

## Background

<b>Name</b>	Tony Hersbach
<b>Agrees to material being published</b>	
<b>Address</b>	c/-Lewis Holdway Lawyers 20 Queen Street Melbourne 3000 Ph 96299629
<b>Responsible Church Authority</b>	Catholic Archdiocese of Melbourne
<b>Time of Assaults (Approximate year)</b>	1964 -1970, Numerous sexual assaults by Parish Priest Fr Victor Rubeo. The assaults began when I was aged 11 and continued until I was 17. Even after the assaults ceased I was completely controlled by Fr Rubeo (including my marriage and family life) and was unable to disclose the abuse for 30 years. I was 41 when I was finally able to speak about these experiences. Please refer to the attached Chronology for further details. [REDACTED]
<b>Time of Report to Church Authority</b>	1994 - to Monsignor Cudmore 1997 - to Peter O'Callaghan
<b>Time Taken to Resolve Complaint</b>	First complaint - 3 Years Second Complaint- pending
<b>Outcome</b>	Ex-gratia payment for 1st Complaint 2nd Complaint - as yet unresolved

### The Handling of My Report of Abuse to the Church

It has now been 18 years since I first reported the abuse and my overwhelming feeling is one of a sense of abandonment and a failure by the church to act appropriately. They have also yet to acknowledge the full truth about Rubeo's crimes in the wider community and Catholic community.

I seek a full disclosure from the Church about the mishandling of my complaint. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

### Initial Contact:

I did not receive immediate and appropriate assistance. I was not provided clear information about the complaint process. No record was ever given to me of my reporting and I was not updated by the Archdiocese after I reported to them.

I was not advised of other complaints about the accused in my case, although I now believe the Church had such knowledge regarding my twin brother Will, and other assaults that had occurred in

[REDACTED]

[REDACTED]



the East Preston parish. In my view the Archdiocese failed in its duty of care to all victims of Rubeo by failing to conduct a proper investigation.

I was not offered psychological support or counselling. I had arranged my own counselling at the time and was out of pocket for \$2,800 which the Church told me my offender had offered to pay. I was greatly disturbed by this as I felt even my counselling had been tainted by Rubeo's control and influence.

I was not provided clear information about the complaint process. Throughout the three year period, I received very little feedback and this was only when I made the approach. On many occasions my phone calls were not returned. I felt fobbed off with platitudes and empty promises that resulted in little or no action.

I was sent to Mr Peter O'Callaghan QC and it was my impression that he worked for the Church.

I was never offered independent legal advice. In fact, the suggestion that I might even consider getting legal opinion was never broached. I remember a brochure from the Melbourne Response which described their process as an 'alternative' to a legal solution.

My family and parish community were never offered any support.

**Period of Investigation:**

There were several periods of investigation, none of which were effective. Please refer to Appendix 1 for a summary of the process of my complaint.

[REDACTED]

I had third parties who worked for the church authority sit in on my meeting without my consent. At the time I didn't question this as I felt I had to comply with it, but looking back on it I can see that this was a breach of my privacy.

I was not told I could have a support person with me during interviews and meetings. I would have taken my wife if I had known this. Having to attend the initial meetings on my own left me feeling very isolated as I had to do it alone. I also felt I had to agree with whatever the church representatives said. This dynamic in fact reflected the relationship I had with my abuser, and it was very distressing and disturbing to me that I felt I had to "please" the system which was supposed to be helping me, by being compliant. In fact what was happening was that the system was also controlling me. I am compliant by nature and I feel that this left me very vulnerable in the process.

My initial interview with the church authority was not recorded or transcribed

My process had significant time delays before resolution was reached

I have been refused pastoral care on the three separate occasions I have requested it in 1997, 2010 and 2012. My first request was in my meeting with Archbishop George Pell and Vicar-General Denis Hart in 1997. The outcome was that I was given one meeting with Maria Kirkwood of the Catholic Education Office, with no other follow-up.

[REDACTED]

At end of 2010 I again requested pastoral care and I received exactly the same response - [REDACTED]

Since 1997 the church has funded the counselling and medications for me and my family. It should be noted however, that the church requires me to use the Medicare system such that the church is in fact actually only paying the "gap" and the Australian taxpayer pays for the bulk of my therapy. The cost is \$225 per session of which Medicare pays \$135 and the church pays the gap payment of \$90. I do not think that the wider Australian community should be paying for the therapy of clergy abuse victims; it should be the responsibility of the church.

**Outcome:**

My complaint was not properly investigated by the church authority.

The alleged perpetrator was never "stood down", he remained at St Joseph's Parish Boronia in ministry for a further 2.5 years after my report to the Church.

The Archdiocese allowed Rubeo to continue ministering at his parish St Joseph's Boronia. The Boronia families were kept unaware that their parish priest had admitted being a child molester. The church only accepted Rubeo's resignation some 2.5 years after my initial report to Cudmore and only then following a police interview that arose from a separate adult complaint. This potentially placed others at risk and is a clear failure of the Melbourne Archdiocese's duty of care. Throughout these 2.5 years, Rubeo was fully active in his ministry at his Boronia parish with duties involving two parish primary schools.

When I went to the Compensation Panel, I gave them a lot of material about the impacts on my life and that of my family. I had expected that this detail would be passed on to the church hierarchy but in later meetings the church representatives I met with said they did not realise the full extent of what I had been through (the actual nature of the assaults and the subsequent enmeshment of the abuser into my family).

I also had a perception that the Panel would be interested and engage in further dialogue with me and was extremely disappointed that everything just stopped after the Panel.

It was very unhelpful for me that the Panel hearing was held literally in the shadows of the cathedral. When I went into the room it was me and my wife on one side and a whole lot of people on the other side of the table, some wearing clerical garb. The whole experience was very intimidating.

I felt absolutely re-traumatised as a result of going through the church authority's complaint process. I felt that I had to justify why I should receive some money, and set out my case again.

I decided to re-open my case with the police in 2011. The process was like 'chalk and cheese' compared to the first one. The response was professional, thorough and compassionate. Unlike the church, the police had learned a lot over the intervening time and improved their response. Rubeo was served with 30 new charges over and above the ones he received in 1996. The brief of evidence was very strong and ran to nearly 300 pages. I have tried twice to receive this brief of evidence through FOI, but have been unsuccessful. However I can provide the inquiry with the police statement if required.

My complaint to the church was not resolved to my satisfaction for the following reasons:

[REDACTED]

[REDACTED]

- The church's response to my initial complaint was negligent - the offender was left in ministry
- The other admissions of the offender were not investigated, resulting in further victims being left to "dangle" until they were able to come forward themselves. It should be noted that many victims continue to suffer in silence.
- Although I disclosed a large number of ongoing and frequent assaults, the extent of the assaults was never properly explored such that I now have to face a second complaint process.
- After my complaint, the offender's current parish was not informed that a complaint had been made about him
- I had no support and had to go through it all alone, even having to justify my counselling
- Being told the offender wished to pay for my counselling was further damaging to me - it tainted my counselling process.
- No pastoral care was ever provided and is still not provided to me and my family.
- Although I had a number of meetings with Pell, Hart, and Vicar-General Les Tomlinson [REDACTED] [REDACTED] and have written many letters seeking recognition; they continued to fail to grasp the detail of my experiences and express surprise about what had happened to me. This was hugely frustrating to me as well as distressing, as I had put in so much effort to ensure that the hierarchy knew what had happened.
- It was only when I re-opened my case in 2010 and received a letter from Peter O'Callaghan QC, that I realised the extent of the mishandling of my case.
- As it seemed to me that despite my best efforts the church still did not understand how badly mishandled my case was, I went public and told my story in the Age (see attached). - The response from the Archdiocese (attached) was very upsetting as they effectively blamed me for their mishandling. I wrote to them (attached) to express my outrage at this "spin" on my situation. To date I have not received the courtesy of a response from Vicar-General [REDACTED]. I am not inclined to anger but this lack of response has made me furious. I have tried so hard many times to have the truth be heard.
- After Rubeo's death my son approached Vicar General Les Tomlinson's office for details of the funeral because as a family we felt we needed to know. The Vicar General's office deliberately concealed and withheld this information from my son. For me, this was another example of the church failing to act with sensitivity to the needs of victims, and to comprehend the significance of such matters for a victim. It seems that even in his death, the church protected him and left my needs unmet. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]
- Even when I took my complaint of mishandling to the very top (the Vatican) their response was to instruct Archbishop Hart to write to me. In the circumstances where Archbishop Hart was one of the people I was complaining about, this was intolerable. It went to the very core for me in that I felt that I was being systemically abused by the very organisation which I had to depend on for a response.
- This sums up my experience of the church's handling of my case: totally un-Christlike, lacking in compassion; limitless in its effort to self protect; unwillingness to investigate the truth; concealment, minimising and one sided gross injustice.

[REDACTED]

[REDACTED]

## Harmful Systemic Practices

In my case the criminal behaviour had already been admitted by the offender to the police.

However, I believe that if the Church had acted responsibly with my information and immediately provided it to the police, there would have been many more outcomes such as:

- Support and assistance and the opportunity for justice for other victims may have been provided
- There was no protection for the Catholic community between the time of my report and the offender's resignation.
- I was emphatic when I reported that something needed to be done about the offender - but nothing happened for 2.5 years. Where did my information go?
- For me it has been an ongoing battle to have the truth heard when I should have been treated with immediate compassion and concern and my information should have been acted on.
- My experiences were not treated seriously by the Church and were categorised as in the "low offender" category. If they had investigated thoroughly, this would not have been the outcome. By the time O'Callaghan came into the picture in early 1997, Rubeo had already resigned, had been to court and received a lenient sentence (good behaviour bond with no conviction) and was officially 'in retirement'. To the 'outside world' including Boronia and his other previous parishes, Rubeo was seen as a 'minimal offender' (2 charges of indecent touching) which represented the tip of the iceberg.
- The required meeting with Peter O'Callaghan was completely intimidating to me, I felt powerless and "cap in hand". I did not understand why I was in a posh QC's office when I had made a complaint about a priest. He was compassionate and seemed genuinely concerned, However it was far from a "user-friendly" process and far below what I would have expected as a Christian response.

- [REDACTED]

## Required changes required to law/practices/policies/protocols

- The church authority's response organisations should be locally based and have a public profile such that they are approachable to the public and professionals.
- The entire response system needs to be totally independent of the Church. [REDACTED]  
[REDACTED]. Any future system must be at arms length.
- The church authority's organisations should include complainant representatives to ensure that their services appropriately target the needs of complainants.
- Recognition and Inclusion of spiritual damage as a critical element in the harm caused
- Recognition and practical response and support should be provided to family members of the complainant – the secondary victims
- The relationship between Canon Law and civil and criminal law should be transparent and Canon Law should be subject to the law of the State.
- There should be psychiatric screening of all current church personnel including those currently in training for religious life to minimise risk to children. What level of monitoring did the Archdiocese put in place, given his proclivity for grooming and control, which were so prevalent in my case.

[REDACTED]

[REDACTED]

- Funding for complainants who seek a holistic casework approach, (spiritual/medical/legal/psychological)
- An acknowledgement that the required pastoral care in this field is specialised and should be provided to victims by appropriately qualified professionals at no cost to the complainants. It can take many years for a victim to find the strength to speak up. To have to tell my story of abuse to a QC after so many years of silence was not in my best interests.
- The Church should tell the people in the parishes the truth when there has been an offender in their midst. It should be published on their websites and victims should be encouraged to come forward. The church should take seriously its duty of care to victims in all the parishes where Rubeo previously served.
- The Church should admit to past cover-ups and from now on not tolerate such cover-ups.
- The Church should set up a mechanism whereby it can admit to past mishandling of cases and now publish all details of known and alleged abusers.
- Most importantly of all, the church must reflect the compassion, courage and honesty of its founder Jesus Christ. Not once did I personally encounter a 'Jesus' figure in this whole official process.

I believe the following changes to the law will improve access to justice for victims of Catholic clergy abuse:

- The Statute of Limitations – amend to allow historical abuse claims
- Amend corporations law so that the church authority is legally a corporation and capable of being sued over time
- Amend property trust legislation in each state to prevent the church authority from protecting its assets from civil suits
- Amend the law on vicarious liability so that priests and religious are treated as employees and therefore church authorities can be held responsible for breaches committed by church personnel.
- Introduce Mandatory Reporting for priests, religious and those appointed by the church to investigate complaints of sexual assault.

## Supporting Documents

Appendix 1 – Summary of my Complaint Process

Chronology of Tony Hersbach's Assaults

30 April 1990 L.M.Lothstein "Can a Sexually Addicted Priest return to Ministry after Treatment? Psychological Issues and Possible Forensic Solutions"

10 August 1994 - Handwritten notes from Monsignor Cudmore - first meeting with Tony Hersbach

16 June 1997 - Report by Fred Van Gestel, Tony's Spiritual Director at the time of the process.

9 July 2010 - Letter from Peter O'Callaghan to Tony Hersbach

20 August 2010 - Letter from Peter O'Callaghan to Tony Hersbach

April 2012 - Letter from Tony Hersbach to the Vatican

5 June 2012 <http://media.theage.com.au/news/national-news/why-the-hell-did-they-ever-become-priests-3350508.html> - Video link to Age article

6 June 2012 <http://www.theage.com.au/victoria/one-mans-struggle-to-be-delivered-from-evil-and-indifference-20120605-1zud5.html> - My story in the Age

6 June 2012 <http://www.theage.com.au/victoria/response-by-a-spokesman-for-the-melbourne-archdiocese-20120605-1ztxn.html?rand=1338905097070> - Response by the Archdiocese

9 June 2012 <http://brokenrites.alphalink.com.au/nletter/page269-victor-rubeo.html> - Offender History

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████████████████████

24 July 2012 - Vatican's response via Archbishop Hart

All documents that are not attached are available to the Committee at their request.

**Witnesses:**

Tony Hersbach

[REDACTED]  
[REDACTED]

I would welcome the opportunity to speak in person to the Committee and if so, I would like to bring at least two support people with me.

**Signature**

[REDACTED]

**Date**

5/9/2012

[REDACTED]

[REDACTED]