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 COPY

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REPORT, CONCLUSIONS AND RECOMMENDATIONS

Dear Father King

TOWARDS HEALING COMPLAINT – Mark Fabbro against Father J Byrne (deceased)

I am pleased to submit for your consideration my report and recommendation following my assessment of the complaints of Mark Fabbro against Father J. Byrne.

1. My Appointment

1.1. By way of letter dated 19 May 2006 from the Professional Standards Office, I was appointed to act as assessor in this matter. I was requested to talk initially with you, before interviewing the complainant and other relevant parties. My assignment on this occasion, as I understand it, is to assess the accounts of each interviewee, consider any available material pertinent to the complaint and determine, *on the balance of probability*, whether the complaint is made out. In this instance, my task is complicated by the fact that Fr Byrne is deceased.

1.2. I have also been asked to provide a recommendation as to the appropriate response, if any, once the assessment process is concluded.

2. Documents provided

2.1. I was briefed with the following documents:

- 2.1.1. Letter of Professional Standards Office dated 19 May 2006;
- 2.1.2. Statement of Complaint of Mark Fabbro dated 18 November 2005, with annexures;
- 2.1.3. Letters from Professional Standards Office to you (or Fr. Raper) dated 21 November 2005;
- 2.1.4. Various related items of correspondence between Mr Fabbro and the Professional Standards Office

3. Interviews conducted

3.1. In the course of investigating Mr Fabbro's complaint, I carried out the following interviews:

- 3.1.1. 5 June 2006 by telephone with you;
- 3.1.2. 9 June 2006 with Mark Fabbro;
- 3.1.3. 14 June 2006 with Mark Fabbro;
- 3.1.4. 7 August 2006 by telephone with Father AA;
- 3.1.5. 8 August 2006 by telephone with Father BB;
- 3.1.6. 10 October 2006 by telephone with CC;
- 3.1.7. 10 October 2006 by telephone with DD;
- 3.1.8. 19 October 2006 by telephone with EE.
- 3.1.9. 1 November 2006 by telephone with FF.

4. I also engaged in a number of telephone conversations and email correspondence with the Mr Fabbro. I have attached copies of the correspondence upon which I have relied to this report.

5. Process adopted

5.1. I initially contacted you by telephone. I used this opportunity to gain an impression of the background to the complaint. I was given a brief update of Fr. Byrne's history, and your general impression of the matter.

5.2. I then contacted Mr Fabbro to arrange a meeting at a mutually convenient location. I met and interviewed Mr Fabbro as arranged. I thereafter prepared a record of interview, which I asked Mr Fabbro to check for accuracy. That document is identified as *Appendix 1* to this report. I conducted a follow up telephone interview with Mr Fabbro to clarify issues and check his agreement with the record of interview.

5.3. Having read the document, Mr Fabbro wished to clarify certain issues. We arranged to meet a second time to have the chance to complete Mr Fabbro's evidence and answer any questions he had in relation to the process and procedure involved in the assessment. This meeting took place and I forwarded a typed record of interview to Mr Fabbro to check for accuracy. That document is identified as *Appendix 2* to this report.

5.4. I then received from you a list of teachers, priests and others who may have been at Xavier College at the relevant time and who may have known Fr. Byrne. Of the names on the list, I was able to interview by telephone only two. Neither wished to have a record of that interview provided to them.

5.5. Mr Fabbro provided me with a list of names of students and teachers at the school at the relevant time. You kindly undertook to provide as many contact details as possible of the people on that list.

5.6 I conducted telephone interviews with three of the people on that list. I forwarded a typed record of interview to EE, who was the only one of the interviewees who required me to do so. That record of interview is identified as *Appendix 8* to this report.

5.7. Subsequently, I spoke on a second occasion to EE and then to **MATERIAL DELETED TO PROTECT THE PRIVACY OF THE WITNESS FF** about his recollections of Fr Byrne. The records of those interviews are *Appendixes 9 and 10* respectively.

6. Mr Fabbro's complaint

6.1. Mr Fabbro's complaint is set out in the Statement of Complaint, with annexures, which is *Appendix 3* to this document. It is further outlined in the two records of interview referred to above. To avoid duplication, I do not intend to reproduce the minutiae of the incident alleged to have taken place.

6.2. Broadly, however, Mr Fabbro alleges that Fr Byrne, in his capacity as prefect of discipline at Xavier College preparatory school, physically and sexually abused him when he was a primary school student.

6.3. As a result, Mr. Fabbro claims that he has suffered significant emotional and psychological injury, which has had a detrimental affect on all aspects of his life.

6.4. The nature of the abuse is alleged to include the fondling of Mr Fabbro's genitals whilst ostensibly administering discipline by way of beating Mr Fabbro with a custom-made leather strap.

6.5. The abuse is said to have taken place in Fr. Byrne's residence, where Mr. Fabbro was sent by another teacher, Mr Murum, for discipline, in about 1972.

6.6. The complainant alleges that something occurred on a second occasion but that he is unable to recall details of that event (see Statement of complaint and par. 13 of *Appendix 1*).

7 Scope of Assessment

- 7.1 I was asked to determine *on the balance of probabilities* whether there are grounds for concluding that Mr Fabbro's complaints are justified.
- 7.2 I was also asked to identify any facts or circumstances discovered in the course of my investigations which might have had bearing in my determination and to offer appropriate recommendations with respect to future action in this matter.

8. Interview with Mark Fabbro

- 8.1. I spent just over three hours in total with Mr Fabbro. He is now 45 years of age and presents as a very quiet, pleasant, intelligent and introspective individual. He gives the impression of a man who is meticulous in all his dealings and has a highly developed sense of justice and a strong desire to ensure that all aspects of his complaint are fully taken into account with complete attention to detail. He gave his account freely and detail, in my view, without embellishment, and participated actively in the investigation process, *inter alia*, by providing a list of names of potential witnesses.
- 8.2. I formed the impression that Mr. Fabbro is fundamentally suspicious and concerned about the *bona fides* of the Church, and in particular the Jesuits, in their involvement in the *Towards Healing* Process. This was apparent from the extent to which Mr Fabbro focussed on the nature of the process.
- 8.3. Mr Fabbro told me that he suffered from a sense of guilt and a lack of self-confidence, which he attributes to the effects of the abuse. He believes that this has prevented him from realising his potential, taking into account his intellectual abilities, talents and skills and his privileged family background. He describes a history of aimlessness and travelling to escape. This is set out in detail in his record of interview (*Appendix 2* from par. 8).

8.4 Mr Fabbro has spoken to his family about his complaints but feels that he is not taken seriously by them. He was brought up in an overtly Catholic family, which results in a sense of isolation from his family now that he is no longer comfortable to attend Church.

8.5 It was apparent that Mr Fabbro also harbours feelings of resentment against Mr Murum, the teacher who sent him to Fr Byrne in the first place due to his belief that the other priests at the school must have known that there was potential risk in sending boys to see Fr Byrne. Without dismissing Mr. Fabbro's concerns in this regard, I am not in a position to investigate whether Mr Murum, in fact, knew or ought to have known that Fr. Byrne represented a risk to his students and I do not feel that it is material to the substantive issue I am asked to determine.

8.6. Mr. Fabbro described Fr Byrne's residence and the gardens immediately outside the window with great detail. (Statement of complaint and *Appendix 1* at par.10) It has not been possible to test this recollection for accuracy as none of the other witnesses could recall the room so clearly. Nevertheless, the events described by Mr. Fabbro are sufficiently similar to those described by **MATERIAL DELETED TO PROTECT THE PRIVACY OF THE WITNESS** (*supra*) that I am persuaded that Mr. Fabbro's account is reliable, in all material aspects.

8.7. The second occasion that contact with Fr Byrne is alleged to have occurred is less clear. Mr Fabbro does not recall any specific details apart from the fear he experienced on the walk to Fr. Byrne's residence.

8.8. After he had the opportunity to carefully consider the records of interview, Mr Fabbro sent me an email, which is *Appendix 11* to this report. From that correspondence, in conjunction with the contents of previous interviews and letters, it is apparent that there is a significant spiritual component to Mr Fabbro's current complaint.

8.9. My impression of Mr. Fabbro as a reliable and honest historian is strengthened by his demeanour, which was measured and slightly understated, despite the anger and hurt that he described.

9. Interview with Father AA

9.1 Fr AA consented to a telephone interview. We spoke for only about fifteen minutes as Fr AA was unable to provide any information directly relevant to my inquiry. Fr AA advised me that he had not heard any complaints about Fr Byrne when they worked together at Bourke Hall.

10. Interview with Father BB

10.1. Fr BB also allowed me to interview him by telephone. Fr BB knew Fr Byrne at Xavier College and had formed the opinion that Fr Byrne was depressed and was, in his words, "losing it a bit" during his time at Bourke Hall.

10.2. Fr BB described Fr Byrne as a hard man who overdid corporal punishment but pointed out that this was not unusual for that period in the early nineteen seventies. This is something which I must take into account.

10.3. Despite this assessment of Fr Byrne, Fr BB pointed out that he had never heard any complaints of sexual impropriety levelled against him. He noted, however, that the Headmaster removed him from the school without stating specifically why this might have occurred.

11. Interview with Mr. DD

11.1. DD was nominated by the complainant as a potential source of information about the relevant period at Xavier College and Fr Byrne in particular.

11.2. I interviewed him by telephone.

11.3. Mr. DD recalled the complainant at school, having been a fellow student. He also recalled a rumour circulating at school at the relevant time, concerning two boys having been stripped and beaten by a priest at the school. He thought that the priest in question was Fr. Byrne. He then

advised me that he would check with MATERIAL DELETED TO PROTECT THE PRIVACY OF THE WITNESS who was also a student at the time to confirm his suspicion about the identity of the priest

11.4. Mr DD subsequently telephoned me to advise that MATERIAL DELETED TO PROTECT THE PRIVACY OF THE WITNESS had independently confirmed that Fr. Byrne was thought to have stripped at least two of the boys at the school (incidentally, not the complainant in this matter, nor the witness MATERIAL DELETED TO PROTECT THE PRIVACY OF THE WITNESS) before beating them.

12. Interview with Mr. CC

12.1. Mr CC was also a fellow student of the complainant's at Xavier College. He has rather negative feelings about his time at the school. He recalls Mr. Fabbro as being a sensitive child and felt that such individuals were vulnerable to abuse at Xavier.

12.2. He remembered Fr. Byrne as being "handy with the strap" and recalls that the priest was forced to leave after apologising for some misdemeanour at the school.

12.3. However, Mr CC had no direct knowledge, nor any anecdotal experience, of Fr. Byrne having been involved in sexual abuse.

13. Interview with Mr EE

MATERIAL DELETED TO PROTECT THE PRIVACY OF THE WITNESS.

14. Record of interview with Mr. FF.

14.1.1. MATERIAL DELETED TO PROTECT THE PRIVACY OF THE WITNESS.

14.1.2 Despite his willingness to provide answers to my questions for the purpose of this assessment, he expressed a degree of scepticism about the causal nexus between alleged abuse at school and victims' subsequent difficulties to get on with their life.

14.1.3. FF advised me that he had independently and without prior discussion named Fr. Byrne as a priest whom he suspected of inappropriate behaviour with two of the boys in his class. Whilst he had no direct knowledge of any sexual assault he had thought it curious that a priest would take students to his private quarters to administer corporal punishment.

14.1.4. He described Fr. Byrne as a "mean old bastard"

15. Conclusion

15.1.1. I am asked to determine on the balance of probabilities whether the events described by Mr. Fabbro took place, or whether his allegations are in any other way justified.

15.1.2. Not having the opportunity to put these allegations to the alleged perpetrator could give rise to a lack of procedural fairness, and would make my task much more difficult, were it not for the fact that I am assisted in this matter by independent witnesses.

15.1.3. In particular, EE's evidence is persuasive **MATERIAL DELETED TO PROTECT THE PRIVACY OF THE WITNESS.** The fact that Mr. EE does not recall Mr. Fabbro (despite Mr. Fabbro obviously recalling Mr EE as he provided his name as a potential witness) reduces the possibility of collusion.

15.1.4. **MATERIAL DELETED TO PROTECT THE PRIVACY OF THE WITNESS** tends support to Mr. Fabbro's allegation in my view.

15.1.5. I am further assisted in this view by FF's recollection, despite the fact that he is not overwhelmingly convinced of the effects of abuse on alleged victims. He is a completely unbiased and uninvolved observer, in my view and I see no reason to question his statement.

15.1.6. Whilst the priests I was able to interview were not able to provide more specific information, I formed the opinion that Fr. BB did have a view that Fr., Byrne's actions at Bourke Hall were inappropriate at times. I have no reason to conclude that Fr. BB misled me when he stated that he had no knowledge of any allegation of sexual impropriety. Nevertheless, his concern about Fr. Byrne's use of corporal punishment is consistent with the description given by the students who remember Fr Byrne.

15.1.7. Overall, I am satisfied that there are sufficient grounds for concluding that, on the balance of probabilities, Mr. Fabbro's allegations are justified.

15.1.8. I do not have the expertise to comment on the effects of the abuse on Mr. Fabbro beyond offering my finding that I am persuaded that Mr. Fabbro continues to experience feelings of anger, isolation and anxiety. I also accept that he is affected by the loss of a safe spiritual haven, which I infer is of great importance to him.

16. Recommendation

16.1.1.1. I note that Mr. Fabbro is currently seeing a counsellor and that you have arranged payment for a number of sessions. It may be beneficial, with Mr. Fabbro's consent, to arrange a formal psychological assessment in order to determine his needs for the future. Mr. Fabbro ought not, in my view, be required to bear the expense of such assessment

16.1.2. I recommend that this matter be referred to facilitation in order to explore the possibility for reconciliation and /or reparation.

16.1.3. Mr Fabbro has expressed a desire to be furnished with a copy of my findings. I believe that to be appropriate and important, subject to protecting the privacy of MATERIAL DELETED TO PROTECT THE PRIVACY OF THE WITNESS.

I trust that this report is of assistance to the parties. I have returned all original documents to the Professional Standards Office, as requested. Please advise me if there are any aspects of this report which require clarification.

Yours faithfully

Robyn Bailey

Assessor