr Davies.
9. We also refer to the detailed Right of Reply of Independent Commissioner, Peter O'Callaghan QC, of 26 July 2013, in reply to the written submission of Glenn Davies.

#### **Lewis Holdway**

10. The written submission of Lewis Holdway states: *"To date, we have assisted over 200 victims to seek justice through a number of church protocols, the majority of which have been through the "Melbourne Archdiocese Response" and "Towards Healing"."*
11. Our records indicate that Lewis Holdaway has acted for **18 of the 330 victims** within the Terms of Reference of this Inquiry when engaged in the *Melbourne Response* process. Only one of the complaints has not been upheld as the Independent Commissioner is awaiting information from the complainant. The 17 victims who have been offered compensation have accepted those offers. Two have not progressed their application to the Compensation Panel. The criticisms of the processes and the examples set out in the written submission of Lewis Holdway must be seriously questioned in this context.
12. It is impossible for us to respond to many of the criticisms in the written submission as they are general, vague and do not contain any particulars. For example, they simply assert that: *"clients were not offered psychological support of counselling"*, that *"clients were refused psychological care"* and that *"clients were asked to put their complaint in writing before any action could be taken"* without providing any further particulars of those allegations which would enable contemporaneous records to be checked and a meaningful response provided.
13. We again state that we remain ready to respond to any particularised and actual assertions and allegations that are made against us. Until then, such allegations are nothing but hearsay.
14. In relation to the allegations set out in section 3 – Systemic practices that discourage reporting of criminal behaviours to State Authorities, we again refer to the detailed rights of reply to the Police Evidence by ourselves and Mr O'Callaghan QC.

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## Ms Helen Last and In Good Faith and Associates

15. As indicated in our letters of 23 November 2012 and 3 January 2013, and in evidence given at public hearings for this Inquiry, allegations by Ms Last and In Good Faith and Associates are misleading and fanciful and are strongly rejected.
16. The Committee should reject Ms Last's evidence and that of In Good Faith and Associates, for the reasons set out below and in the detailed Right of Reply of Independent Commissioner, Peter O'Callaghan QC, of 16 July 2013, in reply to the transcript of Helen Last, Claire Leany and Pam Kristic, which we refer to and adopt.
17. An example of blatantly incorrect and misleading testimony given by Ms Last is that during her appearance at a public hearing on 12 November 2012, she boldly asserted "*we think it is 2000 people*" who have settled matters outside the *Melbourne Response*. This is patently incorrect and directly disputed by the facts.
18. It is clear in the records of the Archdiocese, to which you have had access, that since 1996, the Archdiocese has settled only **five cases** within the Terms of Reference of the Inquiry outside the *Melbourne Response*. Accordingly, Ms Last's allegation of "2,000 people" is staggeringly incorrect and misleading.
19. Ms Last also alleged during her oral testimony "*there are lawyers in Melbourne - Tim Seckel [sic] is one of them; he has done over 300 settlements with the Archdiocese. These are outside the Melbourne Response process.*" To our knowledge, Mr Seccull is a barrister who acted in one of the five cases within the Terms of Reference of the Inquiry that have been settled outside of the *Melbourne Response*. Mr Seccull has not represented any other complainants in relation to settlements outside of the *Melbourne Response* within the Terms of Reference of the Inquiry. Consequently, Ms Last's allegation that Mr Seccull has "*done over 300 settlements with the Archdiocese*" outside the *Melbourne Response* is exaggerated by 299 settlements.
20. Ms Last further claims that "*there are also doors that open to the Business Manager of the Melbourne Archdiocese, and the Business Manager is involved in doing settlements directly with complainants in regard to offences.*" This is again simply incorrect and misleading.
21. Ms Last's credibility as a witness must be considered in this context.
22. In Good Faith and Associates also claim responsibility for the preparation of the submission dated October 2012 of the Melbourne Victims Collective, published by the Committee on the website of the Inquiry on 24 July 2013. While the submission has been subject to substantial redaction prior to its publication, it retains in its published form, criticisms of the *Melbourne Response* and *Towards Healing* which are rejected. In particular, the following claims which are made without any substantiation are rejected:
  - a. That victims have been steered off the critical option of police consultation, professional statement taking and investigation and entrance to criminal justice processes;

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- b. That the Independent Commissioners under the Melbourne Response inadequately address the whole area of clergy and religious criminality and fail to provide sufficient information to victims about current policing standards, processes and liaison assistance;
  - c. That current Church leaders are involved in the concealment of crimes, perverting the course of justice and other breaches of law;
  - d. That the Catholic Church through the Melbourne Response and Towards Healing have through their procedures prioritised the separation and segregation of victims;
  - e. That the Melbourne Response and Towards Healing are engaged in the re-traumatising of primary and secondary victims;
  - f. That victims are not given sufficient information to make an informed choice about the services they are being offered; and
  - g. That Church leaders continue to be engaged in the movement of sexual offenders.
23. This written submission comprises 175 pages and was only published on the website of the Inquiry on 24 July 2013. We will be responding to that written submission shortly.

**Professor Desmond Cahill**

24. The Committee has received written submissions and oral testimony at a public hearing on 22 October 2012 from Professor Cahill, in which he speculated about the alleged offending rate in the Catholic Church in Victoria.
25. Professor Cahill stated that it was his analysis and conclusion that the offending rate was somewhere around 1 in 20 priests, that this was based on “the number of priests from the Dioceses of Victoria and Tasmania who trained at Corpus Christi College from 1940 to 1972”, and that this data had been drawn from his “own knowledge” and “information available on the Broken Rites website”. Such data and information is clearly incomplete, inaccurate and unreliable and is rejected by the facts. Any conclusion made by Professor Cahill based on such data is therefore clearly not a conclusion upon which the Committee can rely.
26. During his testimony at a public hearing for this Inquiry on 21 May 2013, Archbishop Denis Hart corrected the testimony of Professor Cahill and other witnesses who had speculated as to the rates of offending by providing the actual figures regarding the number of ordained priests and offenders and stating the facts.
27. Archbishop Hart confirmed that in the last 80 years 1,748 priests have held an appointment in the Archdiocese of Melbourne, of which 50 incardinated priests and 9 religious priests are known to have offended. This means that the percentage of priest offenders to the total number of priests is 3.375%, a figure which is consistent with the literature from studies of the John Jay College of Criminal Justice City University of New York (**John Jay College**).
28. In Sections 5.4.1 and 5.4.2 of *Facing the Truth*, reference is made to the study conducted by the John Jay College in 2002 and the updated 10 year progress report published by the U.S. National

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Review Board in June 2012. The John Jay College published a further study in 2010 entitled *"The Causes and Context of Sexual Abuse of Minors by Catholic Priests in the United States, 1950-2010"*. Professor Cahill also referred to the studies of the John Jay College in his written submission and oral testimony to this Inquiry.

29. The John Jay College studies have been described as the most probing, thorough examination of the incidence, character and potential causes of sexual abuse that has been undertaken into clergy sexual abuse in the Catholic Church.
30. I wrote to you on 17 April 2013 in relation to a possible appearance of Professor Karen J Terry, and Margaret Smith from the John Jay College. As the Committee declined to hear from the John Jay College, on 6 June 2013, I provided an overview of the John Jay College research and relevant Victorian data as well as copies of the reports. I hope that the Committee will review these highly relevant documents and the figures provided by Archbishop Hart rather than the inaccurate and speculative testimony of Professor Cahill and others.

#### 4. Conclusion

From the outset, the Catholic Church in Victoria has sought at all times to cooperate with this Inquiry. We have provided a detailed submission, access to all files, records, further information and statistics that have been requested, and representatives from across the Church have appeared in public hearings as well as in-camera sessions.

You have heard both in our submission and directly from Church representatives who appeared at the public hearings of our acknowledgements and sincere apologies for past failures and the changes that we have made to our structures and processes over many years now, to ensure that we put the child foremost in all our considerations. We have also provided the Committee our own detailed and considered recommendations for reform, which we hope will be of assistance to you. The Church remains committed to best practice and to providing compassion, justice and healing to victims, dealing with offenders, and preventing the abuse of children in the future.

It had been our hope that the Inquiry would provide an opportunity for victims to come forward and speak directly to the Committee of their experience. Whilst it appears that not as many victims as we had hoped have taken up this opportunity, the Federal Royal Commission provides those who have not appeared before you a further opportunity to tell their story.

We wish you well as you consider all the material put before you and formulate your report and recommendations.

Yours sincerely



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