

# Facing the Truth

## Annexures

A Submission by the Catholic Church in Victoria to the Parliamentary Inquiry into the Handling of Child Abuse by Religious and other Non-Government Organisations

21 September 2012

## Annexures

- 1 Sexual and Other Abuse – Melbourne Response Brochure, 2012
- 2 Sexual and Other Abuse – Melbourne Response – Terms of Appointment of Independent Commissioner to Enquire Into Sexual and Other Abuse, 2012
- 3 Sexual Abuse – Melbourne Response Brochure, 1996
- 4 Catholic Archdiocese of Melbourne – Sexual Abuse – Seeking Compensation, 1996
- 5 Towards Healing – Principles and Procedures in Responding to Complaints of Abuse Against Personnel of the Catholic Church in Australia, January 2010
- 6 Towards Healing – Principles and Procedures in Responding to Complaints of Abuse Against Personnel of the Catholic Church in Australia, 2000 (incorporating amendments May/June 2003)
- 7 Towards Healing – Principles and Procedures in Responding to Complaints of Abuse Against Personnel of the Catholic Church in Australia, December 2000
- 8 Towards Healing – Principles and Procedures in Responding to Complaints of Sexual Abuse Against Personnel of the Catholic Church in Australia, December 1996
- 9 Joint Statement by Catholic Archbishops of Melbourne and Sydney, June 2002
- 10 Integrity in Ministry – A Document of Principles and Standards for Catholic Clergy & Religious in Australia, June 2004 (Reprinted April 2010)
- 11 Integrity in the Service of the Church – A Resource Document of Principles and Standards for Lay Workers in the Catholic Church in Australia, September 2011
- 12 May Our Children Flourish – Code of Conduct for Caring for Children in the Catholic Archdiocese of Melbourne, 2011

# **Annexure 1**

Sexual and Other Abuse – Melbourne Response Brochure, 2012

# Sexual and Other Abuse The Melbourne Response



Sexual and  
Other Abuse  
The Melbourne  
Response



CATHOLIC ARCHDIOCESE  
OF MELBOURNE



CATHOLIC ARCHDIOCESE  
OF MELBOURNE

Reprinted September 2012

This is a terrible time of suffering and self-examination as the full extent of sexual abuse by Catholic priests, religious and lay workers continues to emerge, not only here in Australia, but throughout the world.

I again, therefore, express my deep sorrow and offer a sincere and unreserved apology to all those who have suffered the pain and humiliation of sexual abuse and to their families.

The scourge of sexual abuse continues to cause great damage and in many cases a crisis of faith amongst Catholics. As Catholic Archbishop of Melbourne, I share this desolation and sense of betrayal. The criminal offences and breaches of vows committed by some priests, religious and lay workers bring shame upon the entire Church.

With great humility, I acknowledge that the crimes of the perpetrators have done great harm. For me, personally, this is one of my saddest times as a Catholic priest.

Sexual abuse in any form, and any attempt to conceal it, is a grave evil and is totally unacceptable. We must face up to the truth and not attempt to disguise, diminish or avoid in any way, the actions of those who have betrayed their sacred trust.

The process for dealing with sexual and other abuse by priests, religious and lay people, who are, or were, under the control of the Archbishop of Melbourne within the Melbourne Archdiocese, was introduced in 1996 and is known as the **Melbourne Response**.

A short time later the national *Towards Healing* protocol, which is a separate process for dealing with complaints, was also established. The **Melbourne Response** reflects the principles that are set out in the *Towards Healing* and *Integrity in Ministry* documents which all of the Bishops and leaders of Religious Institutes of the Catholic Church in Australia have adopted.

The **Melbourne Response**, with the help of those who have courageously brought their complaints forward, has led to compensation and support being provided to approximately 300 victims of abuse. I acknowledge that not all who have been affected have yet come forward, and I encourage them to do so.

We must continue to work to ensure that we have appropriate procedures in place aimed at preventing any recurrence of abuse and to deal with offending clergy. Since 1996, we have introduced procedures to protect parishioners and children against sexual abuse, and processes have been developed and applied to deal with offending clergy.

In addition, there is rigorous screening of all people who aspire to the priesthood and seminarians are required to undertake study of the *Church's Code of Conduct for Priests and Religious on Integrity in Ministry*.

I again encourage anyone, who has been abused by a person under my control in the Archdiocese of Melbourne, to come forward so we are made aware of it and can respond as quickly as possible.

+ Denis J. Hart

Denis Hart, Archbishop of Melbourne



## The Help Available

The **Melbourne Response** assists people who have been abused sexually, physically or emotionally by priests and others under the control of the Catholic Archbishop of Melbourne.

### Complaints

Complaints of sexual and other abuse by priests, religious and lay persons under the control of the Archbishop of Melbourne are made to and investigated by an Independent Commissioner. Mr Peter O'Callaghan QC and Mr Jeff Gleeson SC are the Independent Commissioners.

### Counselling and Support

Free counselling and professional support for those who have been abused is available through **Carelink** led by the Carelink Coordinator, Ms Susan Sharkey.

### Compensation

Ex gratia compensation of up to \$75,000 is currently available through the Compensation Panel chaired by Mr David Curtain QC.

### Pastoral Support

Spiritual support and guidance is available to individuals and at a parish level by contacting the Vicar General's office on (03) 9926 5677.

Anyone with complaints relating to other parts of the Church should contact *Towards Healing* on 1800 816 030.

## Accessing The Melbourne Response

### Independent Commissioner

The Office of the Independent Commissioner is the first point of contact for people wishing to make allegations or complaints, or to seek counselling services, or to obtain information about compensation.

An Independent Commissioner receives complaints and enquires into allegations of sexual abuse by priests, lay people and religious who are, or were, under the auspices of the Catholic Archbishop of Melbourne. The Independent Commissioner then makes a determination on the basis of the evidence. When the Commissioner is satisfied that the abuse occurred, the Commissioner notifies the Archbishop about the offender and refers the victim to Carelink.

The Independent Commissioner is there to make an appraisal of all of the circumstances of the situation and help complainants deal with their very personal issues in a compassionate and understanding way.

The Independent Commissioner can refer the complainant to Carelink at any time for the provision of free counselling and psychological support. If the Independent Commissioner finds that a complaint has been established, the Independent Commissioner will refer the complainant to the Compensation Panel.

The Office of Independent Commissioner is funded by but acts independently of the Archdiocese, in accordance with Terms and Conditions of Appointment formulated in consultation with Victoria Police, the principles of natural justice and relevant provisions of Canon Law.

An Independent Commissioner meets with complainants to hear their personal recollections of abuse and to conduct an investigation. The Independent Commissioner recognizes how difficult it might be for them to talk about their own situation but experience has shown that going through this process has brought a sense of closure and relief to many. From the initial contact with the Independent Commissioner, the **Melbourne Response** respects the individual's privacy.

All complainants have a continuing and unfettered right to go to the police and the Independent Commissioner encourages them to do so if the conduct complained of may constitute criminal conduct. The Independent Commissioner also explains that the police have greater powers of investigation than the Independent Commissioner.

The Independent Commissioner will assist any complainant wishing to go to the police and will take no further steps until

the police investigation and any resulting proceedings are completed. Support from Carelink and the Pastoral Support Office will be available.

The **Melbourne Response** also recognizes, however, that some complaints will not be dealt with by the police, based on the wishes of the complainant, or because the alleged offender is deceased or the complaint has been previously reported to the police and police action has been finalized.

The Archbishop has given the Independent Commissioners the power to bring priests before them to properly investigate claims. When necessary, the Independent Commissioner conducts confidential hearings at which the relevant parties and their legal representatives can be present.

The Independent Commissioner also makes recommendations to the Archbishop on how to deal with the offender.

Anyone with complaints of abuse by priests, religious and lay persons under the control of the Archbishop of Melbourne is asked to call (03) 9225 7979 and you will be referred to an Independent Commissioner.

### Carelink

**Carelink** is a key element of the **Melbourne Response** and co-ordinates the provision of counselling and other professional support to clients.

**Carelink** refers clients to psychiatrists, psychologists and other health care providers who have the appropriate background and expertise to address sexual and other abuse and related problems.

Treatment and counselling through **Carelink** is provided at no cost to **Carelink's** clients.

Initially, each client is interviewed and assessed by **Carelink** so that their needs can be identified. The detailed history that **Carelink** takes from each client helps **Carelink** understand how the abuse has impacted on various aspects of the client's life.

**Carelink** asks treating therapists to provide regular progress reports so that a client's treatment can be monitored.

The **Carelink** Coordinator is a consulting psychologist, Ms Susan Sharkey.

**Carelink** is located at 25 Lansdowne Street, East Melbourne, Vic 3002

Telephone: (03) 9663 5744

## Compensation Panel

The Compensation Panel arranges for the provision of ex gratia compensation for people who have been found to have been abused by priests, religious and lay people who are, or were, under the control of the Archbishop of Melbourne.

The Panel, like the Independent Commissioner, operates independently from the Archbishop and the Archdiocese.

The Panel provides an alternative to civil legal proceedings. It operates in an informal way and, by design, is not legalistic but provides a forum for the settlement of claims.

In order to apply to the Panel for compensation, an applicant's claim must first be investigated and upheld by the Independent Commissioner who reports his findings to the Panel.

Applicants are also encouraged to provide the Panel with a report from **Carelink** or from other treatment providers.

Compensation payments, binding on the Archbishop, are recommended at the discretion of the Panel, currently up to a maximum of \$75,000 per person. This maximum is capped at an amount that exceeds the Victorian Government's victims of crimes compensation system. If the person making a complaint accepts the recommended payment, the amount will be paid in full settlement of all legal claims against the Archbishop and the Archdiocese in relation to the Independent Commissioner's findings. **Carelink** services will, however, remain available. Whilst the Panel keeps strict confidentiality in relation to the hearings claimants are asked not to reveal offers made to them that are not accepted to protect the legal rights of all parties. Victims are always allowed to otherwise disclose what happened at the hearing and the circumstances of the abuse.

If the recommended payment is not accepted, a person making a complaint is free to use the normal court processes.

The Compensation Panel has four members comprising a psychiatrist, a solicitor and a community representative. The Panel is chaired by Mr David Curtain QC.

Applications for compensation forms are available from the Independent Commissioner.

## Parish Pastoral Response

The Archdiocese offers spiritual support and pastoral counselling and provides a forum for pastoral healing.

The parish pastoral response is an essential part of the healing process for the wider Church community.

The Parish Pastoral Response can be contacted through the office of the Vicar General on (03) 9926 5677.

## Victoria Police

The **Melbourne Response** does not restrict the role of the police to investigate and prosecute allegations of criminal conduct. All victims of abuse remain free to, and are encouraged to, report allegations of criminal conduct to Victoria Police.

The police have powers which the Independent Commissioner does not have, including the power to issue search warrants and to make arrests, and it is only through the police that a person can be brought before a court to answer allegations of criminal conduct.

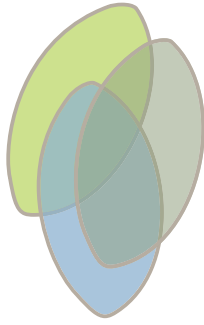
## Contact Telephone Numbers

- **Independent Commissioner**  
(03) 9225 7979
- **Carelink**  
(03) 9663 5744
- **Archdiocese of Melbourne**  
(03) 9926 5677
- **Towards Healing**  
1800 816 030

## **Annexure 2**

Sexual and Other Abuse – Melbourne Response –  
Terms of Appointment of Independent Commissioner to  
Enquire Into Sexual and Other Abuse, 2012





# Sexual and Other Abuse

## The Melbourne Response

CATHOLIC ARCHDIOCESE OF MELBOURNE

### APPOINTMENT OF INDEPENDENT COMMISSIONER TO ENQUIRE INTO SEXUAL AND OTHER ABUSE

#### Background

Archbishop George Pell in 1996 then the Catholic Archbishop of Melbourne being concerned that a number of priests and religious have abused children, adolescents and adults in their pastoral care, in order to facilitate the discovery of such abuse, and the taking of consequential action instructed his solicitors to retain Peter John O'Callaghan Q.C. (the "Commissioner") to act as an Independent Commissioner to enquire into and advise the Archbishop with respect to allegations of sexual misconduct by any priest of the Archdiocese and religious, and lay persons working within the Archdiocese on the following terms and conditions (the terms), and which appointment was renewed and confirmed by Archbishop Hart (the Archbishop) upon him becoming the Catholic Archbishop of Melbourne. Archbishop Hart appointed Mr Jeff Gleeson SC as an Independent Commissioner commencing on 1 August 2012. Mr O'Callaghan and Mr Gleeson both function under these terms.

The terms were formulated in consultation with the Victoria Police and it was then acknowledged and agreed, as it is now by the Archbishop and the Commissioner, that there can be no substitute for a Police investigation into complaints of sexual and other abuse, which may constitute criminal conduct. It is also acknowledged that some complainants do not wish to take their complaints to the Police. In that context and in order to continue and to facilitate co-operation and assistance between the Archdiocese, the Commissioner and Victoria Police, the Archbishop has supplemented the Terms and Conditions as set out in Clauses 4 to 6 hereunder.

#### 1. Definitions

**"Accused"** means the person against whom an allegation of sexual or other abuse is made.

**"Carelink"** is an agency of the Archdiocese that administers the provision of professional support services namely treatment, counselling and support to victims of sexual and other abuse within the Archdiocese.

**"Church person"** includes any priest of the Archdiocese and religious, and lay persons, working within the Archdiocese.

**"Compensation Panel"** is a panel established to provide ex gratia payments to complainants of sexual and other abuse who establish the factual basis of their complaint to the satisfaction of the Independent Commissioner.

**"Complainant"** means any person making a complaint of sexual or other abuse as aforesaid.

**"Complaint"** means any complaint made to the Commissioner by a person that he or she has been abused by a Church person or a complaint made to the Commissioner by a person who complains that some other person has been abused by a Church person, and any complaint of abuse by a Church person which is referred to the Commissioner by any other body or person.

**"Sexual and/or other abuse"** includes:

- a) Any form of criminal sexual assault, sexual harassment or other conduct of a sexual nature that is inconsistent with the public vows, integrity of the ministerial relationship, duties or professional responsibilities of Church personnel; and
- b) Conduct by a person with a pastoral responsibility for a child or young person which causes serious physical pain or mental anguish without any legitimate disciplinary purpose, as judged by the standards of the time when the behaviour occurred.

#### 2. Role of the Independent Commissioner

- i. The Commissioner is appointed to enquire into and advise the Archbishop with respect to complaints of sexual and other abuse by Church persons.
- ii. The Commissioner shall forthwith enquire into any complaint of sexual and other abuse by a Church person made or referred to him.
- iii. The Commissioner immediately upon there being made or referred to him a complaint of sexual or other abuse (which may constitute criminal conduct), shall inform the complainant that he or she has an unfettered and continuing right to make that complaint to the police, and the Commissioner shall appropriately encourage the exercise of that right.
- iv. Subject to sub clause (xi) below, upon becoming aware of sexual or other abuse (which may constitute criminal conduct), the Commissioner may report that conduct to the police.
- v. The Commissioner will not act so as to prevent any police action in respect of allegations of sexual or other abuse by Church personnel.
- vi. Forthwith upon becoming aware that sexual or other abuse has occurred, is occurring, or is likely to occur, the Commissioner shall advise the Archbishop and made such recommendations as to action to be taken by the Archbishop as the Commissioner considers appropriate.
- vii. The Commissioner is empowered by the Archbishop to require any priest, religious, or other person under the jurisdiction of the Archbishop to attend upon the Commissioner at such time and place as is notified, and to produce to the Commissioner such documents as the Commissioner requires, and to answer such questions as the Commissioner considers appropriate to ask. Provided that no priest, religious, or other person, shall be required to produce to the Commissioner a document, or to answer a question, which document or answer the priest, religious or other person objects to answer or produce or give because it may tend to incriminate.
- viii. The Commissioner may inform himself inter alia by hearings at which the complainant and the accused may be present, and also if desired, their respective legal or other representative.
- ix. The Commissioner shall interview a child or conduct a hearing at which a child is present, only with the written authority of the parent or guardian of such child, and whom the Commissioner shall request be present at such interview or hearing.



# Sexual and Other Abuse The Melbourne Response

CATHOLIC ARCHDIOCESE OF MELBOURNE

- x. The Commissioner shall treat as confidential and privileged all information acquired by him in the course of his investigation, Provided that (subject to sub-clause 2(xi)) the Commissioner may if he considers it appropriate so to do, provide the whole or part of such information to the police, and with the consent of the complainant, to the Compensation Panel.
  - xi. If a complainant, prior to stating the facts and circumstances constituting his or her complaint informs the Commissioner that he or she is only prepared to divulge those facts and circumstances to the Commissioner upon his assurances that he will not, (unless required by law) disclose those facts and circumstances to any person other than a person nominated by the complainant, the Commissioner (unless required by law so to do) shall not disclose those facts and circumstances to any other person save to members of his staff from whom he shall have procured an undertaking of confidentiality.
  - xii. The Commissioner may decide to discontinue or not conduct an enquiry into a complaint which he considers is trivial, frivolous, vexatious or not made in good faith, Provided that the Commissioner shall notify the complainant in writing of any such decision to discontinue or not conduct an enquiry into complaint.
  - xiii. The Commissioner when enquiring into complaints and reporting to the Archbishop shall observe the rules of natural justice.
  - xiv. The Commissioner shall determine the procedure to be followed in respect of enquiries and hearings and may publish to the Church authorities and other relevant persons details of such procedures.
  - xv. The Commissioner may refer victims of sexual or other abuse to Carelink.
  - xvi. The Commission will consult with and advise the Compensation Panel as required, subject to sub-paragraphs 2 (x) and (xi).
3.
    - i. The retainer of the Commissioner is ongoing for such period as may be mutually agreed upon and, Provided that in the event of the Commissioner, for whatever reason, becoming incapable of duly performing his retainer the Archbishop may instruct his solicitors to terminate the retainer.
    - ii. The Commissioner will formulate procedures for dealing with and recording complaints of sexual and other abuse and other matters.
  4.
    - i. The Commissioner will endeavour to meet regularly with the squad manager of the Sexual Crime Squad or their delegate (Liaison Officer) to discuss issues of mutual interest and concern.
    - ii. If a complainant informs the Commissioner that it is desired to refer the complaint to the Police, the Commissioner will refer the complainant to the Liaison Officer, and subject to sub-paragraphs (a) and (b) shall take no further steps in relation to the complaint, until the Police investigation and any resulting proceedings are completed; save that
      - (a) If the complainant so wishes, the Commissioner may refer the complainant to Carelink for the provision of free counselling and psychological support; and
      - (b) The Commissioner may make recommendations to the Archbishop in respect of the alleged offender.
  5. Save where
    - i. The alleged offender the subject of a complaint is dead,
    - ii. The complaint has been previously reported to the Police and the Commissioner is satisfied that Police action and any resulting proceedings have been resolved by the conviction or acquittal of the alleged offender or by the Police having notified the complainant that no further action will be taken in relation to the complaint, or
    - iii. The complaint has been referred to the Police and no Police action has been taken in the two years preceding the making of the complaint to the Commissioner

The Commissioner will provide complainants with an information sheet in the form set out below and will seek to obtain the complainant's written acknowledgement on a copy of that document.

1. *The Independent Commissioner has explained to me that he has been appointed by the Catholic Archbishop of Melbourne to investigate allegations of abuse.*
2. *The Commissioner has informed me that because the conduct about which I have complained of may constitute criminal conduct, I have a continuing and unfettered right to report the matter to the police. He has encouraged me to exercise that right. He has informed me that if I did wish to report the matter to the police, he would refer me to an appropriate police officer to deal with the complaint.*
3. *The Commissioner has explained to me that the police have powers which he does not have, including the power to issue search warrants and to arrest offenders, and that it is only through the police that the offender can be brought before a Court and punished for criminal conduct.*
4. *Aware of these matters I do not at this time wish to take my complaint to the police, and:*
  - a) *I request the Commissioner to exercise the powers conferred upon him by the Archbishop to deal with my complaint; and*
  - b) *I require the Commissioner to keep my identity confidential to the best of his ability and save as compelled by law.*
5. *I acknowledge that I can refer the complaint to the police at any time, and if I do so the Commissioner will take no further steps in relation to the complaint until the police investigation and any resulting proceedings have been completed.*

NAME: \_\_\_\_\_

SIGNED: \_\_\_\_\_

DATED the .....day of .....20.....

6. When an alleged offender the subject of a complaint is advised of the complaint by the Commissioner, the Commissioner will, except where paragraph 5(ii) or (iii) applies, include information in writing in the terms set out below:

*"The complainant at least at this stage does not wish to report the complaint to the police, despite being told that there is a continuing and unfettered right to do so, and having been encouraged to exercise that right. If subsequently, I become aware the complaint is referred to the police, I will take no further step in dealing with the complaint. I will not advise you that the complaint has been referred to the police for at least four weeks or if requested by the police such further period as is agreed."*

APPROVED ON 15 FEBRUARY 2011

\_\_\_\_\_

+ *Denis J. Hart*

Archbishop Denis Hart DD  
Archbishop of Melbourne



# **Annexure 3**

Sexual Abuse – Melbourne Response Brochure, 1996

Nothing within this Plan is intended to pre-judge the guilt or innocence of any particular priest, religious or lay person.

It should be remembered that these allegations concern only a tiny percentage of the priests, religious and lay people serving the community on behalf of the Archdiocese of Melbourne.

### *How the Plan will Operate*

The first point of call for people wishing to lodge complaints or seek assistance is the office of the Independent Commissioner.

He can be contacted by calling 03 9221 6190.

The Offices of the Independent Commissioner are located at Level 25, Suite 36, 367 Collins Street, Melbourne 3000.

Callers can then be referred immediately to CARELINK for professional support services and they can be provided with information about compensation.

CARELINK is located at 163 Victoria Parade, East Melbourne, 3002. Phone: 03 9221 6190.

Archbishop Pell welcomes comments from anyone in the community about the initiatives covered in this Plan.

Sexual Abuse



*The Melbourne Archdiocese  
Response*



**S**exual abuse of minors and adults has emerged as one of the most horrific issues in recent memory.

It is an evil that has permeated all levels of society, including our ranks.

It is all the more serious when it involves priests and others

who have betrayed the trust placed in them by virtue of the privileged position they occupy in society.

It is now time for me, on behalf of the Catholic Church, to apologise sincerely and unreservedly, first of all to the victims, and then to the people of the Melbourne Archdiocese for this betrayal of trust. In the words of the Catholic Bishops of Australia, in a Pastoral Letter issued early in 1996:

"We cannot change what has happened in the past, undo the wrongs that have been done, or banish the memories and the hurt. In seeking to do what is possible, our major goals must be: truth, humility, healing for the victims, assistance to other persons affected, an adequate response to those accused and to offenders, and prevention of any such offences in the future".

Regrettably, the Catholic Church has taken a long time to come to grips successfully with the issue.

Recognising the facts now before us, I wish to address the issue in a professional, caring and appropriate manner.

Accordingly, I would like to announce the following initiatives:

- **Independent Commissioner**  
The appointment of an Independent Commissioner, Mr Peter O'Callaghan QC, to enquire into allegations of sexual abuse by priests, lay people and religious under the control of the Archbishop of Melbourne.
- **CARELINK**  
The establishment of a free counselling and professional support service for victims, under the

expert direction of Professor Richard Ball, former Director of the Department of Psychiatry at St Vincent's Hospital.

- **Compensation Panel**  
The formation of a Compensation Panel, under the Chairmanship of Mr Alex Chernov QC, to provide ex gratia compensation to victims of sexual abuse by priests, lay and religious who are or were under the control of the Archbishop of Melbourne.
- **Parish Pastoral Response**  
An upgrade of the existing Pastoral Response Team service which provides spiritual support and counselling at a parish level.
- **Priest Counselling**  
A service providing counselling and support for priests and others accused of sexual assault.

The Church has procedures in place already aimed at preventing any recurrence of sexual abuse and to guard against the re-employment of offending clergy. If convicted of any serious offence, a priest is withdrawn immediately from all public and pastoral duties.

For some years, there has also been extensive screening of all people who aspire to the priesthood. The Church has an explicit Code of Conduct for priests, which is impressed upon all seminarians.

Nothing can completely set right the wrongs of the past, but we are confident that these initiatives will go a long way towards addressing this issue, which has so shocked our community.

We can't pretend to have all of the answers yet but I am hopeful that this plan will work and, with further improvements over time, will begin to have a significant impact, in both a preventative and a healing sense.

Catholic Archbishop of Melbourne

## *Compensation Panel*

A Compensation Panel is being established to provide ex gratia compensation to persons complaining of sexual abuse by priests, religious and lay people who are or were under the control of the Archbishop of Melbourne.

To the maximum extent possible, the Panel will operate independently of the Archbishop and the Archdiocese.

The Panel will be Chaired by Mr Alex Chernov QC and will include a psychiatrist and some lay persons.

The establishment of this Panel and the offer to pay compensation is not an admission of legal liability. The Archbishop, the Archdiocese and the Church do not accept that they have any legal obligation to make payments to people making complaints.

Rather, the Panel will provide people making complaints with an alternative to legal proceedings against the Archbishop or Archdiocese. It is hoped that it will provide an informal rather than legalistic approach and a forum for a fair, just and speedy settlement of claims.

To be eligible for an ex gratia payment, anyone making a complaint will need to establish the factual basis of the claim. In order to thoroughly examine every claim, the Panel will consult and liaise exhaustively with the Independent Commissioner.

Compensation payments, binding on the Archdiocese, will be recommended at the discretion of the Panel, up to a maximum of \$50,000 per person. If the person making a complaint accepts the recommended payment, the amount will be paid in full settlement of all legal claims against the Archbishop and



the Archdiocese. CARELINK services will, however, remain available.

If the recommended payment is not accepted, a person making a complaint remains free to use the normal court processes.

Compensation will not be paid for complaints relating to alleged offenders who are or were not priests of the Archdiocese, as they are outside the Archbishop's control.

Nor will it be paid in relation to complaints about religious or lay people unless they are or were working within the Archdiocese and are or were employed by, or subject to the control of, the Archbishop.

Mr Alex Chernov QC was admitted as a barrister and solicitor of the Supreme Court of Victoria in 1968.

He specialises in commercial and administrative law and has appeared in major cases throughout Australia and before courts, Royal Commissions and administrative tribunals.

Since 1971, he has been a member/chairman of various committees of the Victorian Bar and is a past President of the Law Council of Australia (1990-91).

## *Parish Pastoral Response*

In addition to the services outlined above, there will be an up-grading of the existing Pastoral Response Team, which operates at parish level.

Members of the Team will continue to offer spiritual support and counselling and to provide a forum for pastoral healing.

The parish pastoral response is an essential part of the healing process for the wider Church community.

## *Counselling and Support for Priests*

Counselling and support for priests and others accused of sexual assault will be provided by the Vicar-General's office.

## *Independent Commissioner*

Mr Peter O'Callaghan QC has been appointed to enquire into allegations of sexual abuse by priests, religious and lay people who are, or were, under the control of the Archbishop of Melbourne.

In much the same way as a royal commissioner appointed by a government the commissioner will operate independently of the Church. He will be subject to the rules of natural justice and the relevant provisions of Canon Law.



The Commissioner will be empowered by the Archbishop to require the attendance before him of priests and religious the subject of complaints, and the Commissioner may conduct hearings at which there may be present the complainant, the accused and relevant witnesses.

The Commissioner will interview the complainants, the accused and relevant witnesses, and

provide the Archbishop with both interim and final recommendations for appropriate action.

The Commissioner's office will be the first point of contact for people wishing to make allegations or complaints, or to seek counselling services, or to obtain information about compensation.

The police and the Government have been informed of the appointment of the Commissioner and the terms and conditions of his appointment.

The Commissioner is eminently qualified. He has practised as a barrister for the past thirty-five years. He has appeared in numerous leading cases.

He has a wide general practice (civil, criminal, administrative and planning) and has appeared in many Royal Commissions including the Tricontinental Royal Commission (1990) and the Royal Commission into the Builders Labourers Federation (1982).

## *CARELINK*

Professor Richard Ball, former Director of the Department of Psychiatry at St Vincent's Hospital, has been appointed to head up CARELINK, a new counselling and professional support service for the victims of accused priests, lay and religious who are or were under the control of the Archbishop of Melbourne.



CARELINK services will be provided free of charge.

CARELINK will be staffed by a broad range of professionals with appropriate qualifications and experience who will provide direct support services and, in some instances, will refer patients to external counselling and support providers.

A panel, under the chairmanship of Professor Ball, will oversee the program. Members of the panel may also provide professional support services.

CARELINK will strictly observe usual patient confidentiality and legal reporting requirements. But it may also disclose information to the Independent Commissioner, with the consent of the patient.

Patients will be encouraged to refer allegations of sexual abuse to the Independent Commissioner for investigation, although there is no obligation for them to do so.

The role of CARELINK will not be investigatory.

Professor Richard Ball is a founding member of the Australian and New Zealand College of Psychiatrists.

He held the Chair of Psychiatry at St. Vincent's Hospital from 1978 to 1992 and his major research interests have included psychosexual matters, gender dysphoria and its management and forms of psychiatric treatment.

# **Annexure 4**

Catholic Archdiocese of Melbourne -  
Sexual Abuse - Seeking Compensation, 1996





**CATHOLIC ARCHDIOCESE OF MELBOURNE**

## **Sexual Abuse - Seeking Compensation**

In October 1996, Archbishop George Pell announced a range of initiatives to respond to allegations of sexual abuse made against priests, lay persons and religious who are or were under the control of the Archbishop of Melbourne. One of these initiatives is the formation of a Compensation Panel, which will provide recommendations, binding on the Archbishop, to make ex gratia compensation payments to victims of sexual abuse within the Archdiocese.

The Panel is intended to offer applicants a forum in which they can seek fair, just and speedy ex gratia compensation in settlement of their claims, in an informal and cost effective manner.

The maximum payment that can be recommended by the Panel is \$50,000 per person. In formulating its recommendations, the Panel will rely on findings of fact made by the Archbishop's Independent Commissioner, Mr Peter O'Callaghan QC. The Panel will also consider medical and other information submitted to it by applicants and, in addition, it may conduct its own enquiries.

## HOW TO SEEK COMPENSATION

- 1 To seek compensation an applicant will need to complete the "Application for Compensation" form attached to this brochure. Completion of the form will affect the applicant's legal rights, and applicants are encouraged to seek independent legal advice before completing the application.
- 2 The Panel will consider the application for compensation only after it has received a report from the Independent Commissioner following his investigation of the complaint. The Commissioner will not report to the Panel unless the applicant has consented to this. A "Consent to Independent Commissioner" form is attached to this brochure. The Commissioner will provide a copy of his report to the applicant on request.
- 3 After the Panel receives the application and the report from the Commissioner, it will invite the applicant to provide it with material relating to the consequences of the abuse on the applicant. Some notes about this material:
  - The Panel will rely exclusively on the report of the Independent Commissioner as to the facts surrounding the abuse. An applicant who wishes to supplement the Commissioner's report on such facts will need to raise this with the Commissioner.
  - The Commissioner's report will usually not deal with the impact of the assault on the applicant. Consequently, applicants will be asked to provide this material to the Panel. They may wish to place before it medical or other reports. Applicants who have sought assistance through Carelink may also authorise Carelink to provide information directly to the Panel. (Carelink cannot provide any information to the Panel without that authorisation. A "Consent to Carelink" form is attached to this brochure).
  - In some circumstances applicants may be asked to undergo medical or other examinations or to provide additional information.
  - Ordinarily all material for the Panel should be provided in writing, although in appropriate cases meetings will be arranged.
- 4 In considering the issue, the Panel will not be bound by the compensation principles that apply in court. It will make its decision on all material presented to it. Essentially it will have regard to the physical, mental and spiritual effects of the assault on the applicant.
- 5 The Panel will formulate its recommendation to the Archbishop as to the ex gratia payment to be made. The applicant will be advised of that recommendation.
- 6 If the recommended amount is acceptable to the applicant in full settlement of his or her claims against the Archbishop and the Archdiocese of Melbourne, this amount will be paid by the Archdiocese upon the applicant signing an adequate release and discontinuing any pending legal proceedings.
- 7 If the recommended amount is not acceptable to the applicant, the applicant may pursue other remedies, but in the course of so doing, may not rely on what has transpired before the Panel. All matters that have transpired before the Panel remain confidential.

## APPLICATION FOR COMPENSATION FORM

I, .....

(Full Name)

of .....

(Address)

apply for ex gratia compensation from the Archbishop and Archdiocese of Melbourne in respect of sexual abuse committed against me as found by the Independent Commissioner appointed by the Archbishop, and I make this application upon the following basis:

- (a) the amount of compensation (if any) will be determined by the Compensation Panel that has been appointed by the Archbishop,
- (b) the Archbishop will offer to me such an amount as may be recommended to him by the Panel, provided I execute appropriate releases and discontinue any relevant legal proceedings,
- (c) if I reject the amount offered to me by the Archbishop, the Archbishop acknowledges that any rights that I may have to commence or continue legal proceedings against him are unaffected by my application for compensation,
- (d) neither I nor any person acting on my behalf, or any member of the Panel, or the Archbishop or any person acting on behalf of the Archbishop or the Archdiocese, will (save as required by law)
  - (i) disclose to any person,
  - (ii) rely or seek to rely in any arbitral or judicial proceeding (whether or not such proceeding relates to the subject matter of this application) on

any communication, statement or information, whether oral or documentary, made or provided in the course of or in relation to the Panel's deliberations,

- (e) I will not call any member of the Panel as a witness or subpoena or demand the production of any records, notes or the like made by or for the Panel in the course of or in relation to its deliberations,
- (f) I and each member of the Panel and the Archbishop and his advisers will, unless otherwise compelled by law, preserve total confidentiality in relation to all matters arising in the course of or in relation to the Panel's deliberations, whether documentary or oral, that may be provided to the Panel or to me,
- (g) I irrevocably waive any rights that but for this provision I may have had to seek judicial review of any act or omission of any member of the Panel.

.....

(Signed)

.....

(Witness)

.....

(Date)

.....

(Full name and address of witness)

## CONSENT TO INDEPENDENT COMMISSIONER FORM

### Notes:

- 1 Before seeking *ex gratia* compensation from the Compensation Panel, you need to have made a complaint to the Independent Commissioner. If you have not yet made a complaint, please telephone the Commissioner's office on (03) 9221 6190 for further information.
- 2 To help assess your claim for such compensation, the Panel will obtain a report from the Commissioner containing his findings as to the facts relating to your complaint. If you have not already done so, you will need to give the Commissioner your consent to him disclosing information about you to the Panel. You may give him your consent by completing this form.

---

TO: Independent Commissioner  
Mr P J O'Callaghan QC

I, .....

(Full Name)

of .....

(Address)

wish to make an application to the Compensation Panel. I authorise you to communicate to the Compensation Panel and its members all information about me that they may request or require to assist them in assessing my claim for compensation. This request includes, without limitation, both information that I have provided or disclosed to you and information about me that you have obtained from other sources. I authorise you to prepare a report for the Panel as to the circumstances of my claim and to communicate that report and the material on which it is based to the Panel.

I authorise you to conduct such further investigations into my claim as you may consider appropriate or as the Panel may request.

Tick box if required. I ask you to forward to me by ordinary mail at the address shown above a copy of the report that you prepare for the Panel.

.....

(Signed) (Witness)

.....

(Date) (Full name and address of witness)

## CONSENT TO CARELINK FORM

### Notes:

- 1 If you have not sought treatment or counselling through Carelink this form does not apply to you.
- 2 If you have sought treatment or counselling through Carelink, you may wish to authorise Carelink and anyone to whom Carelink has referred you to provide information about you to the Compensation Panel to assist the Panel in formulating its recommendations about the ex gratia compensation that you should receive. Carelink will not disclose any information about you to the Panel unless you consent.
- 3 It is up to you to decide whether you want Carelink or anyone to whom Carelink has referred you to provide information to the Panel. If you want it to, you should complete this form.
- 4 If you have sought treatment or counselling other than through Carelink, you may wish to contact your treatment provider and ask them to prepare a report for the Panel.

---

**TO:** Carelink (including any external professionals to whom I have been referred by Carelink)

I, .....

(Full Name)

of .....

(Address)

am making an application to the Compensation Panel. In support of that application I wish the Panel to be provided with a professional report about my condition, the treatment, counselling and support that I have received and such other matters as Carelink and the Panel consider appropriate. I request that Carelink prepare or arrange for the preparation of a report and provide it to the Panel.

I authorise Carelink (including any external professionals to whom I have been referred) to disclose to the Compensation Panel and its members all information about me that they may request or require to assist them in assessing my claim for compensation. This request includes, without limitation, both information that I have provided or disclosed to Carelink and external professionals and information that they have obtained from other sources.

I authorise Carelink and external professionals to conduct such further enquiries into my condition as they consider appropriate or as the Panel requests.

Tick box if appropriate. I ask Carelink to forward to me by ordinary mail at the address shown above a copy of the report prepared for the Panel.

.....

(Signed) (Witness)

.....

(Date) (Full name and address of witness)

Please forward all completed forms or enquiries about compensation to:

Compensation Panel  
Archdiocese of Melbourne  
Optus House  
Level 25 Suite 36  
367 Collins Street  
Melbourne Vic 3000

Telephone: 03 9221 6190 Facsimile: 03 9221 6191



# **Annexure 5**

Towards Healing – Principles and Procedures in  
Responding to Complaints of Abuse Against Personnel of the  
Catholic Church in Australia, January 2010

# *Towards Healing*

**Principles and procedures in responding to  
complaints of abuse against personnel  
of the Catholic Church in Australia  
January 2010**





# *Towards Healing*

Principles and procedures in responding to  
complaints of abuse against personnel  
of the Catholic Church in Australia  
January 2010



Australian Catholic Bishops Conference  
and  
Catholic Religious Australia

## *Towards Healing*

Principles and procedures in responding to  
complaints of abuse against personnel of the  
Catholic Church in Australia

Dialogue or comments about the principles and  
procedures in this document are invited and should  
be addressed to:

Executive Officer  
National Committee for Professional Standards  
PO Box 981  
Bondi Junction NSW 1355

Phone: (02) 9387 2400      Fax: (02) 9386 1400

The National Committee for Professional Standards is a committee established by the Australian Catholic Bishops Conference and Catholic Religious Australia to oversee the development of policy, principles and procedures in responding to Church-related abuse complaints.

Additionally, there are State Directors of Professional Standards and Resource Groups to advise and assist in matters concerning Church-related abuse and to appoint suitable people as contact persons, support persons, assessors and facilitators. The phone numbers for the State Professional Standards offices are:

New South Wales	1300 369 977	Tasmania	1800 356 613
Northern Territory	0418 736 890	Victoria	1800 816 030
Queensland	1800 337 928	Western Australia	1800 072 390
South Australia	1800 139 020		



© Australian Catholic Bishops Conference  
and  
Catholic Religious Australia, 2010

*National Committee for Professional Standards*

This work is copyright. It may be reproduced in whole or in part for research, study or training purposes subject to the inclusion of an acknowledgement of the source and no commercial usage or sale. Reproduction for purposes other than those covered above, requires the written permission of the Australian Catholic Bishops Conference and Catholic Religious Australia. Requests and inquiries concerning reproduction and rights should be addressed to:

Executive Officer,  
National Committee for Professional Standards.  
PO Box 981  
Bondi Junction NSW 1355  
Phone: (02) 9387 2400 Fax: (02) 9386 1400

ISBN 978-1-86420-336-3

*Design and layout by*  
Domenic Xuereb fsp

*Towards Healing*  
1st Published December 1996

*Printing by*  
Dashing Print Bondi Junction, Sydney

*Towards Healing*  
Revised December 2000  
Revised January 2010



**CONTENTS**

***Towards Healing***- address and phone contact details . . . . . ii

Copyright details . . . . . iii

Introduction . . . . . 1

Words of Pope Benedict XVI . . . . . 2

**PART ONE: DEFINITIONS** . . . . . 3-5

**PART TWO: PRINCIPLES FOR DEALING WITH COMPLAINTS OF ABUSE**

1 – 4 Sexual abuse . . . . . 7

5 Physical and emotional abuse . . . . . 7

6 – 8 The victims. . . . . 8

9 – 11 The offenders . . . . . 8

12 The response of the church . . . . . 8

13 - 14 Truth . . . . . 9

15 Humility . . . . . 9

16 - 19 Healing for the victims . . . . . 9

20 - 25 Assistance to other persons affected . . . . . 9-10

26 A response to those accused . . . . . 10

27 - 29 A response to those guilty of abuse.. . . . 10-11

30 - 32 Prevention . . . . . 11

33 Commitment . . . . . 11

**PART THREE: PROCEDURES FOR DEALING WITH COMPLAINTS OF ABUSE**

34 Notes . . . . . 13

35 Structures and personnel . . . . . 13-16

36 Receiving a complaint . . . . . 16-17

37 Criminal offences and the reporting of child abuse . . . . . 17-18

38 Responding to a complaint . . . . . 18-20

39 Selecting the appropriate process . . . . . 21

40 Assessment . . . . . 21-24

41 Outcomes relating to the victim . . . . . 24-26

42 Outcomes relating to the accused . . . . . 26-27

43 Outcomes relating to other affected people and communities . . . . . 27

44 Review of process and findings . . . . . 27-28

45 Preventive strategies . . . . . 29-30

46 Concluding statements . . . . . 30



## INTRODUCTION

As bishops and leaders of religious institutes of the Catholic Church in Australia, we acknowledge with deep sadness and regret that a number of clergy and religious and other church personnel have abused children, adolescents and adults who have been in their pastoral care. To these victims we again offer our sincere apology.

In December 1996 we published a document, ***Towards Healing***, setting out the principles that must form the basis of the Church's response to complaints of abuse and the procedures to be followed in responding to individual complaints.

In 2000, Professor Patrick Parkinson, then pro-Dean of the Faculty of Law at Sydney University and author of the book *Child Sexual Abuse and the Churches*, was asked to lead a process of revision of the document. This process included broad consultation with complainants, accused, church authorities, and those involved in implementing the procedures. Consideration of the requirements of Canon Law was also part of the revision, so that decisions made through ***Towards Healing*** could be securely implemented.

The major change in the principles at this time was the extension of abuse to include sexual, physical and emotional abuse, formalising a change that had already been accepted as experience unfolded. The more numerous changes to the procedures aimed to clarify the steps to be taken and provide a document that was clear and able to be applied to the many and varied matters that can be brought forward. The goal of moving 'towards healing' remained paramount.

Given the experience since 2000, the National Committee for Professional Standards decided, in the latter part of 2008, that it would be desirable to have a further process of consultation on ***Towards Healing***, by inviting written comments and submissions. Professor Parkinson was once again invited to conduct the review. Such reconsideration was timely. As a system evolves, new issues arise that have to be dealt with, misunderstandings develop that need to be corrected, and issues of poor application need to be addressed. For these reasons, ***Towards Healing*** is a living document, and one which is responsive both to a changing environment and to the needs of those involved.

Professor Parkinson began his review in January 2009. This revised text re-affirms the principles of ***Towards Healing***. It also clarifies the application of the ***Towards Healing*** procedures and seeks to simplify some of those.

Like the earlier documents, this revised document restates public criteria according to which the community may judge the resolve of Church leaders to address issues of abuse within the Church<sup>1</sup>. If we do not follow the principles and procedures of this document, we will have failed according to our own criteria.

We express our gratitude to Professor Patrick Parkinson and to all who contributed to the process of revision.

---

<sup>1</sup> The Archdiocese of Melbourne has in place procedures that are of similar intention to those set out in Part 3 of this document. The procedures are designed to meet the principles of Part 2. Accordingly it is acknowledged that the procedures of Part 3 do not apply to the Archdiocese of Melbourne.



## WORDS OF POPE BENEDICT XVI

“Dear friends, may this celebration, in the presence of the Successor of Peter, be a moment of rededication and renewal for the whole Church in Australia! Here I would like to pause to acknowledge the shame which we have all felt as a result of the sexual abuse of minors by some clergy and religious in this country. Indeed, I am deeply sorry for the pain and suffering the victims have endured, and I assure them that, as their Pastor, I too share in their suffering. These misdeeds, which constitute so grave a betrayal of trust, deserve unequivocal condemnation. They have caused great pain and have damaged the Church’s witness. I ask all of you to support and assist your Bishops, and to work together with them in combating this evil. Victims should receive compassion and care, and those responsible for these evils must be brought to justice. It is an urgent priority to promote a safer and more wholesome environment, especially for young people. In these days marked by the celebration of World Youth Day, we are reminded of how precious a treasure has been entrusted to us in our young people, and how great a part of the Church’s mission in this country has been dedicated to their education and care. As the Church in Australia continues, in the spirit of the Gospel, to address effectively this serious pastoral challenge, I join you in praying that this time of purification will bring about healing, reconciliation and ever greater fidelity to the moral demands of the Gospel.”

St. Mary’s Cathedral, Sydney, 19 July 2008



## PART ONE

### DEFINITIONS

**'Abuse'** means:

- Sexual assault, sexual harassment or any other conduct of a sexual nature that is inconsistent with the integrity of the relationship between Church personnel and those who are in their pastoral care.
- Intentional acts by a person with responsibility for a child or young person causing significant physical injury, or other behaviour which causes serious physical pain or mental anguish without any legitimate disciplinary purpose as judged by the standards of the time when the behaviour occurred.

**'Accused'** means:

- the person against whom a complaint of abuse is made.

**'Assessor'** means:

- a person appointed to investigate a complaint of abuse.

**'Children and young people'** refers to:

- those persons under the age of 18.

**'Church Authority'** includes:

- a bishop, a leader of a religious institute and the senior administrative authority of an autonomous lay organisation, and their authorised delegates, responsible for the Church body to which the accused person is or was connected at the time of the alleged abuse.

**'Church body'** includes:

- a diocese, religious institute and any other juridical person, body corporate, organisation or association, including autonomous lay organisation, that exercises pastoral ministry within, or on behalf of, the Catholic Church.

**'Church personnel'** includes:

- any cleric, member of a religious institute or other persons who are employed by the Church body, or appointed by a Church body to voluntary positions in which they work with children or young people, or engage in other forms of pastoral care.

**'Church procedure'** means:

- an assessment process under Clause 40 of these procedures, a disciplinary process in relation to a person who is employed by a Church body, or a penal process under canon law.



**'Civil authorities'** include:

- members of the police service as well as officials of the government departments responsible for child protection, for the administration of laws relating to complaints of sexual harassment, for the discipline of professions and for industrial relations.

**'Consultative Panel'** is:

- a panel established to advise a Church Authority in relation to specific complaints.

**'Complainant'** means:

- the person who has alleged abuse against Church personnel. In most, but not all, cases the complainant will also be the person against whom it is alleged that the abuse was directed, and this is to be understood in this document unless the context suggests otherwise.

**'Inappropriate care practices'** in schools and children's homes include:

- allegations of harsh or inappropriate disciplinary practices, bullying and deficiencies in providing care such as in the provision of food, clothing or medical attention, as judged by the standards of the time.

**'Offender'** means:

- a person who has admitted abuse or whose responsibility for abuse has been determined by a court of law or Church procedure.

**'Pastoral care'** means:

- the work involved or the situation which exists when one person has responsibility for the wellbeing of another or for a faith community of which the complainant is, or was, a part. It includes the provision of spiritual advice and support, education, counselling, medical care, and assistance in times of need. All work involving the supervision or education of children and young people is a work of pastoral care.

**'Pastoral relationship'** is:

- a relationship involving pastoral care.

**'Professional standards'** are:

- the qualities essential for the ethical and safe practice of pastoral ministry.

**'Professional Standards Resource Group'** is:

- a group established to advise the Director of Professional Standards responsible for a given State or Territory.

**'Religious'** means:

- a member of an institute of consecrated life or a society of apostolic life.





**'Religious institute'** means:

- an institute of consecrated life or a society of apostolic life.

**'Reparation'** may take the form of:

- a monetary sum or some form of in-kind assistance that is directed to the provision of practical means of support in order to promote healing for the victim. It is provided by the Church Authority as a means of recognising the harm suffered by a victim of a criminal offence or civil wrong, and as a tangible expression of the Church Authority's regret that such abuse occurred. Reparation may be offered independently of whether the Church Authority is legally liable.

**'Victim'** means:

- the person against whom the abuse was directed.

**'Vulnerable person'** or **'vulnerable adult'** means:

- a person who has recently suffered bereavement, marriage breakdown or other such adversity making them in particular need of pastoral support, or a person with an intellectual disability, mental illness or other impairment that makes it difficult for that person to protect themselves from abuse or exploitation.



This page has been purposely left blank.



## PART TWO

### PRINCIPLES FOR DEALING WITH COMPLAINTS OF ABUSE

#### SEXUAL ABUSE

1. Clergy and religious are in a special position of trust and authority in relation to those who are in their pastoral care, for example, those in their parish, people seeking advice, or students at a Catholic school. Any attempt to sexualise a pastoral relationship is a breach of trust, an abuse of authority and professional misconduct. Such sexualisation may take the form not only of sexual relations, but also harassment, molestation, and any other conduct of a sexual nature which is inconsistent with the integrity of a pastoral relationship. Compliance by the other person does not necessarily imply meaningful consent. Even when the other person concerned is the one who seeks to sexualise the relationship, it is the professional responsibility of clergy or religious to guard the boundary against sexual contact.
2. Other people who are employed by an official agency of the Catholic Church or appointed to voluntary positions may also be in a pastoral role. This includes, for example, pastoral workers in parishes, teachers in Catholic schools, counsellors in Catholic welfare organisations, health care professionals, youth workers, staff in child care centres, and volunteers conducting religious education classes in schools or parishes. Any attempt to sexualise a pastoral relationship is professional misconduct.
3. Any form of sexual behaviour with a child or young person, is always sexual abuse. It is both immoral and criminal.
4. Sexual abuse by clergy, religious, or other Church personnel of adults in their pastoral care may be subject to provisions of civil or criminal law. Even when there are no grounds for legal action, we recognise that serious harm can be caused, including damage to a person's faith and trust in God.

#### PHYSICAL AND EMOTIONAL ABUSE

5. Physical and emotional cruelty also constitute an abuse of power. Where a cleric, religious or another person appointed to a position of pastoral care by an agency of the Church has acted towards a child or young person in a way which causes serious physical pain or mental anguish without any legitimate disciplinary purpose, as judged by the standards of the time when the incidents occurred, then this constitutes abuse.



## THE VICTIMS

6. Victims of abuse can experience fear, shame, confusion and the violation of their person. They can feel guilty, blame themselves and take responsibility for what has happened. Children and young people can suffer distortions in the process of determining their identity as persons. They may find it difficult to trust those in positions of authority or pastoral care or to believe in or trust in God. Victims can go through a long period of silence, denial and repression. Other people can refuse to believe them, eroding their trust in others and in themselves.
7. The intensity of the effects of abuse on victims will vary. Some of the factors involved are the age and personality of the victim, the relationship with the offender, the duration and frequency of the abuse, the particular form of the abuse, the degree of coercion used, the threats used to compel secrecy, the violation of trust and abuse of power involved and the reaction of those in whom the victim confides.
8. We recognise that responses to victims by the many Church Authorities vary greatly. We express regret and sorrow for the hurt caused whenever the response denies or minimises the pain that victims have experienced. Through this document we commit ourselves to principles and procedures that apply to all Church Authorities.

## THE OFFENDERS

9. When abuse occurs, free choices are made by the offender and many serious and sacred obligations are violated. These very facts argue to a clear awareness by the offender of the wrong that is being done.
10. Offenders frequently present as respectable, good and caring people. They can be quite exemplary in their public life, while at the same time living a private life that contradicts their public image.
11. At the same time, a number of offenders are disturbed persons and some have serious psychological problems. A significant number were themselves victims of abuse in their earlier years.

## THE RESPONSE OF THE CHURCH

12. The Church makes a firm commitment to strive for seven things in particular: truth, humility, healing for the victims, assistance to other persons affected, a just response to those who are accused, an effective response to those who are guilty of abuse and prevention of abuse.



## TRUTH

13. The Church makes a commitment to seek to know and understand the full extent of the problem of abuse and the causes of such behaviour within a community that professes the values of Jesus Christ. It also seeks to know the truth, so far as possible, about individual allegations of abuse.
14. Concealing the truth is unjust to victims, a disservice to accused people and damaging to the whole Church community.

## HUMILITY

15. It is very humbling for a Christian Church to have to acknowledge that some of its clergy, religious and other Church personnel have committed abuse. We recognise that humility is essential if we are to care for victims and prevent abuse in the future.

## HEALING FOR THE VICTIMS

16. Whenever the offender is a cleric, religious or another person appointed to a position of pastoral care by an agency of the Church, Church Authorities accept that they have a responsibility to seek to bring healing to those who have been victims of abuse.
17. A sensitive and compassionate response to the complainant must be the first priority in all cases of abuse.
18. This attitude must be present even at a time when it is not yet certain that the allegations are accurate. At the first interview complainants should be assured that, if the circumstances are truly as stated, abuse must be named for what it is and victims assisted to move the blame from themselves to the offender. Victims should be asked what needs to be done to ensure that they feel safe from further abuse. They should be offered whatever assistance is appropriate. These responses do not pass judgment on or prejudice the rights of the person accused, but they are part of the Christian response to the very possibility that the person present is a victim of abuse.
19. Whenever it is established, either by admission or by proof, that abuse did in fact take place, the Church Authority shall listen to victims concerning their needs and ensure they are given such assistance as is demanded by justice and compassion. Details concerning the procedures to be followed are contained in Part Three of this document.

## ASSISTANCE TO OTHER PERSONS AFFECTED

20. We shall also strive to assist in the psychological and spiritual healing of those persons who, as well as the victims, have been seriously affected by incidents of abuse.



21. The effect on the family of the victim can be profound. Sometimes disclosure results in the rejection of the victim by the family. Parents can feel guilty that they did not protect their child more effectively.
22. The parish, school or other community in which the abuse occurred may be deeply affected. The more popular and respected the perpetrator, the greater will be the shock, grief and sense of betrayal.
23. The family and close friends of the offender may also be deeply hurt. They can find it difficult to know how to respond and how to act towards the offender.
24. When clergy or religious are found to have committed child abuse, then other clergy and religious are affected, and the thought that other people might perceive them to be potential child abusers can be a cause of personal stress. Clergy and religious have had to make changes in their manner of relating to all young people and some good things have been lost as a result.
25. The whole Church community has been affected by incidents of abuse, for all Catholic people have been dismayed by the stories they have heard. The reputation of the whole Church has been affected and the religious faith of many has been disturbed.

## A RESPONSE TO THOSE ACCUSED

26. All persons are presumed innocent unless and until guilt is either admitted or determined in accordance with the requirements of the law governing their position. Proper consideration should be given to the importance of confidentiality in the handling of the complaint, particularly prior to the conclusion of an assessment. If Church personnel accused of abuse are asked to step aside from the office they hold while the matter is pending, it is to be clearly understood that they are on leave and that no admissions or guilt are implied by this fact. Every effort should be made to conclude inquiries as quickly as possible in relation to a person who has been asked to step aside from a position. Unless and until guilt has been admitted or proved, those accused should not be referred to as offenders or in any way treated as offenders.

## A RESPONSE TO THOSE GUILTY OF ABUSE

27. If guilt has been admitted or proved, the response must be appropriate to the gravity of what has happened, while being consistent with the civil law or canon law which governs that person's position. Account will be taken of how serious was the violation of the integrity of the pastoral relationship and whether there is a likelihood that such behaviour could be repeated. Serious offenders, in particular those who have been found responsible for sexually abusing a child or young person, or whose record of abuse of adult pastoral relationships indicates that they could well engage in further sexual exploitation of vulnerable adults, will not be given back the power they have abused. Those who have made the best response to treatment recognise this themselves and realise that they can no longer return to ministry.



28. We accept that the Church and the community expect of us a serious and ongoing role in seeking to ensure that offenders are held accountable for what they have done, come to a true appreciation of the enduring harm they have caused, seek professional help, and do whatever is in their power to make amends.
29. In order to carry out this responsibility, Church Authorities need to have some contact with offenders and some form of influence over their conduct. In order to achieve change, they need to be able to tell them that there can be forgiveness, by human beings as well as by God, and that change is possible.

## PREVENTION

30. We commit ourselves to making every effort to reduce risk of abuse by Church personnel through education and the implementation of appropriate codes of conduct. Special care shall be taken in relation to all who work with children and young people. No person shall be permitted to work in a position if the Church Authority believes, on the basis of all the information available, that there is an unacceptable risk that children or young people may be abused.
31. We continue to review the processes for selection and training of candidates for clerical and religious life and for their ongoing formation. Procedures for those employed in Church ministry will include police checks, verified references from previous employers and induction processes. No-one should be selected for clerical or religious life if, on all the information available, they would pose an unacceptable risk to children, young people or vulnerable persons.
32. We commit ourselves to the education of Church personnel on the seriousness of abuse and its adverse effects, and to a program of community education and awareness in recognising and responding to abuse.

## COMMITMENT

33. We commit ourselves to the principles presented in this document. We invite the whole Church to assist us in offering whatever healing is possible to victims of abuse and in preventing abuse in the future.



This page has been purposely left blank.





## PART THREE

### PROCEDURES FOR DEALING WITH COMPLAINTS OF ABUSE

#### 34. NOTES

- 34.1 This section of the document deals with the procedures to be applied where complainants (or others speaking on their behalf) seek a response from the Church as a result of alleged abuse by present or former Church personnel. It is to be implemented in the context of the previous sections on principles.
- 34.2 Information to make people aware that these procedures exist shall be widely circulated to the public and especially among Church counselling agencies, parishes and schools. The information shall set out as simply as possible the manner for making a complaint about abuse.
- 34.3 These procedures are a revised version of the document published by the Australian Catholic Bishops Conference and the Australian Conference of Leaders of Religious Institutes in 1996 and revised in 2000.
- 34.4 These procedures are intended to apply to all complaints of abuse by Church personnel within pastoral relationships, whether by clerics, religious personnel, lay employees or volunteers. In the case of current lay employees, the response of the Church Authority will be made in conjunction with the relevant body for employment relations in each State or Territory, or such other body as is set up for this purpose.
- 34.5 A complaint of abuse may raise medical, psychological, spiritual, legal and practical questions. An appropriate response may, therefore, need to be based on a team approach, subject to appropriate recognition of the needs for privacy and confidentiality.
- 34.6 In certain States and Territories of Australia, Church Authorities are subject to laws concerning how to deal with complaints of abuse that may affect the operation of the procedures in this document. An example of this is the operation of the Ombudsman Act 1974 (NSW). The procedures in this document must operate subject to the requirements of any such laws.

#### 35. STRUCTURES AND PERSONNEL

- 35.1 The Australian Catholic Bishops Conference and Catholic Religious Australia have jointly established a National Committee for Professional Standards (National Committee) to oversee the development of policy, principles and procedures in responding to complaints of abuse against Church personnel.



- 35.2 The bishops and leaders of religious institutes of the Catholic Church in Australia have established and shall maintain a Professional Standards Resource Group (Resource Group) responsible for each State and the Northern Territory.
- 35.2.1 The Resource Group shall consist of at least one priest or religious and a suitable number of other persons (no more than ten), both men and women, of diverse backgrounds and faith traditions, skilled in areas such as child protection, the social sciences, civil and Church law and industrial relations. Members of the Resource Group shall be appointed by the bishops and leaders of religious institutes.
- 35.2.2 The Resource Group shall have an advisory role in matters concerning professional standards to all Church bodies in the State or Territory.
- 35.2.3 In addition to responding to requests for assistance, the Resource Group shall also act in a proactive manner. It shall be free to offer advice within its mandate to any Church body in the State or Territory as it sees fit.
- 35.3 The bishops and leaders of religious institutes shall jointly be responsible for appointing a Director of Professional Standards responsible for each State and Territory.
- 35.3.1 The Director shall manage the process in relation to specific complaints, appoint assessors and facilitators when required, convene and chair meetings of the Professional Standards Resource Group as required; liaise with the National Committee, other Resource Groups, and individual Church bodies and their professional advisers; have an overview of all matters dealt with under these procedures within the Director's responsibilities; and be responsible for the safe-keeping of all documentation connected with these procedures.
- 35.3.2 In the event that a complaint of abuse is made against a bishop or leader of a religious institute, the role of the Director of Professional Standards for the case shall be undertaken by the Co-Chairpersons of the National Committee for Professional Standards acting together.<sup>1</sup>

---

<sup>1</sup> If a complaint of abuse is made against a bishop, the Church Authority for a suffragan, auxiliary or retired bishop shall be the Metropolitan; for the Metropolitan himself it shall be the suffragan bishop senior by promotion. For the purpose of these cases the Archbishop of Canberra and Goulburn, the Maronite bishop, the Melkite Eparch, the Ukrainian Eparch and the Military Ordinary shall be deemed to be suffragan of the Province of Sydney, and the Archbishop of Hobart shall be deemed to be a suffragan of the Province of Melbourne. If a complaint of abuse is made against a leader of a religious institute the Church Authority is determined to be:

- a) The diocesan bishop of the principal house (cf canon 595) for a major superior of an Institute of diocesan right; or
- b) The supreme moderator for a major superior of an institute of pontifical right; or
- c) The Congregation for Institutes of Consecrated Life and Societies of Apostolic Life (CICLSAL) for the supreme moderator of an institute of pontifical right.

The general principle applies in all cases that the "supreme moderator" of any ecclesiastical group is subject to the authority of an appropriate ecclesiastical superior, although the latter may delegate that authority to another person.



- 35.3.3 The Director shall also be responsible for ensuring that the complainant, and the accused if he or she participates in the process, are kept informed of progress in investigating and addressing the complaint, and the reasons for any substantial delay in the process.
- 35.3.4 The Director shall also be responsible for drawing to the attention of the Church Authority where any inactivity on the Church Authority's part is leading to undue delay.
- 35.3.5 The bishops and leaders of religious institutes may nominate a Deputy Director who may exercise any of the responsibilities which are delegated to him or her by the Director.
- 35.4 Each Resource Group shall appoint suitable persons from among its own members or otherwise, as contact persons to receive complaints of abuse. Contact persons shall be skilled listeners, sensitive to the needs of complainants. After the initial complaint has been received, they may act as a support person for the complainant if the complainant so wishes, and assist, where appropriate, with communication between the complainant, assessors and the Church Authority. He or she should be available to the complainant from the beginning to the end of the process. The contact person is not a counsellor to the complainant and shall not be the complainant's therapist.
- 35.5 Each Resource Group shall maintain a list of suitable persons, not from its own members, to fulfil the following roles:
- Assessors:** who shall be responsible for investigating the complaint, examining the areas of dispute and advising the Director of their findings.
- Facilitators:** who shall facilitate a meeting between the victim and the Church Authority and endeavour to mediate an agreement between a victim and the Church Authority about what the Church body can and should do to assist the victim. The names of approved facilitators shall be made available publicly by the Director of Professional Standards.
- 35.6 All members of the Resource Group shall abide by the highest possible standards of professional conduct in all aspects of their work, including the maintenance of confidentiality.
- 35.7 The Resource Group shall act in an advisory capacity to the Director of Professional Standards concerning any aspect of his or her work.
- 35.8 In addition to the above national and state structures, each diocesan bishop and religious leader of Australia shall have, or have access to, a Consultative Panel to advise and assist him or her at significant stages of the process.



- 35.8.1 The panel shall consist of at least five members who collectively provide the expertise, experience and impartiality which are necessary in this field.
  - 35.8.2 The panel must be consulted when a priest or religious is charged with a criminal offence in relation to a complaint of abuse.
  - 35.8.3 The panel must be consulted in any decision concerning whether a person constitutes an “unacceptable risk” to children, young people or vulnerable persons.
  - 35.8.4 The panel must be consulted in such other decisions as are indicated in these procedures.
- 35.9 The National Committee for Professional Standards shall appoint a National Review Panel drawn from the wider Australian community to decide upon requests concerning a review of process or findings and to fulfil such other functions as are assigned to it.
- 35.9.1 The National Review Panel shall consist of up to nine independent members, no more than three of whom shall be required for any particular case.
  - 35.9.2 The National Review Panel may deliberate in person, by exchange of letters, electronic mail or telephone, or by any other means.

## 36. RECEIVING A COMPLAINT

- 36.1 The process is commenced when the Church Authority or the Director of Professional Standards receives a written complaint, signed by the complainant, that includes his or her contact details, and the person making the complaint indicates that he or she wishes to invoke the procedures outlined in this document. There should be sufficient information about the nature of the complaint for the accused person to know what has been alleged against him or her.
- 36.2 Anonymous complaints are to be treated prudently. An anonymous complaint cannot have the full force of one made by an identified person, but anxiety and fear may persuade some complainants not to reveal their identity immediately. The Church Authority will be unable to act on the complaint under these procedures, other than to inform the police, unless at some point the name of the complainant becomes known.
- 36.3 A complaint may be received directly in writing by the Church Authority or by a Director of Professional Standards. Alternatively it may come verbally and be followed up by a contact person.
- 36.3.1 A contact person shall listen fully, honestly and compassionately to the person laying the complaint, both concerning the facts of the situation and its emotional, psychological and spiritual effects. The contact person shall explain the procedures for addressing the complaint and ensure that the complainant gives his or her consent to proceeding on the basis laid down in this document.



- 36.3.2 The contact person shall either receive a written and signed complaint, or assist the complainant by writing down the details of the complaint, to be confirmed by the signature of the complainant.
- 36.4 If a Church Authority receives a complaint directly, the complaint should be referred to the Director of Professional Standards to manage the process of responding to the complaint. In the event that a complaint is received by one Church Authority that ought to be dealt with by another, the complaint should be referred to the Director of Professional Standards to make the appropriate linkages.
- 36.5 If a complainant chooses to be represented by a lawyer in seeking compensation from the Church Authority, and is not seeking any form of pastoral support or other engagement with the Church, then the matter should proceed outside of **Towards Healing** by the normal means appropriate to the resolution of civil claims. The Church Authority should nonetheless endeavour to act with a concern for the wellbeing of the complainant in seeking to resolve the civil claim.
- 36.6 If a matter proceeds outside of the **Towards Healing** process, the Director of Professional Standards must still be informed of the matter and should take any steps necessary to investigate the risk to children, young people or vulnerable adults, if the accused remains in active ministry. The Director should seek the assistance of the complainant in any disciplinary investigation by the Church for the purposes of determining whether an accused person should remain in ministry.
- 36.7 In responding to the complaint, every effort should be made to minimise the number of times the complainant has to tell his or her story.
- 36.8 The process may involve the Director of Professional Standards arranging for the Church Authority (or his or her delegate) to meet with the complainant at an early stage of the process, to discuss how best to ensure the complainant can be supported in the interim.

## 37. CRIMINAL OFFENCES AND THE REPORTING OF CHILD ABUSE

- 37.1 When the complaint concerns an alleged crime, the contact person or Director of Professional Standards shall explain to the complainant that the Church has a strong preference that the allegation be referred to the police so that the case can be dealt with appropriately through the justice system. If desired, the complainant will be assisted to do this. Where it applies, the contact person shall also explain the requirements of the law of mandatory reporting.
- 37.2 If the complainant takes the matter to the police, the Director may make recommendations to the Church Authority concerning the funding of counselling or other such assistance for the complainant pending the outcome of the criminal justice process. The complainant should be advised that he or she may approach the Church again under **Towards Healing** when the criminal justice process has been concluded.



- 37.3 In all cases other than those in which reporting is mandatory, if the complainant indicates an intention not to take the matter to the police, this shall be recorded and confirmed by the signature of the complainant.<sup>2</sup> Unless and until the complainant signs this document, the matter cannot proceed to an assessment.
- 37.4 In the case of an alleged criminal offence, if the complainant does not want to take the matter to the police, all Church personnel should nonetheless pass details of the complaint to the Director of Professional Standards, who should provide information to the Police other than giving those details that could lead to the identification of the complainant.
- 37.5 Church personnel who are required by law to report suspected child abuse shall conscientiously comply with their obligations. State or Territory law regarding the reporting of knowledge of a criminal offence must also be observed. The appropriate Church Authority shall also be notified of any such report.
- 37.6 No Church investigation shall be undertaken in such a manner as to interfere in any way with the proper processes of criminal or civil law, whether such processes are in progress or contemplated for the foreseeable future. However, where the complainant has chosen not to report the matter to the police or other civil authority, or the civil authorities have decided not to take further action under the criminal law or child protection legislation, the Church Authority must act on the complaint.
- 37.7 The Director of Professional Standards shall endeavour to establish a protocol with the police in each relevant State or Territory to ensure that assessments under these procedures do not compromise any police action.

## 38. RESPONDING TO A COMPLAINT

- 38.1 The following procedures apply only where the complaint does not concern a criminal matter, or where a complainant has chosen not to report the matter to the police or other civil authority and wants to proceed under ***Towards Healing***, or the civil authorities have decided not to take further action under the criminal law or child protection legislation.

---

<sup>2</sup> When a complainant does not wish to go to the police or other appropriate authority and asks the Church to investigate an alleged crime, the complainant is required to sign the following statement before the Church takes any action:

"The Catholic Church has strongly urged me to take my complaint to the police or other civil authority. It has been carefully explained to me that any process the Church establishes will not have the same powers to investigate the matter and to test evidence as the courts have. A Church process cannot impose the same penalties as a criminal court. Aware of these limitations, I still state that I do not wish to take my complaint to the police or other civil authority at this time and I ask that a Church process be established."



- 38.2 The Director of Professional Standards shall determine whether the complaint concerns conduct which could reasonably be considered to fall within the definition of abuse in this document. If the complaint does not concern a matter which is to be dealt with by the procedure, such as inappropriate care practices in children's homes, he or she shall advise the complainant of other means of addressing the issue. The Director may assist in resolving the matter. The Director should advise the Church Authority of the action taken.
- 38.3 In cases where the behaviour complained of could reasonably be considered to fall within the definition of abuse in this document, but was not an alleged criminal offence, does not represent a serious breach of pastoral ethics and can properly be dealt with by correction and apology, the Director shall refer the matter to the Church Authority to be dealt with by counselling, voluntary mediation with the person against whom the complaint is made, or such other process as is appropriate to address the issue.
- 38.4 Apart from matters dealt with under 38.2 and 38.3, on receiving the complaint of abuse, the Director shall forward it to the appropriate Church Authority and may make a recommendation concerning any immediate action that needs to be taken in relation to the protection of children, young people and vulnerable adults. The Director may also make recommendations concerning the funding of counselling or other such assistance for the complainant pending the outcome of the process.
- 38.4.1 In situations where there is more than one Church Authority involved in relation to a complaint, the Director of Professional Standards should determine which Church Authority had the greatest involvement in the matter, and that Church Authority should be designated as the lead agency in responding to the complaint.
- 38.4.2 The lead agency, together with the Director of Professional Standards, shall liaise with any other Church Authority involved, in managing the process and in determining what response should be made to the complainant.
- 38.5 After receiving notice of the complaint, the Church Authority (or his or her delegate) shall, after consultation with the Director of Professional Standards, inform the accused of the nature of the complaint, unless through death, disappearance or disability it is not possible to do so. This should occur as soon as possible unless a delay in so doing is required by civil authorities. The accused needs to be given enough detail about the complaint, and the person who was allegedly abused, to be able to offer a response. The Director of Professional Standards may be involved in such a process. The accused shall be entitled to information about his or her rights and about the process for dealing with the complaint.
- 38.6 The accused shall be advised that he or she has the right to obtain independent legal advice. The advice shall normally be at the accused's expense, although the Church Authority may exercise a discretion to make loans or to reimburse an accused for reasonable legal expenses if he or she is unable to afford legal assistance.



- 38.7 The accused shall be offered a support person to represent the needs of the accused to the Church Authority and to assist, where appropriate, with the care of the accused and with communication between the accused, assessors and the Church Authority. The accused's support person shall not be the accused's therapist.
- 38.8 The Church Authority (or his or her delegate) shall seek a response from the accused in order to determine whether the facts of the case are significantly disputed. If they are not, then the Church Authority shall proceed in accordance with Clause 42 of these procedures. There does not need to be an assessment of the facts if the Church Authority is satisfied of the validity of the complaint.
- 38.9 Where there is a significant dispute or uncertainty about the facts the Director shall have the matter investigated in accordance with the procedures set out in this document to the extent that it is possible to do so.
- 38.10 At any time, the Director of Professional Standards may recommend to the Church Authority that the accused be asked to stand aside from a particular office or from all offices held in the Church, pending investigation, taking into account the gravity of the allegations and the risk of harm to others if the allegations are true. The Church Authority must seek the advice of the Consultative Panel before making a decision unless urgent action is required to address a significant risk of abuse, and shall give the accused the opportunity to be heard on the matter.
- 38.10.1 If there is seen to be any significant risk of abuse to other persons, the Church Authority must act at the earliest possible moment on the best advice available.
- 38.10.2 If accused persons are asked to stand aside from any office they hold while the matter is pending, it is to be clearly understood that they are on leave and that no admissions of any kind are implied by the fact. Accused persons shall, therefore, receive their normal remuneration and other entitlements while the matter is pending and they are standing aside. Where possible, they should be given some suitable activity. They shall not engage in any public ministry during this time.
- 38.11 The Church Authority should have regard to the support needs of the parish or other faith community in which the accused person has exercised pastoral ministry, in coming to terms with the allegations against the accused person.





## 39. SELECTING THE APPROPRIATE PROCESS

- 39.1 If the allegations concern a current employee of a Church body, other than a cleric or religious, then the Director should refer the complaint to the relevant body for employment relations to investigate in accordance with the applicable procedures of employment law (and any other relevant laws) in that State or Territory or such other body as is set up for this purpose. When the investigation has been completed, the Director of Professional Standards should liaise with the relevant body concerning how to respond to the victim if the complaint is validated. The response to the victim should follow the principles and procedures outlined in this document.
- 39.1.1 The documents or other material arising from the investigation are to be kept in accordance with the practices of the employing authority and any relevant laws.
- 39.2 If a Church penal process under canon law is commenced, the Church Authority should liaise with the Director of Professional Standards concerning how to respond to the victim if the complaint is validated. The response to the victim should follow the principles and procedures outlined in this document.
- 39.3 In all other cases where the facts of a case are in dispute, the Director of Professional Standards shall act in accordance with Clause 40 of these procedures.
- 39.4 If in the course of a Church procedure, allegations emerge for the first time which indicate that a criminal offence may have been committed, the Church procedure shall cease immediately and the matter will be dealt with in accordance with 37.1-37.6. If the complainant indicates an intention not to take the matter to the police, this should be recorded and confirmed by the signature of the complainant before the Church procedure resumes.
- 39.5 With the written approval of the Executive Officer of the National Committee for Professional Standards, the Director may depart from these processes if to do so would better accord with the principles in the special circumstances of the case.

## 40. ASSESSMENT

- 40.1 In all cases to which this Clause applies, the Director of Professional Standards shall appoint assessors. Two assessors shall be appointed unless the Director considers that in the circumstances one professional assessor is sufficient. A list of assessors shall be maintained by the Resource Group. The appointment of the assessors shall occur as soon as practicable.
- 40.1.1 The assessors chosen must be, and be seen to be, independent of the Church Authority, the complainant and the accused.



- 40.2 The purpose of an assessment is to investigate the facts of the case to the extent that it is possible to do so where there is a significant dispute or uncertainty as to the facts, or where there is a need for further information concerning the complaint.
- 40.3 The assessor or assessors shall arrange interviews with the complainant and the accused separately, and where feasible, such other persons as will aid the assessment process. Where there is more than one assessor, both should interview the complainant and the accused. The assessors should, at some stage of the process, put to the complainant the accused's version of events.
- 40.3.1 Where the complainant is not the victim, then the assessors shall not seek to interview the victim without first discussing the matter with the complainant and the Director of Professional Standards. If the facts are disputed, and it is not possible to interview the person who it is said has been victimised, then it may not be possible to proceed any further in dealing with the complaint unless other relevant information, such as a police record of interview, is available.
- 40.3.2 The complainant shall be invited to have a support person present at the interview.
- 40.3.3 Under no circumstances shall there be any attempt to intimidate a complainant or to dissuade a complainant from proceeding with a complaint.
- 40.3.4 No interview with a child or young person will take place if there is a risk that this will interfere with the proper process of civil or criminal law. No interview, either by a contact person or an assessor, shall be conducted with a child or young person without the express written authority of the parent or guardian. An interview with a child or young person shall only be conducted by personnel who are professionally recognised as skilled practitioners in interviewing children.
- 40.3.5 Special care shall also be taken in interviewing a person with an intellectual or psychiatric disability, and any such interview shall be conducted only by an appropriately qualified and experienced person.
- 40.3.6 The Director of Professional Standards has the discretion to close a matter if the complainant decides not to cooperate with an assessment process or in other respects does not cooperate with the Director in moving the process forward. The Church Authority should nonetheless take any steps necessary to investigate the matter, and to assess any risk to children, young people or vulnerable adults, if the accused remains in active ministry.



- 40.4 The assessor or assessors shall arrange an interview with the accused, if he or she is available and willing to speak to them. If the accused declines an interview, he or she should be given an opportunity to provide a written response to the complaint. If the accused does not wish to cooperate with the assessment, the assessment shall still proceed and the assessors shall endeavour to reach a conclusion concerning the truth of the matter so that the Church Authority can make an appropriate response to the complainant.
- 40.4.1 Where an interview with the accused takes place, the assessor or assessors shall inform the accused that in both civil and Church law a person is presumed innocent until proven guilty.
- 40.4.2 An accused person may be invited to admit to an offence but is not bound to do so, nor may an oath be administered.
- 40.5 The accused shall be invited to have a support person or legal adviser present during any interview.
- 40.6 The assessors should interview any other persons who could be of assistance.
- 40.7 Church Authorities shall comply with all reasonable requests made by assessors for access to documents which may assist them in their work, subject to any legal obligations of confidentiality.
- 40.8 A written or taped record shall be made of all interviews.
- 40.9 After the assessment is completed, the assessors shall provide a written report to the Church Authority and the Director of Professional Standards. The assessors shall review the evidence for the complaint, examine the areas of dispute and make findings about whether they consider the complaint to be true on the balance of probabilities, based upon the evidence available at that time.
- 40.9.1 The assessors must provide reasons for their findings. If they are unable to reach determination of the truth of the matter with a sufficient degree of certainty, they may nonetheless make recommendations to the Church Authority concerning its response to the complainant and this may include any matters that may be relevant to a risk assessment concerning the continuation of a person in a particular kind of ministry.
- 40.9.2 Where the behaviour about which complaint has been made was not a criminal offence, the assessors may also comment on how serious was the violation of the integrity of the pastoral role.



- 40.9.3 The complainant is entitled to know promptly the findings of the assessment and the reasons for them. The accused is also entitled to know promptly the findings of the assessment and the reasons for them if he or she has participated in the assessment, or otherwise could be subjected to disciplinary action by the Church Authority as a consequence of it. The Director of Professional Standards is responsible for communicating the relevant findings to the complainant, the accused and the Church Authority.
- 40.10 The Church Authority shall discuss the findings and recommendations of the report with the Director of Professional Standards as quickly as possible. If the assessors consider the complaint to be sustained, then the Church Authority must consider what action needs to be taken under Clauses 41 and 42 of these procedures. The Church Authority must seek the advice of the Consultative Panel and may also call upon the Director of Professional Standards for advice on these matters.
- 40.11 Mindful that the assessment process is a difficult and trying time for all concerned, particularly the complainant and the accused, the process of the assessment shall be undertaken and concluded as quickly as possible and the process shall be as transparent as possible to all concerned. The Director of Professional Standards shall seek to ensure that all parties adhere to this principle.
- 40.12 During the assessment and, therefore, at a time when guilt has been neither admitted nor proven, the issue of guilt or the particular course of action that may follow assessment cannot be commented upon. Any comment regarding these issues must always be referred to the Church Authority and its professional advisers.
- 40.13 The records of interview and all other documents or material associated with the assessment are to be treated as confidential. The Director of Professional Standards shall maintain a confidential record of all findings and any documents relevant to the suitability of the person for future ministry.

## **41. OUTCOMES RELATING TO THE VICTIM**

- 41.1 In the event that the Church Authority is satisfied of the truth of the complaint, whether through admission of the offender, a finding of a court, a penal process under canon law, an assessment under these procedures or otherwise, the Church Authority shall respond to the needs of the victim in such ways as are demanded by justice and compassion. Responses may include the provision of an apology on behalf of the Church, the provision of counselling services or the payment of counselling costs.
- 41.1.1 Financial assistance or reparation may also be paid to victims of a criminal offence or civil wrong, even though the Church is not legally liable.
- 41.1.2 A bishop or leader must seek the advice of the Consultative Panel in determining how to respond to the complainant.



- 41.2 The Church Authority may seek such further information as it considers necessary to understand the needs of the victim, including a report from a suitably qualified and independent professional concerning the impact of the abuse on the victim. Such a report will be at the Church Authority's expense.
- 41.3 Facilitation shall be the normal means of addressing the needs of the victim.
- 41.4 The Church Authority and the victim shall endeavour to agree on a facilitator, either from the approved panel or otherwise a qualified mediator approved by the Director for Professional Standards, who is suited by reason of training and experience to understand the needs of victims of abuse. In the absence of agreement, the Executive Officer of the National Committee for Professional Standards shall appoint a facilitator.
- 41.4.1 The facilitator shall arrange and moderate a process for communication between the victim and Church Authority (or delegate with power to make binding decisions). This may involve a meeting, under the direction of the facilitator, in which apologies can be offered and unresolved problems addressed through mediation.
- 41.4.2 The victim may have a support person or adviser present at the meeting. The Church Authority or delegate may also have an adviser if required.<sup>3</sup> The presence of any other persons accompanying either the victim or the Church Authority shall be subject to the agreement of the facilitator. The Director of Professional Standards should not normally participate in the facilitation process.<sup>4</sup>
- 41.4.3 The facilitator shall seek to know the ongoing needs of the victim and the response of the Church Authority to these needs. In the event that there are unresolved issues concerning monetary reparation other than through the provision of counselling costs or meeting other needs of the victim, these should be dealt with by negotiation outside of the facilitation, in order to seek a resolution on this aspect of the matter.
- 41.4.4 The facilitator shall also seek to know the support needs of the victim's family and of the community in whose midst the abuse occurred if the abuse is publicly known.
- 41.4.5 The facilitator shall seek to identify any outstanding issues where the victim is not satisfied with the response from the Church Authority and shall explore with both parties the best means of dealing with such issues.
- 41.4.6 The facilitator shall ensure that there is a record of any agreement reached and of any outstanding areas of disagreement.

---

<sup>3</sup> If the complainant is not legally represented at the meeting, there should not be a lawyer for the Church Authority present either.

<sup>4</sup> The Director may participate in the facilitation if approval is given in accordance with 39.5



- 41.4.7 The facilitator shall inform the Director of Professional Standards of the outcome, and whether the facilitator considers that any other processes or actions would assist further in bringing the matter to a conclusion.
  - 41.4.8 The Church Authority shall bear all ordinary and reasonable expenses of the process of facilitation
  - 41.4.9 The Church Authority should not require the victim to sign a Deed of Release unless the victim has had independent legal advice or has indicated in writing that he or she declines to seek legal advice.
  - 41.4.10 The Church Authority shall pay for the reasonable costs involved in obtaining legal advice on a Deed of Release, and may pay a contribution towards the reasonable costs of other professional advice or assistance that have been incurred in the process of reaching an agreement.
- 41.5 Complainants shall not be required to give an undertaking which imposes upon them an obligation of silence concerning the circumstances which led them to make a complaint, as a condition of an agreement with the Church Authority.

## 42. OUTCOMES RELATING TO THE ACCUSED

- 42.1 A bishop or leader must seek the advice of the Consultative Panel in determining outcomes relating to the accused.
- 42.2 If either a police investigation, a civil process or a Church procedure makes it clear that the accused did not commit the alleged wrong, the Church Authority shall take whatever steps are necessary to restore the good reputation of the accused, in consultation with the accused.
- 42.3 If abuse is admitted, or an assessment under these procedures reaches the conclusion that on the basis of the findings of the assessment there are concerns about the person's suitability to be in a position of pastoral care, the Church Authority, in consultation with the Director of Professional Standards and the Consultative Panel, shall consider what action needs to be taken concerning the future ministry of the person, taking account of the degree of risk of further abuse and the seriousness of the violation of the integrity of the pastoral relationship. The Church Authority may commission such other professional reports or make other inquiries as are necessary to determine what action should be taken.
- 42.4 Where the offender is a current employee of the Church other than a cleric or religious, the offender's future must be determined in accordance with the applicable procedures of employment law.



- 42.5 If a cleric or religious has admitted to or been found guilty of abuse, the Church Authority shall, in person or through a delegate, meet with the offender to discuss honestly and openly the offender's future options. The offender may be accompanied by a support person and/or legal adviser. The discussion shall take into account the seriousness of the offence and all relevant circumstances. It is unfair to hold out to a serious offender any hope of a return to ministry when it is clear that this will not be possible. The decisions of the Church Authority as to future ministry of a cleric or religious are to be made in a manner that is not inconsistent with the provisions of Church law.
- 42.6 In making decisions on the future of a person found guilty of abuse, the Church Authority shall take such action as the situation and the seriousness of the offence demand. In relation to child abuse, the Church Authority shall be guided by the principle that no-one should be permitted to exercise a public ministry if doing so presents an unacceptable risk of abuse to children and young people.
- 42.7 As far as it is within its power to do so, the Church Authority shall require the offender to address the issue of reparation to the victim and to the Church community.
- 42.8 The Church Authority shall promptly communicate the outcomes in relation to an offender to the Director of Professional Standards.

### 43. OUTCOMES RELATING TO OTHER AFFECTED PEOPLE AND COMMUNITIES

- 43.1 Mindful that when a complaint of abuse is found to be true, or when people are wrongly accused of abuse, families and faith communities are affected, the Church Authority should consider what steps need to be taken to assist affected people through the provision of counselling or other pastoral support, following the conclusion of the process.

### 44. REVIEW OF PROCESS AND FINDINGS

- 44.1 A review of the ***Towards Healing*** process, and/or the findings of the assessment, is available to the complainant, the accused and the Church Authority.
- 44.1.1 A person requesting a review should make the request in writing to the Director of Professional Standards and should provide reasons for his or her dissatisfaction with the process or findings.
- 44.1.2 The Director of Professional Standards shall refer the request to the Chairperson of the National Review Panel who shall arrange for a review to take place.
- 44.1.3 A review is available for accused persons only if they co-operated with the assessment process.



- 44.2 The review is an independent evaluation, not only of whether there is substance in any of the grounds for complaint, but also whether the principles established in the first part of the document have been adhered to. A review of process and findings is not a review of the outcomes determined under Parts 41 and 42 respectively.
- 44.3 A complainant may seek a review within three calendar months of the end of the facilitation or otherwise when the Church Authority gives its response to the complaint, or has failed to offer a response within three calendar months of the time when an assessment has been completed.
- 44.4 The accused and the Church Authority may seek a review within three calendar months of the time when the Director of Professional Standards has furnished the assessment report to the Church Authority.
- 44.5 The Chairperson of the Review Panel may allow a review outside of the three months' time limit if there are compelling reasons to accept a request for review.
- 44.6 The Reviewer shall determine the procedures for the conduct of the review. Where it is necessary to do so, this may involve speaking to the complainant, the accused person or any other person concerned with the case. The complainant or accused, as the case may be, who is not the applicant for the review, should be made aware of grounds for the review that concern factual matters about which they may be able to provide further information
- 44.6.1 The Reviewer shall have access to all relevant documentation.
- 44.6.2 The Reviewer shall conduct the review expeditiously and certainly within three calendar months, unless the National Review Panel provides for a further extension of time.
- 44.7 At the end of the review, the Reviewer shall provide a written report with recommendations to the Chairperson of the National Review Panel.
- 44.8 If the Reviewer considers that there has been a failure to observe the required processes, or identifies deficiency in the findings, the Chairperson shall discuss the case with the Reviewer and at least one other member of the National Review Panel. The Panel shall consider the Reviewer's report and make such recommendations as it sees fit to the Church Authority in relation to the complaint.
- 44.9 The National Review Panel may substitute its own findings for those of the assessor or assessors, provided that it has all the information available to do so. The Panel may direct that a further assessment be undertaken.
- 44.10 A copy of the report and the Panel's recommendations shall also be given to each party, the Director of Professional Standards in the relevant State or Territory, the Professional Standards Resource Group and the National Committee for Professional Standards.
- 44.11 The Church Authority shall bear all ordinary and reasonable expenses of the review.





## 45. PREVENTIVE STRATEGIES

- 45.1 Each Church Authority shall ensure that all Church personnel are made aware of the seriousness of abuse. They should be warned of behaviour that is inappropriate or which could be interpreted as involving improper behaviour. Clerics and religious shall also be given support in fulfilling a celibate vocation.
- 45.2 Each Church Authority shall ensure that those working with children and young people are made aware of the issue of child abuse and are given information concerning processes for reporting disclosures of abuse. They should also be given information on how to conduct children's and youth ministry in such a manner as to reduce the risk of child abuse occurring.
- 45.3 Church bodies, especially those involved in providing care for children and young persons, shall have in place procedures, consistent with good child protection and industrial relations practice, for verifying the suitability of persons for employment or for participation as volunteers. They shall obey all applicable laws concerning employment screening and the prohibition of certain convicted persons from employment involving children.
- 45.4 Whenever a Church Authority is concerned about the behaviour of any person connected with that Church body that is inappropriate and which might lead to an allegation of abuse, this fact should be brought to the attention of the person and appropriate steps taken to determine whether the behaviour is the symptom of a deeper problem requiring attention.
- 45.5 Church personnel who feel that they might be in danger of committing sexual abuse shall be offered opportunities to seek both spiritual and psychological assistance, and advice about remaining in their position, before the problem becomes unmanageable and they offend. Names of suitable therapists and treatment programs should be made available.
- 45.6 Whenever a cleric or religious is to transfer from one diocese or institute to another (whether within Australia or coming from overseas), or is to carry out a ministry or apostolate in another diocese or institute, the Church Authority to which the person is to be transferred shall ask for a written statement from the cleric or religious indicating whether there have been any substantiated complaints of abuse against him or her, or whether there are known circumstances that could lead to a complaint of abuse. Such statements shall be held as confidential documents by the Church Authority.



- 45.7 In these same circumstances the Church Authority in the diocese or institute where the cleric or religious previously lived and worked, shall provide a statement in writing to the new diocese or institute indicating whether such authority knows of any complaints of abuse which have been substantiated, or is aware of circumstances that could lead to a complaint of abuse, or whether it considers that there would be an unacceptable risk to children, young people or vulnerable adults if the person were to be allowed to engage in particular kinds of ministry. Where there has been a substantiated complaint, the Church Authority shall furnish all information necessary to evaluate the seriousness of the offence, and shall report on all treatment undertaken, and other measures employed to ensure that further offences do not occur. Such statements shall be held as confidential documents by the Church Authority.
- 45.8 Each Church Authority shall have in place procedures for verifying the suitability of candidates for seminaries or religious institutes. In particular, candidates must be asked to state in writing whether they have a criminal record, or any complaints of abuse have been made against them, or whether there are any known circumstances that could lead to a complaint of abuse against them.
- 45.9 Any proven incident of sexual assault or other serious abuse must lead to the dismissal of a seminarian from a seminary or a candidate from an institute's program of formation.
- 45.10 Church Authorities shall be honest and frank in references and shall not act in a way which would allow an offender to obtain employment in circumstances where others might be at risk.
- 45.11 In addition to the above requirements, Church Authorities shall comply with all requirements of civil law concerned with the employment of persons in work involving children and young people.

## 46. CONCLUDING STATEMENTS

- 46.1 All Church Authorities shall take the necessary steps to conduct such in-service programs for Church personnel as may be necessary to inform them of the principles and procedures set down in this document.
- 46.2 While the distribution of this document is unrestricted, the publication of the document, its implementation, and all matters of interpretation are reserved to the National Committee for Professional Standards.
- 46.3 Abuse of children, young people and vulnerable adults by Church personnel has done great harm to individuals and to the whole Church. Despite this, it can become an opportunity to create a better Church, but only if the response given by the leaders and all the members of the Church is humble, honest and thoroughly Christian.



NOTES



NOTES



## **Annexure 6**

Towards Healing – Principles and Procedures in Responding to Complaints of Abuse Against Personnel of the Catholic Church in Australia, 2000 (incorporating amendments May/June 2003)

# *Towards Healing*

Principles and procedures in responding to  
complaints of abuse against personnel  
of the Catholic Church in Australia  
December 2000

# *Towards Healing*

Principles and procedures in responding to  
complaints of abuse against personnel  
of the Catholic Church in Australia  
December 2000

Australian Catholic Bishops' Conference & the  
Australian Conference of Leaders of Religious Institutes

## *Towards Healing*

Principles and procedures in responding to  
complaints of abuse against personnel of the  
Catholic Church of Australia

Dialogue or comments about the principles and  
procedures in this document are invited and should

be addressed to:

Executive Officer  
National Committee for Professional Standards  
PO Box 981  
Bondi Junction NSW 1355

Phone: 02 9387 2400 Fax: 02 9386 1400

The National Committee for Professional Standards is a committee established by the Australian Catholic Bishops' Conference & the Australian Conference of Leaders of Religious Institutes to oversee the development of policy, principles and procedures in responding to Church-related abuse complaints.

Additionally, each state has a Director of Professional Standards and a Resource Group to advise and assist in matters concerning Church-related abuse and to appoint suitable people as contact persons, support persons, assessors, facilitators and reviewers of process. The phone numbers for the State Professional Standards offices are:

New South Wales	1300 369 977	Tasmania	1800 356 613
Northern Territory	07 4789 1044	Victoria	1800 816 030
Queensland	1800 337 928	Western Australia	1800 072 390
South Australia	08 8223 5890		



© Australian Catholic Bishops' Conference & the Australian  
Conference of Leaders of Religious Institutes, 1996  
*National Committee for Professional Standards*

This work is copyright. It may be reproduced in whole or  
in part for research, study or training purposes subject to  
the inclusion of an acknowledgement of the source and  
no commercial usage or sale. Reproduction for purposes  
other than those covered above, requires the written  
permission of the Australian Catholic Bishops' Conference and  
the Australian Conference of Leaders of Religious Institutes.  
Requests and inquiries concerning reproduction and rights  
should be addressed to:

Executive Officer,  
National Committee for Professional Standards.

ISBN 0 949258 11 3

*Design and layout by*  
Cook Green & Moore

*Printing by*  
Centre State Printing

*Towards Healing -*  
1st Published December 1996

*Towards Healing -*  
Revised December 2000

---

## *Contents*

<u>INTRODUCTION:</u> .....	1
<u>PART ONE:</u>	
<b>PRINCIPLES FOR DEALING WITH     COMPLAINTS OF ABUSE</b> .....	2-6
Sexual Abuse .....	2
Physical and Emotional Abuse .....	2
The Victims .....	3
The Offenders .....	3
The Response of the Church .....	3-6
Commitment .....	6
<u>PART TWO:</u>	
<b>PROCEDURES FOR DEALING WITH     COMPLAINTS OF ABUSE</b> .....	7-24
33. Notes .....	7
34. Definitions .....	7-8
35. Structures and Personnel .....	9-10
36. Receiving a Complaint .....	11
37. Criminal Offences and the Reporting of Child Abuse ...	11-12
38. Responding to a Complaint .....	12-14
39. Selecting the appropriate Process .....	14-15
40. Assessment .....	15-18
41. Outcomes Relating to The Victim .....	18-20
42. Outcomes Relating to The Accused .....	20-21
43. A Review of the Process .....	21-22
44. Preventative Strategies .....	22-24
45. Concluding Statements .....	24

---

## *Introduction*

As bishops and leaders of religious institutes of the Catholic Church in Australia, we acknowledge with deep sadness and regret that a number of clergy and religious have abused children, adolescents and adults who have been in their pastoral care. To these victims we offer our sincere apology.

In December 1996 we published a document, *Towards Healing*, setting out the principles that must form the basis of the Church's response to complaints of abuse and the procedures to be followed in responding to individual complaints. We stated that this document would be in force for only a limited time and was "intended as a means of seeking the comments of all interested persons in the community".

In accordance with this intention, Professor Patrick Parkinson, pro-Dean of the Faculty of Law at Sydney University and author of the book *Child Sexual Abuse and the Churches*, was asked to lead the process of revision of the document. This process included broad consultation with complainants, accused, church authorities, and the various persons who had a role in responding to complaints - contact persons, assessors etc. Consideration of the requirements of Canon Law was also part of the revision, so that decisions made through *Towards Healing* could be securely implemented.

As a result of the experience of the last four years and the feedback provided during the consultation, a number of changes have been made. The major change in the principles is the extension of abuse to include sexual, physical and emotional abuse, formalising a change that had already been accepted as experience unfolded. The more numerous changes to the procedures aim to clarify the steps to be taken and provide a document that is clear and able to be applied to the many and varied matters that can be brought forward. The goal of moving "towards healing" remains paramount.

Like the earlier document, this document establishes public criteria according to which the community may judge the resolve of Church leaders to address issues of abuse within the Church. If we do not follow the principles and procedures of this document, we will have failed according to our own criteria.

We express our gratitude to Professor Patrick Parkinson and to all who contributed to the process of revision.<sup>1</sup>

---

1 The Archdiocese of Melbourne and the Society of Jesus have in place sets of procedures that are of similar intention to those set out in Part 2 of this document. Both sets of procedures are designed to meet the principles of Part 1. Accordingly it is acknowledged that the procedures of Part 2 do not apply to the Archdiocese of Melbourne and the Society of Jesus.

Part One

## PRINCIPLES FOR DEALING WITH COMPLAINTS OF ABUSE

### SEXUAL ABUSE

1. Clergy and religious are in a special position of trust and authority in relation to those who are in their pastoral care, e.g. those in their parish, people seeking advice, students at a Catholic school. Any attempt to sexualise a pastoral relationship is a breach of trust, an abuse of authority and professional misconduct. Such sexualisation may take the form not only of sexual relations, but also harassment, molestation, and any other conduct of a sexual nature which is inconsistent with the integrity of a pastoral relationship. Compliance by the other person does not necessarily imply meaningful consent. Even when the other person concerned is the one who seeks to sexualise the relationship, it is the professional responsibility of clergy or religious to guard the boundary against sexual contact.
2. Other people who are employed by an official agency of the Catholic Church or appointed to voluntary positions may also be in a pastoral role. This includes, for example, pastoral workers in parishes, teachers in Catholic Schools, counsellors in Catholic welfare organisations, health care professionals, youth workers, staff in child care centres, and volunteers conducting religious education classes in schools or parishes.
3. Any form of sexual behaviour with a minor, whether child or adolescent, is always sexual abuse. It is both immoral and criminal.
4. Sexual abuse by clergy, religious, or other Church personnel of adults in their pastoral care may be subject to provisions of civil or criminal law. Even when there are no grounds for legal action, we recognise that serious harm can be caused.

### PHYSICAL AND EMOTIONAL ABUSE

5. Physical and emotional cruelty also constitute an abuse of power. Where a priest, religious or another person appointed to a position of pastoral care by an agency of the Church has acted towards a child or young person in a way which causes serious physical pain or mental anguish without any legitimate disciplinary purpose as judged by the standards of the time when the incidents occurred, then this constitutes abuse.

## THE VICTIMS

6. Victims of abuse can experience fear, shame, confusion and the violation of their person. They can feel guilty, blame themselves and take responsibility for what has happened. Children and adolescents can suffer distortions in the process of determining their identity as persons. They may find it difficult to trust those in positions of authority or pastoral care or to believe in or trust in God. Victims can go through a long period of silence, denial and repression. Other people can refuse to believe them, reinforcing their sense of guilt and shame.
7. The intensity of the effects of abuse on victims will vary. Some of the factors involved are the age and personality of the victim, the relationship with the offender, the duration and frequency of the abuse, the particular form of the abuse, the degree of force used, the threats used to compel secrecy, the degree of violation of trust and abuse of power involved and the reaction of those in whom the victim confides.
8. We recognise that responses to victims by the many Church authorities vary greatly. We express regret and sorrow for the hurt caused whenever the response denies or minimises the pain that victims have experienced. Through this document we commit ourselves to principles and procedures that apply to all Church authorities.

## THE OFFENDERS

9. In most cases of abuse free choices are made and many serious and sacred obligations are violated. These very facts argue to a clear awareness by the offender of the wrong that is being done.
10. Offenders frequently present as respectable, good and caring people. They can be quite exemplary in their public life, and they can actually use this as an excuse for a private life that contradicts their public image.
11. At the same time, a number of offenders are disturbed persons and some have serious psychological problems. A significant number were themselves victims of abuse in their earlier years.

## THE RESPONSE OF THE CHURCH

12. The Church makes a firm commitment to strive for seven things in particular: truth, humility, healing for the victims, assistance to other persons affected, an effective response to those who are accused, an effective response to those who are guilty of abuse and prevention of abuse.

## TRUTH

13. The Church makes a commitment to seek to know the full extent of the problem of abuse and the causes of such behaviour within a community that professes the values of Jesus Christ.
14. Concealing the truth is unjust to victims, a disservice to offenders and damaging to the whole Church community.

## HUMILITY

15. It is very humbling for a Christian Church to have to acknowledge that some of its clergy, religious and other Church personnel have committed abuse. We must recognise that humility is essential if we are to care for victims and prevent abuse in the future.

## HEALING FOR THE VICTIMS

16. Whenever the offender is a clergyman, religious or another person appointed to a position of pastoral care by an agency of the Church, Church authorities accept that they have a responsibility to seek to bring healing to those who have been victims of abuse.
17. A compassionate response to the complainant must be the first priority in all cases of abuse.
18. This attitude must be present even at a time when it is not yet certain that the allegations are accurate. At the first interview complainants should be assured that, if the facts are truly as stated, abuse must be named for what it is and victims assisted to move the blame from themselves to the offender. They should be asked what needs to be done to ensure that they feel safe from further abuse. They should be offered whatever assistance is appropriate. These responses do not pass judgment on or prejudice the rights of the person accused, but they are part of the Christian response to the very possibility that the person present is a victim of abuse.
19. Whenever it is established, either by admission or by proof, that abuse did in fact take place, the Church authority shall listen to victims concerning their needs and ensure they are given such assistance as is demanded by justice and compassion. Details concerning the procedures to be followed are contained in the second half of this document.

## ASSISTANCE TO OTHER PERSONS AFFECTED

20. We shall also strive to assist in the psychological and spiritual healing of those persons who, as well as the victims, have been seriously affected by incidents of abuse.

### ASSISTANCE TO OTHER PERSONS AFFECTED cont...

21. The effect on the family of the victim can be profound. Sometimes the disclosure is so terrible that the family would rather reject the victim than face the reality. Parents can feel guilty that they did not protect their child more effectively.
22. The parish, school or other community in which the abuse occurred may be deeply affected. The more popular and respected the perpetrator, the greater will be the shock.
23. The family and close friends of the offender may also be deeply hurt. They can find it difficult to know how to respond and how to act towards the offender.
24. When clergy or religious are found to have committed child abuse, then other clergy and religious are affected, and the thought that other people might be looking at them as potential child abusers can be a cause of personal stress. Clergy and religious have had to make changes in their manner of relating to all young people and some good things have been lost in these changes.
25. The whole Church community has been affected by incidents of abuse, for all Catholic people have been dismayed by the stories they have heard. The reputation of the whole Church has been affected and the religious faith of many has been disturbed.

### A RESPONSE TO THOSE ACCUSED

26. All persons are presumed innocent unless and until guilt is either admitted or determined by due process. If Church personnel accused of abuse are asked to step aside from the office they hold while the matter is pending, it is to be clearly understood that they are on leave and that no admissions or guilt are implied by this fact. Unless and until guilt has been admitted or proved, those accused should not be referred to as offenders or in any way treated as offenders.

### A RESPONSE TO THOSE GUILTY OF ABUSE

27. If guilt has been admitted or proved, the response must be appropriate to the gravity of what has happened, while being consistent with the precepts of Canon Law or civil law which govern that person's position. Account will be taken of how serious was the breach of professional responsibility, the degree of harm caused, and whether there is a likelihood that such behaviour could be repeated. [Serious] offenders will not be given back the power they have abused. Those who have made the best response to treatment recognise this themselves and no longer claim a right to return to ministry.

### A RESPONSE TO THOSE GUILTY OF ABUSE cont...

28. We accept that the community expects of us a serious and ongoing role in seeking to ensure that offenders are held accountable for what they have done, come to a true appreciation of the enduring harm they have caused, seek professional help in overcoming their problems, and do whatever is in their power to make amends.
29. In order to carry out this responsibility, Church authorities need to have some contact with offenders and some form of influence over their conduct. In order to achieve change, they need to hold out to them something more than the prospect of unending condemnation. They need to be able to tell them that there can be forgiveness, by human beings as well as by God, and that change is possible.

### PREVENTION

30. We commit ourselves to making every effort to reduce the risk of abuse by Church personnel. Special care shall be taken in relation to all work with children and young people. No person shall be permitted to work in a position if the Church authority believes, on the basis of all the information available, that there is an [unacceptable] risk that children or young people may be abused.
31. We continue to review the selection of candidates for priesthood and religious life and their ongoing formation. We commit ourselves to a process of community education and awareness in recognising and responding to abuse.

### COMMITMENT

32. We commit ourselves to the principles presented in this document. We invite the whole Church to assist us in offering whatever healing is possible to victims of abuse and in preventing abuse in the future.



### A RESPONSE TO THOSE GUILTY OF ABUSE cont...

28. We accept that the community expects of us a serious and ongoing role in seeking to ensure that offenders are held accountable for what they have done, come to a true appreciation of the enduring harm they have caused, seek professional help in overcoming their problems, and do whatever is in their power to make amends.
29. In order to carry out this responsibility, Church authorities need to have some contact with offenders and some form of influence over their conduct. In order to achieve change, they need to hold out to them something more than the prospect of unending condemnation. They need to be able to tell them that there can be forgiveness, by human beings as well as by God, and that change is possible.

### PREVENTION

30. We commit ourselves to making every effort to reduce the risk of abuse by Church personnel. Special care shall be taken in relation to all work with children and young people. No person shall be permitted to work in a position if the Church authority believes, on the basis of all the information available, that there is an [unacceptable] risk that children or young people may be abused.
31. We continue to review the selection of candidates for priesthood and religious life and their ongoing formation. We commit ourselves to a process of community education and awareness in recognising and responding to abuse.

### COMMITMENT

32. We commit ourselves to the principles presented in this document. We invite the whole Church to assist us in offering whatever healing is possible to victims of abuse and in preventing abuse in the future.

**Part Two**

**PROCEDURES FOR DEALING WITH COMPLAINTS OF ABUSE**

**33. NOTES**

- 33.1 This section of the document deals with the procedures to be applied where victims (or other complainants on their behalf) seek a response from the Church as a result of abuse. It is to be implemented in the context of the previous sections on principles.
- 33.2 These procedures are a revised version of the document published by the Australian Catholic Bishops' Conference and the Australian Conference of Leaders of Religious Institutes in 1996.
- 33.3 These procedures are intended to apply to all complaints of abuse by Church personnel, whether they be clerics, religious personnel, lay employees or volunteers. In the case of current lay employees, the response of the Church authority will be made in conjunction with the relevant body for employment relations in each state or territory.
- 33.4 A complaint of abuse may raise medical, psychological, spiritual, legal and practical questions. An appropriate response may, therefore, need to be based on a team approach

**34. DEFINITIONS**

**'Abuse'** means:

- Sexual assault, sexual harassment or any other conduct of a sexual nature that is inconsistent with the integrity of the relationship between Church personnel and those who are in their pastoral care.
- Behaviour by a person with responsibility for a child or young person which causes serious physical pain or mental anguish without any legitimate disciplinary purpose as judged by the standards of the time when the behaviour occurred.

**'Accused'** means the person against whom a complaint of abuse is made.

**'Children and young people'** refers to those persons under the age of 18.

**34. DEFINITIONS cont...**

'**Church authority**' includes a bishop, a leader of a religious institute and the senior administrative authority of an autonomous lay organisation, and their authorised representatives, responsible for the Church body to which the accused person is or was connected.

'**Church body**' includes a diocese, religious institute and any other juridical person, body corporate, organisation or association, including autonomous lay organisations, that exercise pastoral ministry within, or on behalf of, the Catholic Church.

'**Church personnel**' includes any cleric, member of a religious institute or other persons who are employed by a Church body, or appointed by a Church body to voluntary positions in which they work with children or young people, or engage in other forms of pastoral care.

'**Church procedure**' means a penal process under canon law, or a disciplinary process in relation to a person who is employed by a Church body, or an assessment process under Clause 40 of these procedures.

'**Civil authorities**' include members of the police service as well as officials of the government departments responsible for child protection, for the administration of laws relating to complaints of sexual harassment, for the discipline of professions and for industrial relations.

'**Complainant**' means the person who has alleged abuse against Church personnel. In most but not all cases the complainant will also be the person against whom it is alleged that the abuse was directed, and this is to be understood in this document unless the context suggests otherwise.

'**Offender**' means a person who has admitted abuse or whose responsibility for abuse has been determined by a court of law or by due process in accordance with canon law, or a disciplinary process in relation to a person who is employed by a Church body, or an assessment process under Clause 40 of these procedures.

'**Pastoral care**' means the work involved or the situation which exists when one person has responsibility for the wellbeing of another. This includes the provision of spiritual advice and support, education, counselling, medical care, and assistance in times of need. All work involving the supervision or education of children and young people is a work of pastoral care.

'**Victim**' means the person against whom the abuse was directed.

35. STRUCTURES AND PERSONNEL

- 35.1. The Australian Catholic Bishops' Conference and the Australian Conference of Leaders of Religious Institutes have jointly established a National Committee for Professional Standards (National Committee) to oversee the development of policy, principles and procedures in responding to complaints of abuse against Church personnel.
- 35.2 The bishops and leaders of religious institutes of the Catholic Church in Australia have established and shall maintain a Professional Standards Resource Group (Resource Group) in each State and the Northern Territory.
- 35.2.1 The Resource Group shall consist of at least one priest and one religious and a suitable number of other persons (no more than ten), both men and women, of diverse backgrounds, skilled in areas such as child protection, the social sciences, civil and Church law and industrial relations. Members of the Resource Group shall be appointed by the bishops and leaders of religious institutes.
- 35.2.2 The Resource Group shall act as adviser to all Church bodies in the State in matters concerning professional standards.
- 35.2.3 In addition to responding to requests for assistance, the Resource Group shall also act in a proactive manner. It shall be free to offer advice within its mandate to any Church body in the State as it sees fit.
- 35.3 The bishops and leaders of religious institutes for each State shall jointly be responsible for appointing a Director of Professional Standards in each State.
- 35.3.1 The Director shall manage the process in relation to specific complaints, appoint assessors, facilitators and reviewers when required, convene and chair meetings of the Professional Standards Resource Group as required; liaise with the National Committee, other Resource Groups, and individual Church bodies and their professional advisers; have an overview of all matters dealt with under these procedures within their State; and be responsible for the safe-keeping of all documentation connected with these procedures.
- 35.3.2 The bishops and leaders of religious institutes for each State may nominate a Deputy Director who may exercise any of the responsibilities which are delegated to him or her by the Director.

**35. STRUCTURES AND PERSONNEL cont...**

- 35.4 Each Resource Group shall appoint suitable persons from among its own members or otherwise, to be available to fulfil the following roles:

**CONTACT PERSONS**, who shall be the usual persons to receive complaints of abuse and pass them on to the Director of Professional Standards. Contact persons shall be skilled listeners, sensitive to the needs of complainants. After the initial complaint has been received, they may act as a support person for the complainant and may assist, where appropriate, with communication between the complainant, assessors and the Church authority. The contact person is not a counsellor to the complainant and shall not be the complainant's therapist.

**ACCUSED'S SUPPORT PERSONS**, who shall represent the needs of the accused to the Church authority and assist, where appropriate, with the care of the accused and with communication between the accused, assessors and the Church authority. The accused's support person shall not be the accused's therapist.

- 35.5 Each Resource Group shall maintain a list of suitable persons, not from its own members, to fulfil the following roles:

**ASSESSORS**, who shall be responsible for investigating the complaint.

**FACILITATORS**, who shall facilitate processes by which agreements may be reached between a victim and the Church authority about what the Church body can and should do to assist the victim.

**REVIEWERS**, who shall, where appropriate, conduct a review of process. Reviewers must be independent and impartial. They should not have close associations either with the complainant or with the Church authority responsible for dealing with the complaint.

- 35.6 All members of the Resource Group shall abide by the highest possible standards of professional conduct in all aspects of their work, including the maintenance of confidentiality.
- 35.7 The Group shall act in an advisory capacity to the Director of Professional Standards concerning any aspect of his or her work.

**35. STRUCTURES AND PERSONNEL cont...**

35.8 In addition to the above national and state structures, each diocesan bishop and religious leader of Australia shall have a consultative panel to advise and assist him or her at all stages of the process.

35.8.1 The panel shall consist of at least five members who collectively provide the expertise, experience and impartiality that are necessary in this field.

35.8.2 The bishop/leader must consult with this panel concerning the issues contained in nos. 38.8, 40.12, 41 and 42 of this process, and may well experience the need to consult concerning the issues raised in nos. 38.5, 39.2, 40.8 and 43.

35.8.3 The panel must be consulted when an alleged crime is prosecuted before a criminal court.

35.8.4 The panel must be consulted in any decision concerning whether a person constitutes an "unacceptable risk" to vulnerable persons.

**37. CRIMINAL OFFENCES AND THE REPORTING OF CHILD ABUSE**

37.1 When the complaint concerns an alleged crime, the Contact Person shall explain to the complainant that any process the Church establishes cannot compel witnesses, subpoena documents or insist on a cross-examination of witnesses. It cannot impose the same penalties as a criminal court. Because of these serious limitations, the Church has a strong preference that the allegation be referred to the police and, if desired, the complainant will be assisted to do this. Where it applies, the Contact Person shall also explain the requirements of the law of mandatory reporting.

37.2 In all cases other than those in which reporting is mandatory, if the complainant indicates an intention not to take the matter to the police, this shall be recorded by the Contact Person and confirmed by the signature of the complainant. Unless and until the complainant signs this document, the Church process cannot proceed beyond no. 38.4.

Appendix – 37.2

When a complainant does not wish to go to the police or other appropriate authority and asks the Church to investigate an alleged crime the complainant is required to sign the following statement before the Church takes any action:

"The Catholic Church has strongly urged me to take my complaint to the police or other civil authority. It has been carefully explained to me that any process the Church establishes cannot compel witnesses, subpoena documents or insist on a cross-examination of witnesses. It cannot impose the same penalties as a criminal court. Aware of these limitations, I still state that I do not wish to take my complaint to the police or other civil authority at this time and I ask that a Church process be established."

*Towards Healing –  
Amendments May/June 2003*

### 36. RECEIVING A COMPLAINT

- 36.1 If a complaint of abuse comes to the notice of any Church personnel and the person who has made this complaint wishes to invoke the procedures outlined in this document, the Church personnel shall refer the matter to a Contact Person as soon as possible.
- 36.2 Information shall be widely circulated to the public, and especially among Church counselling agencies, parishes and schools, to make people aware that these procedures exist. The information shall set out as simply as possible the manner for making a complaint about abuse.
- 36.3 Anonymous complaints are to be treated prudently. An anonymous complaint cannot have the full force of one made by an identified person, but anxiety and fear may persuade some complainants not to reveal their identity immediately. The Church authority may be unable to act on the complaint under these procedures unless at some point the name of the complainant becomes known.
- 36.4 The Contact Person shall listen fully, honestly and compassionately to the person laying the complaint, both concerning the facts of the situation and its emotional, psychological and spiritual effects. The Contact Person shall explain the procedures for addressing the complaint and ensure that the complainant gives his or her consent to proceeding on the basis laid down in this document.
- 36.5 The Contact Person shall either receive a written and signed complaint, or provide written notes of the details of the complaint and these notes are to be confirmed by the signature of the complainant. The complaint should have sufficient information about the nature of the complaint for the accused person to know what has been alleged against him or her.

### 37. CRIMINAL OFFENCES AND THE REPORTING OF CHILD ABUSE

- 37.1 When the complaint concerns an alleged crime or reportable child abuse, the Contact Person shall tell the complainant of the complainant's right to take the matter to the police or other civil authority and, if desired, provide assistance to do so. The Contact Person should also explain the requirements of the law of mandatory reporting.
- 37.2 In all cases other than those in which reporting is mandatory, if the complainant indicates an intention not to take the matter to the police or other civil authority, this should be recorded by the Contact Person and confirmed by the signature of the complainant.

**37. CRIMINAL OFFENCES AND THE REPORTING OF CHILD ABUSE cont...**

- 37.3 All Church personnel shall comply with the requirements for mandatory reporting of child abuse that exist in some States/Territories, and State or Territory law regarding the reporting of knowledge of a criminal offense must be observed. The appropriate Church authority shall also be notified of any such report.
- 37.4 No Church investigation shall be undertaken in such a manner as to interfere in any way with the proper processes of criminal or civil law, whether they are in progress or contemplated for the foreseeable future. However, where the complainant has chosen not to report the matter to the police or other civil authority, or the civil authorities have decided not to take further action under the criminal law or child protection legislation, the Church authority must act on the complaint.
- 37.5 The Director of Professional Standards shall endeavour to establish a protocol with the police in each relevant State or Territory to ensure that church assessments do not compromise any police action.

**38. RESPONDING TO A COMPLAINT**

- 38.1 The following procedures apply only where the complaint does not concern a criminal matter, or where a complainant has chosen not to report the matter to the police or other civil authority, or the civil authorities have decided not to take further action under the criminal law or child protection legislation.
- 38.2 The Contact Person shall forward the report promptly to the Director of Professional Standards.
- 38.3 The Director of Professional Standards shall determine whether the complaint concerns conduct which could reasonably be considered to fall within the definition of abuse in this document. If the complaint does not concern a matter which is to be dealt with by this procedure, or the behaviour complained of does not represent a serious breach of pastoral ethics and can properly be dealt with by correction and apology, he or she shall advise the complainant of other means of addressing the issue. This may include voluntary mediation or a complaint under *Integrity in Ministry*. The Director may assist in making the referral. The Director should advise the Church authority of the action taken.
- 38.4 Apart from matters dealt with under 38.3, on receiving the complaint of abuse, the Director shall forward it to the appropriate Church authority and may make a recommendation concerning any immediate action that needs to be taken in relation to the protection of vulnerable children and adults. The Director may also make recommendations concerning the funding of counselling or other such assistance for the complainant pending the outcome of the investigation.



### 38. RESPONDING TO A COMPLAINT cont...

38.4.1 In the event that a complaint of abuse is made against a bishop or leader of a religious institute, the “Director of Professional Standards” for the case shall be the Co-Chairpersons of the National Committee for Professional Standards acting together. The “Church authority” for the case shall be the person designated in accordance with Appendices 1 & 2.

#### Appendix 1 – 38.4.1

If a complaint of abuse is made against a bishop, the Church authority for a suffragan, auxiliary or retired bishop shall be the Metropolitan; for the Metropolitan himself it shall be the suffragan bishop senior by promotion.

For the purpose of these cases the Archbishop of Canberra and Goulburn, the Maronite bishop, the Melkite Eparch and the Military Ordinary shall be deemed to be suffragans of the Province of Sydney, and the Archbishop of Hobart shall be deemed to be a suffragan of the Province of Melbourne.

#### Appendix 2 – 38.4.1

If a complaint of abuse is made against a leader of a religious institute the Church authority is determined to be:

- a) The diocesan bishop of the principal house (cf canon 595) for a major superior of an Institute of diocesan right; or
- b) The supreme moderator for a major superior of an institute of pontifical right; or
- c) The Prefect of the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life (CICLSAL) for the supreme moderator of an institute of pontifical right.

The general principle applies in all cases that the “supreme moderator” of any ecclesiastical group is subject to the authority of an appropriate ecclesiastical superior, although the latter may delegate that authority to another person.

38. RESPONDING TO A COMPLAINT cont...

- 38.4.1 In the event that a complaint of abuse is received against a bishop or leader of a religious institute, or the accused person is living overseas, the Director should consult with the Chairpersons of the National Committee for Professional Standards concerning how to deal with the complaint.
- 38.5 As soon as possible after receiving notice of the complaint, the Church authority or its representative shall inform the accused of the nature of the complaint if it is possible to do so. The accused needs to be given enough detail about the complaint, and the complainant, to be able to offer a response. The Director of Professional Standards may be involved in such a process. The accused shall be entitled to information about his or her rights and about the process for dealing with the complaint. The accused shall be offered a support person.
- 38.6 The Church authority (or his or her delegate) shall seek a response from the accused in order to determine whether the facts of the case are significantly disputed. If they are not, then the Church authority shall proceed in accordance with Clause 42 of these procedures.
- 38.7 Where there is a significant dispute about the facts, or the accused is unavailable to give a response, the matter shall be investigated in accordance with the procedures set out in this document.
- 38.8 At any time, the Director of Professional Standards may recommend to the Church authority that the accused be asked to stand aside from a particular office or from all offices held in the Church, pending investigation. The Church authority may seek the opinion of others involved in the matter before making a decision, and shall give the accused the opportunity to be heard on the matter. Where the accused is a priest or religious, the Church authority shall comply with canon 1722.1
- 38.8.1 If there is seen to be any significant risk of abuse of other persons, this advice must be given and acted upon by the Church authority at the earliest possible moment.

---

1 This canon requires that the Ordinary shall consult with the promotor of justice and shall summon the accused to appear, before prohibiting the accused from exercising some ecclesiastical office or position.

38. RESPONDING TO A COMPLAINT CONT..

38.8.2 If accused persons are asked to stand aside from any office they hold while the matter is pending, it is to be clearly understood that they are on leave and that no admissions of any kind are implied by this fact. Accused persons who are clergy or religious shall, therefore, receive their normal remuneration and other entitlements while the matter is pending and they are standing aside. They shall be provided with an appropriate place to live. Where possible, they should be given some suitable activity. They shall not engage in any public ministry during this time.

39. SELECTING THE APPROPRIATE PROCESS

39.1 If the allegations concern a current employee of a Church body, other than a priest or religious, then the Director should refer the complaint to the relevant body for employment relations to investigate in accordance with the applicable procedures of employment law (and any other relevant laws) in that State or Territory. The Director of Professional Standards should liaise with the relevant body when the investigation has been completed, concerning how to respond to the victim if the complaint is validated. The response to the victim should follow the principles and procedures outlined in this document.

39.1.1 The documents or other material arising from the investigation are to be kept in accordance with the practices of the employing authority and any relevant laws.

39.2 If the allegations concern a priest or religious, the Church authority shall consider whether a penal process should be commenced in accordance with Canon Law.<sup>2</sup> If a penal process is commenced, the Director of Professional Standards should liaise with the Church authority when the penal process has been completed, concerning how to respond to the victim if the complaint is validated. The response to the victim should follow the principles and procedures outlined in this document.

---

2 This may involve an administrative or a judicial procedure as laid down in canons 1720-1728. Canon 1341 provides that administrative or judicial procedures should be invoked only when pastoral approaches have failed.

39. SELECTING THE APPROPRIATE PROCESS CONT...

39.2.1 Where the accused is a priest or religious, the documents associated with the penal process shall be preserved in accordance with canon 1719 and canons 489-490 of the Code of Canon Law.<sup>3</sup>

39.3 In all other cases where the facts of a case are in dispute, the Director of Professional Standards shall act in accordance with Clause 40 of these procedures.

39.4 If in the course of a Church procedure, allegations emerge for the first time which indicate that a criminal offense may have been committed, the Church procedure shall cease immediately and the matter will be dealt with in accordance with 37.1-37.3. If the complainant indicates an intention not to take the matter to the police, this should be recorded and confirmed by the signature of the complainant before the Church procedure resumes.

40. ASSESSMENT

40.1 In all cases to which this Clause applies, the Director of Professional Standards shall appoint assessors. Two assessors shall be appointed unless the Director considers that in the circumstances one professional assessor is sufficient. A list of assessors shall be maintained by the Resource Group. The appointment of the assessors shall occur as soon as practicable.

40.1.1 The assessors chosen must be, and be seen to be, independent of the Church authority, the complainant and the accused.

40.2 The purpose of an assessment is to investigate the facts of the case where there is a significant dispute as to the facts, or where there is a need for further information concerning the complaint.

40.3 The assessor or assessors shall arrange an interview with the complainant. Where there is more than one assessor, both should interview the complainant and the accused.

---

3 Code 1719 requires that all documents which form part of the investigation process or which preceded the investigation, should be retained in the secret curial archive. Canons 489-490 govern the maintenance of this archive and issues about access to it.

40. ASSESSMENT cont...

- 40.3.1 Where the complainant is not the victim, then the assessors shall not seek to interview the victim without first discussing the matter with the complainant and the Director of Professional Standards. If the facts are disputed, and it is not possible to interview the person who it is said has been victimised, then it may not be possible to proceed any further in dealing with the complaint unless other relevant information, such as a police record of interview, is available.
- 40.3.2 The complainant shall be invited to have another person present at the interview.
- 40.3.3 Under no circumstances shall there be any attempt to intimidate a complainant or to dissuade a complainant from proceeding with a complaint.
- 40.3.4 No interview with a child will take place if there is a risk that this will interfere with the proper process of civil or criminal law. No interview, either by a Contact Person or an assessor, shall be conducted with a child without the express written authority and in the presence of the parent or guardian. An interview with a child shall only be conducted by personnel who are professionally recognised as skilled practitioners in interviewing children.
- 40.3.5 Special care shall also be taken in interviewing persons with an intellectual or psychiatric disability, and any such interview shall be conducted only by an appropriately qualified and experienced person.
- 40.3.6 The Director of Professional Standards has a discretion to close a matter if the complainant decides not to co-operate with an assessment process.
- 40.4 The assessor or assessors shall arrange an interview with the accused, if he or she is available and willing to speak to them. If the accused does not wish to co-operate with the assessment, the assessment shall still proceed and the assessors shall endeavour to reach a conclusion concerning the truth of the matter so that the Church authority can make an appropriate response to the complainant.
- 40.4.1 Where an interview with the accused takes place, the assessor or assessors shall inform the accused that in both civil and Church law a person is presumed innocent until proven guilty.
- 40.4.2 An accused person may be invited to admit to an offense but is not bound to do so, nor may an oath be administered.<sup>4</sup>

---

4 Canon 1728, #2.

40. ASSESSMENT cont...

40.5 The accused has the right to obtain independent legal advice.

40.5.1 This advice shall be at the accused's expense, although the Church authority may exercise a discretion to make loans or to reimburse an accused for reasonable legal expenses if he or she is unable to afford legal assistance.

40.6 The accused is entitled to have other persons present during any interviews (e.g. accused's support person or legal representative).

40.7 The assessors shall interview any other persons who could be of assistance. Decisions about who should be interviewed should be made after taking account of any wishes expressed by the complainant and the accused, and following consultation with the Director of Professional Standards. They may also need to put to the complainant the accused's version of events.

40.8 Church authorities shall comply with all reasonable requests made by assessors for access to documents which may assist them in their work. Church authorities are not required to disclose documents concerning which it has an obligation of confidentiality to the accused or to any other person.

40.9 A written or taped record shall be made of all interviews.

40.10 The contact person and the accused's support person shall have ready access to the assessors and shall have the responsibility of keeping the complainant and accused, respectively, informed of the progress of the assessment.

40.11 After the assessment is completed, the assessors shall provide a written report to the Church authority and the Director of Professional Standards. The assessors shall review the evidence for the complaint, examine the areas of dispute and may advise the Church authority whether they consider the complaint to be true.

40.11.1 The assessors must provide reasons for their conclusions. If they are unable to reach a determination of the truth of the matter with a sufficient degree of certainty, they may nonetheless make recommendations to the Church authority concerning its response to the complainant.

40.11.2 Where the behaviour about which complaint has been made was not a criminal offense, the assessors may also comment on how serious was the abuse of the pastoral role.

40. **ASSESSMENT cont...**

- 40.11.3 The complainant is entitled to know the findings of the assessment promptly. The accused is also entitled to know the findings of the assessment if he or she has participated in the assessment or otherwise could be subjected to disciplinary action as a consequence of it by the Church authority. The Director of Professional Standards is responsible for communicating the relevant findings.
- 40.12 The Church authority shall discuss the findings and recommendations of the report with the Director of Professional Standards as quickly as possible. If the assessors consider the complaint to be true, then the Church authority must consider what action needs to be taken under Clauses 41 and 42 of these procedures. The Director of Professional Standards may be called upon by the Church authority for advice on these matters. If the Church authority decides to reject the complaint, then it must provide reasons for its decision to the complainant.
- 40.13 Mindful that the assessment process is a difficult and trying time for all concerned, particularly the complainant and the accused, the process of the assessment shall be undertaken and concluded as quickly as possible and the process shall be as transparent as possible to all concerned. The Director of Professional Standards shall seek to ensure that all parties adhere to this principle.
- 40.14 During the assessment, and therefore, at a time when guilt has been neither admitted nor proven, the issue of guilt, liability or the particular course of action that may follow assessment cannot be commented upon. Any comment regarding these issues must always be referred to the Church authority and its professional advisers.
- 40.15 The records of interview and all other documents or material associated with the assessment are to be treated as confidential. The Director of Professional Standards shall maintain a confidential record of all findings and any documents relevant to the suitability of the person for future ministry. The Director shall not retain any other documents or material for longer than five years following the completion of the assessment unless required to do so by law.

41. **OUTCOMES RELATING TO THE VICTIM**

- 41.1 In the event that the Church authority is satisfied of the truth of the complaint, whether through admission of the offender, a finding of a court, a canon law process or a Church assessment, the Church authority shall respond to the needs of the victim in such ways as are demanded by justice and compassion. Responses may include the provision of an apology on behalf of the Church, the provision of counselling services or the payment of counselling costs. Financial assistance or reparation may also be paid to victims of a criminal offense or civil wrong, even though the Church is not legally liable.

41. **OUTCOMES RELATING TO THE VICTIM** cont...

- 41.2 The Church authority may seek such further information as it considers necessary to understand the needs of the victim.
- 41.3 Facilitation shall be the normal means of addressing the needs of the victim. The Church authority and the victim shall mutually agree on a Facilitator from the approved panel.
- 41.3.1 The Facilitator shall arrange and moderate a process for communication between the victim and Church authority (or delegate with power to make binding decisions). This may involve a meeting, under the direction of the Facilitator, in which apologies can be offered and unresolved problems addressed.
- 41.3.2 The victim may have a support person or adviser present at the meeting. The Church authority or delegate may also have an adviser if required. The presence of any other persons accompanying either the victim or the Church authority shall be subject to the agreement of the Facilitator. The Director of Professional Standards should not participate in the facilitation process.
- 41.3.3 The Facilitator shall seek to know the ongoing needs of the victim and the response of the Church authority to these needs.
- 41.3.4 The Facilitator shall also seek to know the needs of the victim's family and of the community in whose midst the abuse occurred.
- 41.3.5 The Facilitator shall seek to identify any outstanding issues where the victim is not satisfied with the response received and shall explore with both parties the best means of dealing with such issues.
- 41.3.6 Issues concerning reparation may either be dealt with in a facilitation, addressed through a compensation panel or dealt with through some other such process in order to reach a resolution on this aspect of the matter.
- 41.3.7 The Facilitator shall ensure that there is a record of any agreement reached and of any outstanding areas of disagreement.
- 41.3.8 The Director of Professional Standards shall be informed of the outcome, and whether the Facilitator considers that any other processes or actions would assist further in bringing the matter to a conclusion.
- 41.3.9 The Church authority shall bear all ordinary and reasonable expenses of the process of facilitation.



41. **OUTCOMES RELATING TO THE VICTIM cont...**

- 41.4 No complainant shall be required to give an undertaking which imposes upon them an obligation of silence concerning the circumstances which led them to make a complaint, as a condition of an agreement with the Church authority.
- 41.5 If the victim remains of the view that the response of the Church authority is unsatisfactory, the victim shall be informed about access to a review of process.

42. **OUTCOMES RELATING TO THE ACCUSED**

- 42.1 If either a police investigation or a Church process makes it clear that the accused did not commit the alleged wrong, the Church authority shall take whatever steps are necessary to restore the good reputation of the accused.
- 42.2 If abuse is admitted, or a Church process reaches the conclusion that on the basis of the findings of the assessment there are concerns about the person's suitability to be in a position of pastoral care, the Church authority in consultation with the Director of Professional Standards shall consider what action needs to be taken concerning the future ministry of the person. It may commission such other reports or inquiries as are necessary to determine what action should be taken.
- 42.3 Where the offender is a current employee of the Church other than a priest or religious, the offender's future must be determined in accordance with the applicable procedures of employment law.
- 42.4 The process of determining the future ministry of a priest or religious shall be consistent with the requirements of the Code of Canon Law.<sup>5</sup> If a cleric or religious has admitted to or been found guilty of abuse, the Church authority shall, in person or through a nominated representative, meet with the offender to discuss honestly and openly the offender's future options. The offender may be accompanied by a support person and/or legal representative. The discussion shall take into account the seriousness of the offense and all relevant circumstances. It is unfair to hold out to a serious offender any hope of a return to ministry when it is clear that this will not be possible.

---

5 Canon law provides a number of principles and procedures which may be relevant to determining the future of a priest or religious in cases of alleged abuse. In addition to an administrative or judicial procedure as laid down in canons 1720-1728, there is the procedure for the removal of a parish priest under canons 1740-1747. Reliance may also be placed upon Canons 1041 and 1044 if it is considered that the priest or religious is incapable of fulfilling ministry due to psychological infirmity. In some cases it will be appropriate to commence a formal penal process even where guilt is admitted in order to reach a judgment in accordance with canon law.

42. **OUTCOMES RELATING TO THE ACCUSED cont...**

- 42.5 In making decisions on the future of a person found guilty of abuse, Church authorities shall take such action as the situation and the seriousness of the offense demand. In relation to child abuse, Church authorities shall be guided by the principle that no-one should be permitted to exercise a public ministry if doing so presents an unacceptable risk of abuse to children and young people.
- 42.6 As far as it is within its power to do so, the Church authority shall require the offender to address the issue of restitution to the victim and to the Church community.
- 42.7 The Church authority shall promptly communicate the outcomes in relation to an offender to the Director of Professional Standards.

43. **REVIEW OF PROCESS**

- 43.1 A review of process of the procedures contained in Parts 40 and 41 is available for complainants who are not satisfied with the response of the relevant Church authority. A review of process of the procedures contained in Parts 40 and 42 is also available for accused persons if they co-operated with the assessment process.
- 43.2 A complainant or an accused person who is entitled to a review of process may request in writing to the Director of Professional Standards a review of process within 3 calendar months of the completion of the process. The process is complete in relation to the complainant when either the Church authority gives its response to the complaint or if the Church authority fails to offer a response within three calendar months of the time when an assessment has been completed or the facts otherwise established. The process is complete in relation to the accused when the Church authority has made its decision concerning the future ministry of the accused in response to the complaint of abuse.
- 43.3 If the request is accepted, the Director shall appoint one of the Reviewers named by the Resource Group.
- 43.3.1 If the request is to be denied, the Director must first consult the other members of the Resource Group.
- 43.3.2 If any party objects to the Reviewer named, the matter shall be considered at a meeting of the Resource Group which may nominate another Reviewer.
- 43.3.3 The Director shall inform the Church authority that a review of process has been requested and approved. He or she shall also ensure that the complainant or accused person as the case may be, is informed that a review has been requested and approved. This only applies to accused persons who have co-operated with the process.

43. REVIEW OF PROCESS cont...

- 43.4 The review of process is an independent evaluation, not only of whether the procedures set out in this document have been properly observed, but also of whether the principles established in the first part of the document have been adhered to. A review of process is not a review of outcomes unless the Church authority requests the reviewer to consider this aspect of the matter.
- 43.5 The Reviewer shall determine the procedures for the conduct of the review.
- 43.5.1 The Reviewer shall have authority to interview all Church personnel concerned and will have access to all relevant documentation.
- 43.5.2 The Reviewer shall conduct the review expeditiously and certainly within three calendar months, unless the Director provides for a further extension of time.
- 43.6 At the end of the review, the Reviewer shall provide a written report with recommendations to the Resource Group. If the Reviewer considers that there has been a failure to observe the required processes, he or she shall indicate whether the decided outcomes ought to be called into question.
- 43.7 The Director shall provide a copy of the report to the person requesting the review and the Church authority. As soon as convenient, the Director (or delegate if appropriate) shall discuss with all parties the implementation of the recommendations.
- 43.8 The Church authority shall bear all ordinary and reasonable expenses of the review of process.

44. PREVENTIVE STRATEGIES

- 44.1 Each Church authority shall ensure that all Church personnel are made aware of the seriousness of abuse. They should be warned of behaviour that is inappropriate or which might be misunderstood as involving improper behaviour.
- 44.2 Each Church authority shall ensure that those working with children and young people are made aware of the issue of child abuse and are given information concerning processes for reporting disclosures of abuse. They should also be given information on how to conduct children's and youth ministry in such a manner as to reduce the risk of child abuse occurring.

**44. PREVENTIVE STRATEGIES cont...**

- 44.3 Church bodies, especially those involved in providing care for children, shall have in place procedures, consistent with good child protection and industrial relations practice, for verifying the suitability of persons for employment or for participation as volunteers. They shall obey all applicable laws concerning employment screening and the prohibition of certain convicted persons from employment involving children.
- 44.4 Whenever a Church authority is concerned about the behaviour of any person connected with that Church body which might lead to a complaint of abuse, this fact should be brought to the attention of that person and appropriate steps taken to determine whether the behaviour is the symptom of a deeper problem requiring attention.
- 44.5 Church personnel who feel that they might be in danger of committing abuse shall be offered opportunities to seek both spiritual and psychological assistance before the problem becomes unmanageable and they offend. Names of suitable therapists and treatment programs should be made available.
- 44.6 Whenever a cleric or religious is to transfer from one diocese or institute to another, or is to carry out a ministry or apostolate in another diocese or institute, the Church authority to which the person is to be transferred shall ask for a written statement from the priest or religious indicating whether there have been any substantiated complaints of abuse against him or her or whether there are known circumstances that could lead to a complaint of abuse. Such statements shall be held as confidential documents by the Church authority.
- 44.7 In these same circumstances the Church authority in the diocese or institute where the cleric or religious previously lived and worked, shall provide a statement in writing to the new diocese or institute indicating whether such authority knows of any complaints of abuse which have been substantiated or is aware of circumstances that could lead to a complaint of abuse. Where there has been a substantiated complaint, the Church authority shall furnish all information necessary to evaluate the seriousness of the offense, and shall report on all treatment undertaken, and other measures employed to ensure that further offences do not occur. Such statements shall be held as confidential documents by the Church authorities.
- 44.8 Each Church authority shall have in place procedures for verifying the suitability of candidates for seminaries or religious institutes. In particular, candidates must be asked to state in writing whether they have a criminal record, or any complaints of abuse have been made against them, or whether there are any known circumstances that could lead to a complaint of abuse against them.

44. **PREVENTIVE STRATEGIES** cont...

- 44.9 While due process must be observed, any proven incident of sexual assault or other serious abuse must lead to the dismissal of a seminarian from a seminary or a candidate from an institute's program of formation.
- 44.10 Church authorities shall be honest and frank in references and shall not act in a way which would allow an offender to obtain employment in circumstances where others might be at risk.

45. **CONCLUDING STATEMENTS**

- 45.1 All Church authorities shall take the necessary steps to conduct such in-service programs for Church personnel as may be necessary to inform them of the principles and procedures set down in this document.
- 45.2 While the distribution of this document is unrestricted, the publication of the document, its implementation, and all matters of interpretation are reserved to the National Committee for Professional Standards.
- 45.3 Abuse of both children and adults by Church personnel has done great harm to individuals and to the whole Church. Despite this, it can become an opportunity to create a better Church, but only if the response given by the leaders and all the members of the Church is humble, honest and thoroughly Christian.