

# Inquiry into the Handling of Child Abuse by Religious and Other Organisations

I make my submission specifically in relation to the Catholic Church.

## Mandatory reporting

### 13.6 Should mandatory reporting of cases of alleged criminal abuse be extended to ministers of religion?

In short, yes. There is no conceivable reason why any person, regardless of their vocation, should expect any kind of exclusionary or privileged treatment when reporting cases of criminal abuse or any criminal act for that matter. If a religious minister was found to be driving drunk, the way in which that matter was reported, the individual charged and consequences of that action would be exactly the same as if you or I were found to have done the same.

It must be remembered that it is a person behind these alleged assaults – and that, in these instances, the person just happens to be a religious minister. Mandatory Reporting should be exactly that: Required by civil law and in no way influenced or amended by canon law. No person, no matter their position or standing within any organisation, is above the law. If a school teacher, swimming coach or scout leader was suspected or accused of any criminal act – it would not be within the scope of the school, swimming association or scout group to investigate that matter internally. So too the church must not be allowed to handle matters themselves.

Whilst the Office of the Independent Commissioner in Melbourne, appears at the outset to be independent of the church, the office is funded by the Archdiocese. Impartiality here must be questioned. The fact that the Office of the Independent Commissioner makes recommendations to the Archbishop on how to deal with the offender seems to illustrate this concern. In their own document titled “Sexual and Other Abuse: The Melbourne Response” the catholic Archdiocese of Melbourne asks: “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”. The document also makes the following statement in relation to the reporting of matters to 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 reporting of abuse to police should be mandatory, not simply “encouraged”.

I refer to excerpts from the document “Child Sexual Abuse: Framework for a Church Response, commonly referred to as the Framework Document 1996. This document was agreed upon by the Irish Bishops Conference in 1996, although it

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appears not officially sanctioned by the Holy See. I refer also to The Cloyne Report. This was a judicial inquiry into sexual abuse in the Catholic Diocese of Cloyne in Ireland in 2011.

\*\*As per the Cloyne Report:

The Framework Document 1996: Reporting policy

4.11 The Framework Document sets out the recommended reporting policy as follows:

“2.2.1 In all instances where it is known or suspected that a child has been, or is being, sexually abused by a priest or religious the matter should be reported to the civil authorities. Where the suspicion or knowledge results from the complaint of an adult of abuse during his or her childhood, this should also be reported to the civil authorities.

2.2.2 The report should be made without delay to the senior ranking police officer for the area in which the abuse is alleged to have occurred. Where the suspected victim is a child, or where a complaint by an adult gives rise to child protection questions, the designated person within the appropriate health board [...] should also be informed. A child protection question arises, in the case of a complaint by an adult, where an accused priest or religious holds or has held a position which has afforded him or her unsupervised access to children.”

I know these guidelines were written with relevance to the situation with Catholic Church in Ireland (although not necessarily implemented), but in comparison to our current guidelines here in Australia, and Melbourne in particular, there seems to be one glaring omission: No mention of an Independent Commissioner. Instead any claim of child abuse should be reported “without delay to the senior ranking police officer for the area in which the abuse is alleged to have occurred.”

This reporting policy as outlined in The Framework Document would appear to be a far more independent, impartial way of handling complaints of abuse.

## Potential new laws

13.12 Are new laws required to more effectively address the institutional abuse of children?

Yes:

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In the specific case of the Catholic Church, the investigation and handling of these cases should not – ever – be handled within the church. Officials of the church, should be bound by law to report allegations brought to them, of abuse by any member of the clergy or lay-ministry immediately to outside authorities – without delay, without a “house-cleaning” period, without a “heads-up” to the higher ups.

I believe that a main issue lies with the stalling tactics the church appears to utilise to benefit their cause; protecting the reputation of the church and the priest/lay minister involved. I would very much doubt that the minute an alleged victim began disclosing a report of abuse to a church official, that the official would immediately stop the conversation, make a call to an independent civil authority and ask that a representative come and witness the report and take a statement. That is the way it should happen. I doubt very much that this is the way that it does happen.

\*\* As per the Cloyne Report:

The Framework Document, 1996 identifies guidelines which should underline the response of church authorities to allegations of child abuse. Some of those guidelines are:

The safety and welfare of children should be the first and paramount consideration following an allegation of child sexual abuse.

A prompt response should be given to all allegations of child sexual abuse.

In all instances where it is known or suspected that a priest or religious has sexually abused a child, the matter should be reported to the civil authorities.

Care should be given to the emotional and spiritual well-being of those who have suffered abuse and their families.

There should be immediate consideration, following a complaint, of all child protection issues which arise, including whether the accused priest or religious should continue in ministry during the investigation.

An appropriate pastoral response to the parish and wider community should be provided, with due regard to the right of privacy of those directly involved, and to the administration of justice.

13.13 Should officials in religious and other organisations be held criminally responsible for the actions of offenders of child abuse in their employ or for whom they have responsibility? Under what circumstances should this apply?

Any official within the church must be made criminally accountable for the actions of offenders in their employ or for whom they have responsibility, most especially if they have knowledge, suspicion or have been made aware by a third-party of any incidence of child abuse and fail to report it – regardless of the manner in which they came about that information.

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I refer specifically to the sacrament of Confession and the Seal of the Confessional. There are cases where portions of a confession may be revealed to others, with conditions of course. This, I would hazard to guess, never happens. But it is apparent that an official of the church can have first-hand knowledge (gained through confession) of ongoing acts of abuse by a priest or other member of the ordained clergy, lay minister or indeed, parishioner and that the offender is all too easily able to hide their crimes behind the cloak of the Seal of the Confessional. It is conceivable then that because of the Seal of the Confessional alone, that acts of child abuse were well known by church officials and able to be carried out over decades without investigation.

Criminal accountability must also apply any church official who conspires in any sort of a cover-up of reported incidences of child abuse.

Any such charges, under any of these circumstances should also be retroactive.

This has certainly been the case in in the United States.

Kansas City, Missouri 2011. The Catholic Diocese and Bishop Robert Finn were criminally charged with failing to report acts of child abuse by Father Shawn Ratigan between 2005 and 2009. Bishop Finn was found guilty of this charge in September 2012. Father Ratigan plead guilty to federal child pornography charges, admitting to his crimes only weeks before he was scheduled to go to trial. Monsignor William Lynn (Former Secretary for Clergy – Archdiocese of Philadelphia) has been jailed for 3 – 6 years for covering-up sex abuse claims against priests.

These cases illustrate that this is not a decades-old issue of the past for the Catholic Church. It is happening now. The law must allow for these charges to be brought here in Australia.

The Catholic Church have in the past and in the present day, been entrusted with the spiritual, emotional and physical welfare of millions of children worldwide. They have betrayed this trust and their actions, or inactions point to an arrogance on their part that is unfathomable. These acts of abuse have far, far reaching effects. Effecting not only the victims directly, but their families, advocates and the wider community in general. It is time for a little transparency.