



David Shoebridge MLC
Member of the NSW Legislative Council

Roman Catholic Property Church Trust Property Amendment (Justice for Victims) Bill 2011

CONSULTATION PAPER

Paper released

8 December 2011

Responses due by

6 February 2012

Responses to: kym.chapple@parliament.nsw.gov.au

c/o Parliament House, Macquarie St, Sydney NSW 2000

Inquiries: 9230 3030

Online: <http://davidshoebridge.org.au/take-action/consultation-papers/justice-for-victims/>

INDEX

Background	Pages 4-5
Questions for consultation	Page 6
Copy of draft bill	Pages 7-15

Appendix 1 – Adjournment speech in NSW Parliament

Appendix 2 – Correspondence to and from Cardinal Pell

BACKGROUND

Victims speak out

For a long time many victims of sexual abuse by the clergy were reluctant to speak about their experience. Shame and stigma worked together with spiritual and emotional pressure to silence victims. However, in the last few decades victims have begun standing up and telling their stories, and with this has come a demand for real justice.

Victims can seek justice against a single perpetrator through the criminal law. However a substantial number of victims will also seek justice through civil actions against the institutions responsible for allowing, and at times sanctioning, the abuse.

It is the starting point of this discussion paper that where people are under the spiritual or pastoral care of a Church that the Church owes them a duty of care to take reasonable steps to prevent them from being abused and to then compensate them if they fail in this duty.

The Church's legal structure

Remarkably, the law says that the Catholic Church in NSW (and certain other States) does not exist. At law the entity known to the general population as 'the Catholic Church' is simply an unincorporated association with no separate legal identity. This means that it is impossible to sue 'the Catholic Church'.

Many people respond by saying that the Catholic Church is an extraordinarily wealthy organisation with one of the largest land holdings in the country. To an extent this is true. However the property that is owned by 'the Catholic Church' is in fact held by a series of property trusts¹ established under a law of the NSW parliament that dates back to 1936.

The 'Ellis Defence'

This legal structure has very important and ongoing consequences for victims of abuse. In a 2007 decision of the NSW Court of Appeal,² John Ellis sought compensation for sexual abuse he suffered at the hands of an assistance priest at Bass Hill Parish between 1974 and 1979. Mr Ellis could not sue the deceased assistant priest. Neither could he sue 'the Church'. Mr Ellis therefore sued the current Church leadership, in the form of Cardinal Pell, and the property trust that held the Church's assets.

In Court, the Church never disputed the fact that Mr Ellis had been seriously sexually abused. Instead they persuaded the Court that the present leaders of the Catholic Church could not be held responsible for breaches of care by former members of the unincorporated association that is the Catholic Church.

¹ A trust is a legal construction that allows one entity to own an asset but to then apply that asset's income and resources to a third party. Here the trusts hold the property and apply it to the needs of the Church.

² *Trustees of the Roman Catholic Church v Ellis & Anor* [2007] NSWCA 117 leave to appeal to the High Court was refused in *Ellis v The Trustees of the Roman Catholic Church for the Archdiocese of Sydney* [2007] HCATrans 697 (16 November 2007)

The Church also argued, and the Court agreed, that the property trust could not be sued by victims of abuse as the trust was solely responsible for property matters and therefore not liable for any sexual abuse by members or officials of the Church. The result was that Mr Ellis' case was dismissed, with an order he pay the Cardinal's and the trust's legal costs. He was left with no legal remedy.

Since this time the Catholic Church has continued to rely upon the 'Ellis Defence' to deny justice to victims of abuse.³ There are many, many stories of victims seeking justice from the Church—only to be told by the Church's lawyers that "if you take this to Court you cannot win—have you heard of the case of Ellis?" In the face of these serious legal impediments many victims either give up, or accept heavily discounted settlements that do not come close to properly compensating them for their distress, hurt and loss.

One possible remedy

This consultation paper seeks feedback on a potential remedy to the 'Ellis Defence' in the form of a draft Bill called the *Roman Catholic Property Church Trust Property Amendment (Justice for Victims) Bill 2011*. A copy of the Bill is annexed to this consultation paper.

The *Justice for Victims Bill* aims to do a very simple thing. It proposes to allow victims of sexual abuse to sue the property trusts as though they were the Church. It aims to force the Church to defend the claims on their merits, not on legal technicalities, and in doing so the Bill attempts to give victims a real remedy.

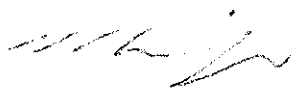
Responses to date

Initial responses to this proposed law reform from victims groups and elements of the legal profession have been very positive. As a result of some of those initial responses, the scope of the Bill was broadened to include all negligence claims against the Church. This is a matter on which further feedback is sought through this process.

The initial response from the Church has been less productive. A request for a face-to-face meeting with Cardinal Pell was rejected by him. His Eminence has produced a paper opposing the need for this legal reform. For the sake of openness, a copy of that paper is included in this package.

Time frame

This office is actively seeking submissions⁴ from interested parties to the matters raised in this consultation paper. Submissions can be sent on or before **6 February 2012**.



David Shoebridge, Greens MLC

³ *PAO v Trustees of the Roman Catholic Church for the Archdiocese of Sydney and Ors* Hoeben J 19/10/2011

⁴ Note: All submissions will be treated as public documents unless confidentiality is specifically sought. All requests for confidentiality will be accepted.

Questions for consultation

1. Does the law currently provide justice for victims of abuse where the perpetrator is an official or member of the clergy of the Catholic Church?
2. Is it reasonable to allow the Catholic Church to maintain the legal distinction between the entities that hold the organisation's assets (namely the property trusts) and the unincorporated association(s) that undertake the pastoral, spiritual and other activities of the Church?
3. If the law relating to the property trusts is amended, how broad should be the class of claimants entitled to access this? For example should this be limited to cases of sexual abuse by clergy or also include those who have negligence claims in schools or similar?
4. Are there any other organisations with similar structures or defences where reform may be required? For example, religious orders or other bodies?
5. Is it reasonable to extend the Church's liability to circumstances where abuse occurred at the hands of a Church official or Church teacher who was not at the time strictly acting in their Church capacity, but was nevertheless so closely connected with the Church that a court believes it would be just to render the Church liable for the abuse or negligence, if proven?
6. Are there superior ways to advance victims' interests, for example a centralised compensation scheme or similar?
7. Does this draft Bill unfairly trespass on the property rights of the Church?
8. Is the draft Bill workable?
9. How could the draft Bill be improved?
10. Do you have any further comments?

Note: All submissions will be treated as public documents unless confidentiality is specifically sought. All requests for confidentiality will be accepted.

Please send responses to: kym.chapple@parliament.nsw.gov.au
c/o Parliament House, Macquarie St, Sydney NSW 2000

draft

Introduced by Mr David Shoebridge MLC Draft

New South Wales

Roman Catholic Church Trust Property Amendment (Justice for Victims) Bill 2011

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The NSW Court of Appeal has held that property held on trust under the *Roman Catholic Church Trust Property Act 1936* for the use, benefit or purposes of the Roman Catholic Church in New South Wales cannot be used to satisfy legal claims associated with sexual abuse by Roman Catholic clergy or officials. The object of this Bill is to amend that Act:

- (a) to allow a person suing a member of the Church's clergy, a Church official or a Church teacher in relation to sexual abuse or negligence to join as defendants in those proceedings the body corporate established by the Act to hold property on trust for the dioceses in which the relevant abuse or failure to exercise reasonable care and skill allegedly occurred and the trustees that make up that body corporate (and to make them liable for any damages awarded), and
- (b) to allow a person who is owed a judgment debt in respect of civil liability arising as a result of sexual abuse or negligence by a member of the Church's clergy, a Church official or a Church teacher to recover the debt from the body corporate for the diocese in which the abuse or failure to exercise reasonable care and skill occurred and the trustees that make up that body corporate (as an alternative to pursuing the clergy member, official or teacher concerned).

This is a draft version of a Non-Government Bill.

draft

Roman Catholic Church Trust Property Amendment (Justice for Victims) Bill 2011
Explanatory note

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 Amendment of Roman Catholic Church Trust Property Act 1936 No 24

Schedule 1 makes the amendments described in the Overview.

draft

New South Wales

Roman Catholic Church Trust Property Amendment (Justice for Victims) Bill 2011

1	Name of Act	2
2	Commencement	2
Schedule 1	Amendment of Roman Catholic Church Trust Property Act 1936 No 24	3

draft

New South Wales

Roman Catholic Church Trust Property Amendment (Justice for Victims) Bill 2011

No , 2011

A Bill for

An Act to amend the *Roman Catholic Church Trust Property Act 1936* to provide for the ability of victims of sexual abuse where the abuser is found to be a member of the Catholic clergy and or another official and or officer in the Church to satisfy judgments awarded against such abusers as a judgment debt payable from the assets of the Trust and for other related purposes

draft

Roman Catholic Church Trust Property Amendment (Justice for Victims)
Bill 2011 Clause 1

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Roman Catholic Church Trust Property Amendment (Justice for Victims) Act 2011*.

2 Commencement

This Act commences on the date of assent to this Act.

draft

Roman Catholic Church Trust Property Amendment (Justice for Victims) Bill 2011

Schedule 1 Amendment of Roman Catholic Church Trust Property Act 1936 No 24

Schedule 1 Amendment of Roman Catholic Church Trust Property Act 1936 No 24

[1] Part 1, heading

Insert before section 1:

Part 1 Preliminary

[2] Part 2, heading

Insert after section 2:

Part 2 Church property

[3] Part 3

Insert after section 16:

Part 3 Sexual abuse and negligence claims paid from Trust funds

17 Definitions

(1) In this Part:

Church official means any person who acts as a representative of the Church and includes, but is not limited to, any of the following:

- (a) an official, officer or member of staff of the Church or of a diocese,
- (b) a lay assistant for the Church or for a diocese of the Church,
- (c) a volunteer for the Church or for a diocese of the Church.

Church teacher means a teacher or member of staff of a theological college, school, orphanage or children's home operated under the auspices of the Church or of a diocese.

member of the Church's clergy includes the following:

- (a) an Archbishop or Coadjutor Archbishop of the Church,
- (b) a Bishop or Coadjutor Bishop of the Church,
- (c) a Vicar Capitular of the Church,
- (d) a priest or assistant priest of the Church,
- (e) a sister, nun, brother, monk or seminarian of the Church,

draft

Roman Catholic Church Trust Property Amendment (Justice for Victims) Bill 2011

Schedule 1 Amendment of Roman Catholic Church Trust Property Act 1936 No 24

- (f) any other member of a religious order of the Church.

sexual abuse means sexual conduct, or conduct that includes sexual conduct (whether or not there was apparent consent to that conduct and whether or not that conduct would at the time of the relevant conduct constitute a sexual offence) perpetrated by a person who was, at the time of the relevant conduct, a member of the Church's clergy, a Church official or a Church teacher, while acting in his or her capacity as such a member or official.

- (2) For the purposes of this Part, a person was under the care of the Church if the person was owed a duty of care or fiduciary duty by the Church, a member of the Church's clergy, a Church official or a Church teacher and includes, but is not limited to, having been owed such a duty in the following capacities:
- (a) as a member or parishioner of the Church,
 - (b) as a nun, monk or seminarian of the Church,
 - (c) as an altar server or other assistant in a church or diocese of the Church,
 - (d) as a student of a theological college, school, orphanage or children's home operated under the auspices of the Church or of a diocese.

18 Conduct of proceedings relating to sexual abuse or negligence by Church clergy, officials or teachers

- (1) The plaintiff in civil proceedings relating to sexual abuse or negligence by a member of the Church's clergy, a Church official or a Church teacher in relation to a person who was, at the time of the sexual abuse or failure to exercise reasonable care and skill, under the care of the Church, may join as a defendant in those proceedings:
- (a) the body corporate established under this Act for the diocese in which the abuse or failure, or the majority of the abuse or failure, is alleged to have occurred, and
 - (b) the Bishop, and the Diocesan Consultors, of the diocese in which the abuse or failure, or the majority of the abuse or failure, is alleged to have occurred, in their capacity as trustees of Church trust property in that diocese.
- (2) In respect of any such proceedings, the relevant body corporate and its trustees are jointly and severally liable as if they were the member of the Church's clergy, the Church official or the Church teacher against whom the proceedings were also brought.
- (3) The court hearing such proceedings may extend the application of subsections (1) and (2) to a person who alleges sexual abuse or negligence by a member of the Church's clergy, a Church official or Church teacher and who was not at the time of the abuse or failure to

draft

Roman Catholic Church Trust Property Amendment (Justice for Victims) Bill 2011

Schedule 1 Amendment of Roman Catholic Church Trust Property Act 1936 No 24

exercise reasonable care and skill under the care of the Church, but was so closely connected with the Church that the court believes it would be just to render the Church liable for the abuse or negligence, if proven.

- (4) A plaintiff who intends to joint any body corporate, Bishop or Diocesan Consultor as defendant in proceedings in reliance on subsection (1) must give notice of that intention to the body corporate, Bishop and Diocesan Consultor concerned within 28 days after the filing of the statement of claim in relation to the relevant proceedings.
- (5) This section extends to a cause of action arising before the commencement of this section.

19 Judgments relating to sexual abuse or negligence by Church clergy, officials or teachers may be required to be paid from Trust funds

- (1) A person who is owed an unpaid judgment debt in respect of civil liability arising as a result of sexual abuse or negligence by a member of the Church's clergy, a Church official or Church teacher against a person who was, at the time of the abuse or failure to exercise reasonable care and skill, under the care of the Church, may bring an action for the recovery of the debt against:
 - (a) the body corporate established under this Act for the diocese in which the abuse or failure, or the majority of the abuse or failure, is alleged to have occurred, and
 - (b) the Bishop, and the Diocesan Consultors, of the diocese in which the abuse of failure, or the majority of the abuse or failure, is alleged to have occurred, in their capacity as trustees of Church trust property in that diocese.
- (2) In respect of any such action, that body corporate and those trustees are jointly and severally liable as if they were the member of the Church's clergy, the Church official or the Church teacher against whom the judgment was given.
- (3) The court hearing such proceedings may extend the application of subsections (1) and (2) to a person who alleges sexual abuse or negligence by a member of the Church's clergy, a Church official or Church teacher and who was not at the time of the abuse or failure to exercise reasonable care and skill under the care of the Church, but was so closely connected with the Church that the court believes it would be just to render the Church liable for the abuse or negligence, if proven.

draft

Roman Catholic Church Trust Property Amendment (Justice for Victims) Bill 2011

Schedule 1 Amendment of Roman Catholic Church Trust Property Act 1936 No 24

- (4) This section extends to a cause of action arising before the commencement of this section.

**Appendix 1 – Adjournment speech David Shoebridge MLC
14 September 2011**

The Catholic Church vs John Ellis

The following is an adjournment speech delivered by David in the Upper House of the NSW Parliament on September 14 2011.

For more than two decades the Catholic Church, both in Australia and overseas, has been the subject of increasing numbers of claims that those in its care were sexually abused. Many of these claims related to abuse alleged to have been perpetrated in the 1950s, 1960s and 1970s.

There is no doubt that in many of these cases the abuse occurred and that members of the church hierarchy were aware of the abuse at the time it was occurring. Victims of abuse deserve redress. They deserve justice. This is especially the case when they have been abused while in the care of an organisation or institution that was meant to look after them.

Proper redress can often include punishment of the perpetrators, if they are still alive. It can also involve sincere apologies and evidence that an organisation has taken steps to admit its error and change its behaviour to prevent abuse occurring to others.

Justice must also allow for fair compensation for the hurt, distress and humiliation suffered by victims of abuse from those institutions which allowed—and, in some cases, even assisted—the abuse to occur in the first place.

In New South Wales there is currently a serious impediment to the recovery of compensation by those whose abusers were clergy of the Catholic Church.

In 2007 the case of John Ellis set a terrible precedent in this area and this Parliament has a pressing obligation to remedy it. John Ellis was an altar boy at the Bass Hill Parish of the Roman Catholic Church. He claimed that in the period from 1974 to 1979 he was sexually abused by the assistant parish priest.

In 2004 the assistant priest died and his estate left no assets against which the plaintiff could recover damages. Also in that year Mr Ellis brought a common law claim against the Trustees of the Roman Catholic Church and against His

Eminence Cardinal George Pell, Archbishop of Sydney, in relation to the abuse he had suffered.

The trustees were appointed under the Roman Catholic Church Trust Property Act 1936, a New South Wales Act that establishes a trust that holds all the property of the Catholic Church in this State—property that has been estimated to be worth billions of dollars.

The trial judge in the Supreme Court initially found that the trust could be sued by Mr Ellis in relation to the abuse and granted him an extension of time to allow him to pursue his claim.

The judge also held that as Cardinal Pell had not been appointed to that position at the time of the abuse he was not responsible for the abuse and therefore not able to be sued. The court dismissed Mr Ellis' claim against him. Both the Trust and Mr Ellis appealed this decision.

In its appeal the Trust conceded that an arguable case had been established that the abuse had occurred. However, it alleged that the Catholic Church did not exist in New South Wales as a legal entity. The Trust told the court that although it holds all of the Church's property—and had so at the time that Mr Ellis' alleged he was abused—that it was not responsible for the conduct of any member of the clergy.

The trust submitted that, in effect, the church could not be sued as, in law, it did not exist. Cardinal Pell maintained his position on appeal that he was not appointed at the time of the abuse.

The cardinal who had been appointed at the time of the alleged abuse had since died, as had the alleged abusive clergy member. Cardinal Pell claimed Mr Ellis could not hold him responsible for the abuse.

The Court of Appeal agreed with both the Cardinal and the Trust, and Mr Ellis' case was dismissed entirely. The Court also ordered that he pay the legal costs of the church and the archbishop.

The Catholic Church has organised its legal affairs so that, in effect, it is almost entirely insulated from legal claims by victims of abuse. The law now states that the only entities that exist at law and can be sued by a victim are the individual member of the clergy who is alleged to have been the abuser and

the archbishop or head of the relevant religious order at the time of the abuse. As the case of Mr Ellis proves, these defendants are often dead or penniless.

Meanwhile, the Church and all of its property is comfortably sheltered from compensation claims by a New South Wales law that places its property in its Property Trust.

Mr Ellis took his case to the High Court, which refused him special leave. Mr Andrew Morrison, SC, who acted for Mr Ellis, told the High Court that the Catholic Church:

... has so structured itself as to be immune from suit other than in respect of strictly property matters for all claims of abuse, neglect or negligence, including claims against teachers in parochial schools at least prior to 1986.

The decision continues to have repercussions for survivors of abuse in New South Wales. The outcome is that in respect of child abuse dating back 20 or 30 years the Catholic Church knows when dealing with victims that it has a complete defence. Victims' lawyers are increasingly being driven to check nursing homes for elderly archbishops and bishops who may still be alive and can be sued, often years after they have left their office.

This year the Australian Lawyers Alliance called for urgent legislative changes to the so-called Ellis Defence so as to "hold the Catholic Church accountable for its paedophiles".

Some of the responsibility for change can be borne only by the Catholic Church. Hiding behind a technical legal defence in the face of the serious abuse of someone in its care is not consistent with the Church's stated commitment to addressing the serious blight of sexual abuse.

As a Parliament we have a responsibility to remedy this unconscionable outcome now.

Appendix 2 – Correspondence to and from Cardinal George Pell



David Shoebridge MLC
Member of the NSW Legislative Council

www: davidshoebridge.org.au
Twitter: @ShoebridgeMLC
Facebook: David Shoebridge MLC

ph (02) 9230 3030
fax (02) 9230 2159
email: david.shoebridge@parliament.nsw.gov.au

Parliament House
Macquarie St
Sydney NSW 2000

Cardinal George Pell
Catholic Church Offices
Polding Centre,
133 Liverpool Street,
Sydney NSW 2000

Re: Roman Catholic Church Property Act 1936

27 October 2011

Dear Cardinal Pell,

I am writing to request a meeting with you to discuss a matter of growing concern to victims of sexual abuse at the hands of the Catholic Church.

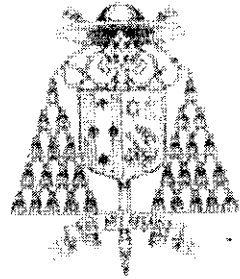
Of particular concern is the ramification of recent court decisions wherein the Church has used the so-called 'Ellis Defence' to prevent victims of sexual abuse from obtaining compensation from church property trusts. As you are aware, these trusts are established under the Roman Catholic Church Trust Property Act 1936.

Given the degree of personal hurt, concern and humiliation these matters raise for victims, a frank and open exchange of views on the matter would seem in order.

In the interest of furthering a just outcome for victims of abuse, I look forward to your prompt response to this request.

Kind regards,

David Shoebridge, MLC



10 November 2011

David Shoebridge MLC
Parliament House
SYDNEY NSW 2000

Dear Mr Shoebridge,

Thank you for your letter of 27 October 2011, which I found waiting for me upon my return from overseas last week.

I share your concern for the victims of sexual abuse. Sexual abuse of children and vulnerable people is a crime which has no place in the Catholic church. The church has a moral obligation to address the great harm that has been done to all those who been sexually abused by priests and members of religious orders. It is an obligation the church takes most seriously.

The harm caused by sexual abuse can be immense, and no decent human being — and certainly no Christian who takes the demands of his faith seriously — can fail to be moved to do all he or she can to offer support and care to those who have been abused, and to ensure that in all cases they are treated justly. This is what I have consistently and resolutely tried to do as a priority in my work as a bishop in Melbourne and Sydney.

I am happy to receive correspondence from you about your concerns for victims, and I am always prepared to hear directly from victims of sexual abuse themselves. While I appreciate your request for a meeting, I am afraid that your continued wilful misrepresentation of the *Ellis* decision and of the legal situation of property trusts created under the Roman Catholic Church Trust Property Act 1936, strongly suggests that there is little point in doing so.

In case you have not seen it, I enclose a copy of statement on this matter published by the Australian on its website last week.

Yours sincerely,

ARCHBISHOP OF SYDNEY

Statement from Cardinal George Pell

From: *The Australian*

November 04, 2011 12:00AM

RESPONSE to "Child abuse ruling ups pressure for legal reform" - by Ean Higgins The Australian 24/10/11.

Church parties accept their responsibility when victims of abuse seek damages through legal proceedings and when liability or potential liability is clear. Indeed I am not aware of any evidence to suggest that various Church agencies or officials in Australia have ever avoided paying damages awarded against them.

More importantly, it is the Church's strong preference for proceedings to be settled when liability is clear, rather than requiring victims to litigate matters in the courts to final judgement, and so pay expensive lawyers.

On 24 October 2011, the Australian published a story repeating the inaccurate and fanciful claims of plaintiffs' lawyers and NSW Greens MP David Shoebridge that Catholic parties cannot be sued by victims of sexual abuse.

This claim is absurd and mischievous and has no basis in fact. Church officials and entities that are responsible for abuse in the Church, either directly or by their negligence, can be (and are) sued. The Catholic Church does not seek to shift legal responsibility where the Catholic party sued faces liability.

The judgement of Justice Hoeben of the NSW Supreme Court on 19 October 2011 concerned a case brought by victims of Patrician brother Edward Grealy for crimes he committed as a teacher in a Catholic school in Sydney. Various Patrician Brother parties, who remain defendants in the case, have admitted that the Patrician Brothers appointed brothers to the school (and this would include Br Grealy) and that the Patrician brother principal had responsibility for the day-to-day management of the school.

Despite this, lawyers for the victims attempted to join the property trust of the Archdiocese of Sydney to the case. While title to the property where the school is located was held by that property trust at the relevant time, the evidence showed clearly that the property trust played no part in running the school or employing and supervising teachers and particularly that the property trust did not appoint or supervise Br Grealy.

The Archdiocese of Sydney always tries to assist in identifying the church party or entity which may have had responsibility in any particular case. In this case, lawyers for the victims were told repeatedly that the property trust was not the responsible entity, but for reasons unknown they continued on this course.

The Supreme Court's decision stands for nothing more than the common sense proposition that you cannot be liable for the wrongs of others unless you are directly or indirectly responsible for supervising their conduct. In this case, some responsibility may lie with the Patrician brothers who appointed and supervised Grealy, and this is a matter which will be determined by the Supreme Court. Certainly responsibility does not lie with the property trust of the Archdiocese of Sydney, which had nothing to do with running the school.

Unfortunately the story failed to mention this basic fact, or to explain that various Patrician brothers defendants continue to be defendants in this case. This left the false impression that there is no one for Grealy's victims to sue.

The Catholic Church is not like a corporation with one basic structure for all its activities. It is a large and diverse community consisting of individuals, unincorporated associations and different legal entities. There are parishes, religious orders, lay associations and many different groups providing services in education, health and welfare. There is a wide variety of structures each with their own areas of activity and responsibility.

Given the complexity and variety of church organizations, it is important to ensure that individuals or entities responsible for the operation and control of church activities are accurately and clearly identified. This is essential to investigating claims of abuse and to responding to civil action in the courts.

It is no service to victims of abuse for lawyers to suggest that they sue parties which had no involvement with the appointment and supervision of the perpetrator of abuse or any responsibility for the circumstances in which the abuse occurred.

The Supreme Court decision was not about avoiding liability. Instead, it simply concluded that as a matter of fact the property trust of the Archdiocese of Sydney had no involvement in conducting the school or Catholic schools generally. The judge found that the plaintiffs' case against the property trust was not even arguable indeed it was said to be hopeless.

While the Trustees are no longer a party to these proceedings, Grealy and various Patrician brothers parties remain defendants, and the Patrician brothers have admitted that the principal, a Patrician brother, had responsibility for the day-to-day conduct of the school.

Whatever the legal position may be in any particular case, the Church acknowledges its moral responsibility to address legitimate claims of abuse and to ensure victims of sexual abuse are treated justly and at all times with compassion and respect. This is an obligation which the dioceses and religious orders take most seriously. Church authorities regularly pay for counselling for victims.

Fulfilling this obligation is not helped by misinformation about the facts from MPs and plaintiff lawyers.

Cardinal George Pell
Archbishop of Sydney
3 November 2011