

Attachment 24

Letter with attached statement from the
Independent Commissioner to Senior Detective
Constable FJ dated 4 September 2002

MAILED 4.9.02

Commission into Sexual Abuse
Peter O'Callaghan Q.C

Owen Dixon Chambers West
18/15
205 William Street
Melbourne 3000

4 September 2002



Private and Confidential

Sen Det Constable Jones
Sexual Crimes Squad
8th Floor
412 St Kilda Road,
Melbourne 3001

Fax No. 9865 5016

Dear Detective Jones

Re: REDACTED

I refer to previous correspondence and discussions and as arranged now
enclose herewith my signed statement and annexures.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Peter O'Callaghan'.

Peter O'Callaghan
Independent Commissioner

STATEMENT
OF
PETER O'CALLAGHAN Q.C.

I, Peter John O'Callaghan of 205 William Street, Melbourne, one of Her Majesty's Counsel state as follows.

1. I am a barrister at law having practised at the Victorian Bar since 1961. I was appointed Queen's Counsel in 1974.

2. On 30th October 1996 I was appointed by Archbishop Pell to enquire into allegations of sexual abuse by priests, religious and lay persons within the Catholic Archdiocese of Melbourne. The Terms and Conditions of my appointment were in writing and I annex a copy. When Archbishop Hart was appointed in succession to Archbishop Pell my appointment was renewed.


3. On or about 29 April 2002 I was rung by [REDACTED] who told me that he had been to Carelink which is an agency set up by the Archdiocese to provide free counselling and psychological support to victims of sexual abuse. He told me that Carelink had recommended that he contact me. I arranged to see him on 30 April 2002 in my chambers at Owen Dixon Chambers West.

4. I taped the interview I had with [REDACTED] on a Lanier recording machine. I used two cassettes. The first was one which also

contained the taping of an interview with another person. At a point in the conference my telephone rang and the tape was switched off.

Because I believed that it would be necessary to have a further tape I then switched to a second tape. Consequently, there is blank tape on both tapes.

5. As is normal practice, the tapes were transcribed by [REDACTED] and by letter of 2 May 2002 (copy enclosed) I forwarded a copy of the transcript to [REDACTED]. [REDACTED] made some grammatical and spelling alterations to the transcript and [REDACTED] incorporated those amendments into the final transcript.
6. [REDACTED] also wrote to me on 9 May advising me that he now knew the identity of the priest in respect to whom he complained, namely Terence Melville Pidoto. The letter of [REDACTED] is annexed hereto.
7. I have made copies of the original tapes and have provided same to Sen Det Constable [REDACTED].



P.J. O'Callaghan

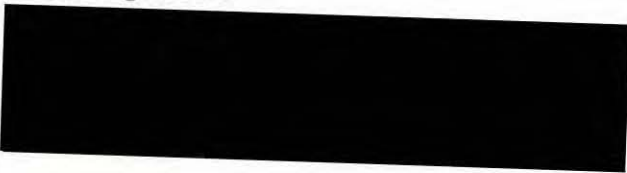
Attachment 25

Letter from the Independent Commissioner to Ms
Kate Tozer of the ABC dated 29 August 2002

Commission into Sexual Abuse
Peter O'Callaghan Q.C

Owen Dixon Chambers West
18/15
205 William Street
Melbourne 3000

29 August 2002



Private, confidential and without prejudice

Ms Kate Tozer
ABC

Fax No. 9626 1660

Dear Ms Tozer

Re: Helen Last and Another

I refer to my telephone conversations with you on Friday 23 August and Sunday 25 August. Those conversations dealt with the allegations which you had received from Helen Last and a victim of sexual abuse (the "Complainant") in respect of my role as Independent Commissioner appointed by the Archdiocese of Melbourne to enquire into allegations of sexual abuse by priests religious and lay persons within the Archdiocese. I note that you at no time identified the Complainant, but in the circumstances it was easy for me to infer who he was.

The allegations included the following.

1. I am not independent, but my role is to collect evidence for the use of the Church in legal proceedings.
2. That when I interviewed the Complainant I sought information about his financial position, his assets and liabilities and so on.
3. I asked the Complainant what positions he and his wife occupied when engaging in sexual intercourse.

I strongly refuted those allegations which are false and gravely defamatory and I informed you that if anything to that effect was published I would have

no option but to take proceedings for defamation. You invited me to give an interview dealing with those allegations which I refused for two reasons. First, it is my invariable policy not to give interviews on radio or television, because of the confidentiality which I extend to victims of sexual abuse when bringing complaints to me. If those persons saw or heard me on television or radio, even though dealing with matters not connected to that person, they may fear I would be talking about them next. Secondly, in the context of these allegations, the mere publication even though strongly denied, would cause "some mud to stick".

The allegations convey at least the following imputations.

- (i) I am in a conspiracy with my appointors not to act independently or to honour my undertakings of confidence.
- (ii) That I consciously do not observe and comply with the Terms and Conditions of my appointment.
- (iii) That I am false to my ethical obligations as a barrister to act in accordance with the Terms and Conditions of my appointment.
- (iv) That when interviewing a Complainant I sought information which was irrelevant, namely the financial position of the Complainant.
- (v) That I asked prurient questions which could have nothing to do with the subject complaint of sexual abuse.

I stress that the above imputations are only some of those which can be conveyed.

The interview I had with the Complainant was transcribed into fifty pages of transcript, and a reading thereof provides no evidence of the matters complained of. The context in which the complainant's wife was mentioned was relevant to the complaint, and had nothing to do with the sexual relationship between the Complainant and his wife.

The Complainant was provided with a copy of the transcript, which he edited. He returned it to me and made no comment or complaint about the contents of the transcript, or the manner in which the interview was conducted.

I did have a fairly lengthy telephone conversation with the Complainant following his having seen the Sixty Minutes interview with Dr Pell. In that telephone conversation he indicated that he did not wish to avail himself of the services of Carelink, because of its connection with the Church. I discussed that with him, and advised him that he was free to choose a psychiatrist of his own choice, whose fees would be met by Carelink.

Because the Complainant decided that he would take the matter to the police, I informed him I could take no further action whilst the police investigation and any proceedings emanating there from remained unresolved. Because the

Complainant provided the police with a copy of the transcript of interview, I was asked by the police to provide copies of the tapes, to retain the originals, and to make a statement to the police. This was because I was the first person to whom the complainant had complained. All these things I have done. I might add that it was upon my recommendation some years ago that the alleged offending priest was debarred from acting as a priest because of other complaints about him.

I have considerable sympathy for the distress and concern which the complainant obviously has, and it is regrettable that for whatever reason he has misconceived and misunderstood my position.

The allegations which have been made are gravely defamatory, and an insult to my professional integrity. But even more importantly if those allegations were published, they would have the tendency to make victims of sexual abuse reluctant to come forward and complain. It would also produce disquiet in some of the more than one hundred and fifty victims whom I have dealt with.

I gather that Ms Last had told you she had a victim who wanted to go public about the lack of independence etc of the Commissioner. In that context I gather that one of the Complainant's concern was that the solicitors who retained me on behalf of the Archbishop are the solicitors for the Archdiocese namely Corrs Chambers Westgarth. Of course this is so, as the Terms and Conditions of my appointment state. For your convenience I enclose herewith a copy of those Terms and Conditions. But the appointment is subject to the Terms and Conditions which inter alia provide that,

"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 1(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."

There has been no complaint made to me, or so far as I am aware elsewhere that I have not honoured these Terms. It is untenable to suggest a lack of independence, because my retainer is from the Solicitors for the Archdiocese.

No one could reasonably suggest that an ombudsman who is appointed by a government, and whose salary is paid by the government and whose function often leads to criticism of departments and members of governments is not independent.

Likewise it would be untenable to suggest that barristers and judges who are appointed royal commissioners, retained by government solicitors, and have their fees paid by the government thereby lack independence. Their professional and ethical obligations require them to fearlessly and impartially

carry out their terms of reference which often results in their being highly critical of the government which appointed them.

In the case of my being appointed Independent Commissioner, precisely the same considerations apply. Instead of a government being the appointor, the Archdiocese through its solicitors are the appointors.

Neither Corrs Chambers, or any person connected with the Archdiocese is informed directly or indirectly of the identity of a complainant, or an offender (save when the complaint having been made to the Cathedral) is referred to the Independent Commission. The proceedings before the Commissioner are and remain confidential, and subject to the consent of the complainant, Carelink.

Corrs and the Archdiocese are of course informed of the identity of a complainant, the offender and the amount of compensation recommended, when those matters are passed on by the Compensation Panel. By then the Commission has become functus officio.

I propose to provide a copy of this letter to Ms Last, and to invite her to withdraw the allegations which she has made.

Should you have any queries arising out of the above, do not hesitate to contact me.

Yours sincerely,



Peter O'Callaghan
Independent Commissioner

Attachment 26

Letter from the Independent Commissioner to Ms
Helen Last dated 29 August 2002

COPIED 2.9.04

Commission into Sexual Abuse
Peter O'Callaghan Q.C

Owen Dixon Chambers West
18/15
205 William Street
Melbourne 3000

29 August 2002

**Private and confidential**

Ms Helen Last
C/- In Good Faith and Associates
Level 2, 20 Queens Street
Melbourne 3000

Dear Ms Last

I enclose a copy of a letter which I have written to Kate Tozer of the ABC, the contents of which I believe are self explanatory. I repeat that the allegations I have referred to in that letter as having been made by you are false and defamatory of me in my professional and personal capacity. Additionally, if those allegations were made public, they would actually and potentially prejudice victims of sexual abuse.

Unless within seven days you notify me that you unreservedly withdraw those allegations, I will have no option, but to instruct my solicitors (Mahony's) to issue at the appropriate time Supreme Court proceedings claiming damages for defamation.

The appropriate time for the issue of those proceedings cannot be until the trial of Terry Pidoto in respect of the complaint of the complainant is concluded. The publicity surrounding the issue of my proceedings could prejudice the fair hearing of the trial, including detracting from the strength of the prosecution case.

But be assured that action will be taken in a timely way.

I must add that I am at a loss to understand how a person in your position could give credence to and make these allegations.

Yours sincerely,


Peter O'Callaghan
Independent Commissioner

Attachment 27

Email from Ms Helen Last to the Independent
Commissioner dated 8 October 2002

Peter O'Callaghan

From: Helen Last [REDACTED]
Sent: Tuesday, 8 October 2002 12:50 PM
To: [REDACTED]
Subject: FW: Initial reply to letter of 4 Sept 2002

STRICTLY CONFIDENTIAL.

WITHOUT PREJUDICE.

Dear Mr O'Callaghan,

I am writing following my phone call to you, to respond to your letter of 4 September 2002. I reiterate that I apologise to you for any concern you may have experienced as a result of Ms Kate Tozer putting incorrectly to you that I had made the three allegations, as outlined in your letter.

As I said personally to you I did not make those allegations about you. I am aware that you have not and would not professionally ask such things as in allegations 1 - 3.

I did say to Kate that victims have asked me to respond to their concerns about not understanding your independence, as they are unclear about the structure and operations of your appointment, which you outlined in detail in your letter.

Kate Tozer, the journalist, has most clearly mixed up her materials.

My apology again for any undue concern this may have caused you. I will also send this to you in letter format.

Sincerely,

Helen Last.

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Attachment 28

Letter from Ms Helen Last to the Independent
Commissioner dated 4 February 2003

in good faith and associates

ABN 97 056 949 314

*specialised consultancy in education, advocacy and care
for survivors of professional misconduct*

Level 2, 20 Queen St, Melbourne Victoria 3000

PO Box 440, Collins St West, 8007 Phone: (+61 3) 9614 0332 Fax: (+61 3) 9620 0679
Web: www.vicnet.net.au/~igfa**FACSIMILE TRANSMISSION****To:** Mr. Peter O'Callaghan Q.C**From:** Helen Last**Date:** 4th February 2003**Re:** **STRICTLY CONFIDENTIAL****No. Pages:** 2 including this page.**Fax No:** 9225 7114

Peter O'Callaghan Q.C
Owen Dixon Chambers West
18/15
205 William Street
Melbourne 3000

4th February 2003

Dear Mr Peter O'Callaghan Q.C,

I am contacting you as a pastoral advocate for [REDACTED] I understand [REDACTED] approached you for assistance around the middle of last year regarding his allegations of childhood sexual abuse by Fr Terry Pidoto.

Regarding his legal processes, Mr Paul Holdway is currently acting for [REDACTED] and as you know his Archdiocese case is on hold due to criminal proceedings.

In the interim, [REDACTED] has asked me to seek some clarification and consideration by yourself regarding granting counselling funding to [REDACTED]

He has been attending Lyn Bender, psychologist, who was a referral through his police contacts and the VRAS service. [REDACTED] wishes to maintain his therapeutic work with Lyn Bender, which has been most beneficial.

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- 2 -

In your letter to [REDACTED] of 6 June 2002 (last paragraph) you confirm that he is free to nominate his own psychiatrist and to have fees met by Carelink etc.

[REDACTED] says that he encountered difficulties in his contacts with Carelink and he would prefer to deal with any counselling provision matters via yourself.

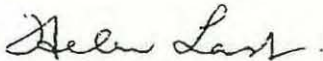
[REDACTED] has been granted Victims of Crime psychological counselling funding, via the VOCAT magistrate's court for Lyn's sessions, but there are now some outstanding sessions for which we are seeking funding from your Office. Further details regarding this can be forwarded to you.

Are you able to find [REDACTED] eligible for this coverage? What is his status for any future counselling with Lyn? How might this grant be processed?

I am available on the above contact details.

Thankyou for your consideration to this request.

Sincerely,



Helen Last
Pastoral Advocate

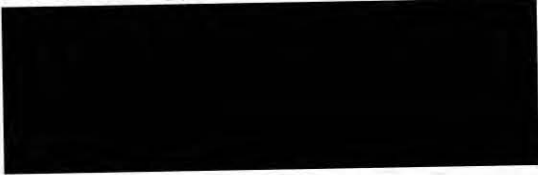
Attachment 29

Letter from the Independent Commissioner to Ms
Helen Last dated 11 March 2003

Commission into Sexual Abuse
Peter O'Callaghan Q.C

Owen Dixon Chambers West
18/15
205 William Street
Melbourne 3000

11 March 2003



Private and confidential

Ms Helen Last
C/- In Good Faith and Associates
Level 2, 20 Queens Street
Melbourne 3000

Fax 9620 0679


Dear Ms Last



Re: 

I refer to previous correspondence and wish to advise as follows.

- (a) I advise that Carelink will meet the fees of Miss Lyn Bender, Psychologist.

I have authorised Carelink to do so.

- (b) Please advise  that Miss Bender's invoices should be sent directly to Carelink, marked for the attention of Ms Elizabeth Harding, 163 Victoria Parade, Fitzroy 3065.

- (c) It would also be desired that Ms Bender give Ms Harding some indication of the extent of the treatment which she considers that   requires.

It will be appreciated that these are interim arrangement because until the criminal proceedings involving Fr Pidoto are finalised I am not in a position to make findings.

It may be necessary to review arrangements depending upon the time involved.

Yours sincerely,

Peter O'Callaghan
Independent Commissioner