

**THE PARLIAMENTARY INQUIRY INTO THE HANDLING OF CHILD ABUSE BY  
RELIGIOUS AND OTHER NON GOVERNMENT ORGANISATIONS**

**SUBMISSION IN REPLY BY PETER O'CALLAGHAN QC**

**TO EVIDENCE AND SUBMISSION OF IAN LAWThER**

1. (a) Mr Ian Lawther in Submissions and in evidence to the Committee has made a number of grave accusations against me as the Independent Commissioner generally, and in particular with respect to my dealing with the complaint his adult son, ██████████, made to me about abuse that ██████████ suffered as a child.
- (b) It is demonstrated hereunder that these accusations are baseless and damaging. For example:
  - Mr Lawther alleges on several occasions that:
    - ██████████ *“was confronted by six solicitors without representation”* at his hearing before the Compensation Panel.
    - *“The fact that most people when presented with this insult to Australian law have no legal representation and are in fact told they need none – as my 18 year old son was, and ended up in a room with more than 6 lawyers before his Tribunal hearing – is yet another way in the fullest compassion it boasts of intimidates CSA sufferers”.*
  - The truth is:
    - ██████████ was represented by Ms Angela Sdrinis of Ryan Carlisle Thomas lawyers throughout the entire compensation process.
    - ██████████ was not confronted “with more than 6 lawyers” or “by six solicitors” as the Compensation Panel comprises only four members. At ██████████ Compensation Panel hearing, the Compensation Panel was Mr David Curtain QC (Chair), a psychiatrist, a solicitor and a pharmacist/social worker.
  - Mr Lawther alleges:

- “These people were forced up until 2009 to sign release deeds... The bloke who was locked into this was probably 12 years old at the time of the mediation and in no fit state to be signing his rights away”.
- The truth is:
  - *There is no case in the history of the Melbourne Response in which a 12 year old has been asked to sign anything.*
- Mr Lawther alleges:
  - *He has received “absolutely zero” accountability or apologies or statements of contrition from the Church hierarchy in relation to the abuse that has occurred to his family.*
- The truth is:
  - [REDACTED] *was the recipient of compensation and also an apology to him and those around him from Archbishop Hart.*
- Mr Lawther alleges:
  - *The Church used “time as a weapon”, taking 5 ½ years to resolve the compensation claim.*
- The truth is:
  - *The delay was 11 months, and some of that delay resulted from the obtaining of updated medical reports.*
- Mr Lawther alleges:
  - *“He [Pavlou] was warned by O’Callaghan via his solicitors that he was under police investigation... It was enough time for him to get rid of his computer records and to hold the whole investigation up for six months. “*
- The truth is:
  - *I advised the solicitors for both parties that I would take no further action, because the matter had been referred to the Police. This is set out at length in my Reply to the Police Submission (see para 37-39).*

- *No policeman has ever made any complaint to me that I 'tipped off' Fr Pavlou.*
  - *It is false to say that my communications with the solicitors for the parties resulted in evidence being lost. The fact is that the last time that the priest's computer was accessed was 18 days before I had written my joint letter to the solicitors for the Complainant and Pavlou.*
- (c) The above are just a few examples of the inaccuracies in Mr Lawther's written submission and the evidence he gave at a public hearing on 23 November 2012. These and other inaccuracies are discussed in detail below.
- (d) That Ian Lawther is so wrong in his description of how I handled his son's complaint delivers its own message as to the credibility which should be given to the other accusations Mr Lawther has made. I deal first with my handling of the son's complaints.

## **THE COMPLAINANT MADE BY MR LAWThER'S SON**

2. On 21 April 1999, Ian Lawther (hereafter referred to without disrespect as Lawther) inquired of my Secretary as to the position of a person close to him who had been allegedly abused by Fr Daniel. I then wrote to Lawther on 21 April 1999 (**Attachment 1**). This and subsequent correspondence is not only relevant in refuting Lawther's complaint, but typifies the way in which I have handled complaints of sexual abuse. I set out a relevant extract from that letter:

*"First and importantly, I am not a substitute for the Police Force, and if the conduct complained of constitutes criminal conduct it is my invariable practice to advise the complainant that he or she has an unfettered right to report the matter to the Police, and I encourage the exercise of that right...."*

*Further if a Police investigation is pending or is to be commenced I then abstain from taking any steps in relation to the investigation of the complaint pending the hearing and resolution of the Police action. In this case Fr Daniel is the subject of Police proceedings in relation to complainants who in fact had seen me initially. Fr Daniel has been or is about to be charged with such offences. Accordingly if the complainant wants to proceed with his complaint and sees me, I will advise him of his rights to report the matter to the Police etc. If for whatever reason, and this is not an infrequent occurrence, the*

*complainant does not desire to go to the Police but only to reveal his complaint to me in confidence, I will respect that confidence and take no action of disclosure of the complaint unless and until authorised by the complainant to do so, or become compelled by law to do so....”*

3. I interviewed Lawther and his adult son on 1 June 1999. I attach the transcript of that interview (**Attachment 2**). This transcript is typical of the hundreds of interviews I have conducted. I set out relevant extracts identified by Roman numerals:

(i) *“POC: Well tell me in your own words what happened*

█ *Well*

*POC: let me ask you this are you happy to have dad here*

█ *yes yeah*

*F: if you'd rather I wasn't son I don't mind*

█ *do you want to hear it*

*F: I'd rather hear it*

█ *well*

*F: not that I want to....” (p 4)*

(ii) *POC: now before you go on let me just tell you this. And you're going to tell me some more details of what's happened. Now I'm not the police force and I've to practice and in fact an obligation to tell you that and it appears that what you're going to tell me is criminal conduct right. Criminal conduct by him and you've got a complete and unfettered right to report that to the police if you want to and I would encourage you to exercise that right but on the other hand I'm perfectly happy to have you tell me what you want to tell me. Are you with me about that have you thought about going to the police*

█ *I don't know what to do to be quite honest I really don't*

*POC: well let me put it to you this way*

█ *making it very difficult*

*POC: no you're not – not at all. What you we can work out on this basis. That you can tell me everything you want to tell me and what you have told me when what you do is told to me in complete confidence. I won't tell anyone unless you tell me otherwise. When you have told me all that you*

want to tell me we can then discuss whether you want to tell anyone else such as going to the police.

■■■■ he's not getting away with what he's done

POC: ok

■■■■ that's full stop. He's not getting away with it ok...." (page 6)

(iii) ■■■■ we're still very close um (his former girlfriend)

POC: and if it were necessary do you think she'd discuss what you told her with me

■■■■ yeah

POC: I've got to investigate all these things and if you tell me she was the first person you really told she's an obvious person for me to see. I wouldn't want to worry her at all or worry you if she didn't want to but we'll come back to that later

■■■■ yeah (p 24)

(iv) POC: so anyway tell me you've been the first I heard of this was when by the biggest of coincidence your father rang Rosemary and as Rosemary told me when she was talking to you she realised she knew you. My positions are all publicised so that's alright. Did you ring up because of your own worry or did you ring up because....

F: the way it came about me knowing about it was that ■■■■ broke up with ■■■■ he was absolutely heartbroken and we could never quite figure out why ■■■■ had changed so much. He went from a real lovable kid more or less to a very very withdrawn distance anti authority whatever you call it and it was that bad I approached the subject with Pam you know. I said you don't suppose it's possible that Fr Daniel got to ■■■■ do you and Pam said no I asked him and he said no. And I mean that's what every parent likes to hear anyway isn't it

POC: had you heard a bit about Daniel by then

F: just basic he left the Parish

■■■■ very abruptly

F: about a week before we went to Darwin

POC: yeah

- F: *and there's always room as when a priest leaves a Parish very quickly but no names no nothing (p 24-26)*
- (v) POC: *anyway so we're now talking about the conversation you had with your wife*
- F: *well that was actually in Darwin [REDACTED] went to another Catholic School up there which he didn't like and I said [REDACTED] not the same person he used to be he's got all the signs of having been got at by somebody do you think Fr Daniel might have had a go at him and Pam said to me yes. Well look I did think of that I did raise the subject with [REDACTED] but no he hasn't. It was more or less left at that but a couple of years later which is 99 two months ago I think [REDACTED] was at [REDACTED] and [REDACTED] place and my eldest daughter was there too*
- POC: [REDACTED] *being*
- F: *being friends*
- [REDACTED] *a friend of mine that helped me get through the situation*
- F: *and [REDACTED] came and said I know what's wrong with [REDACTED] Fr Daniel got him*
- POC: *who said that*
- F: *my daughter my daughter apparently that was the first time he'd really mentioned it.....(p 26-27)*
- (vi) POC: *alright well now look what I think might be useful for you to do is to its a matter for you to go and see Carelink there's a lady Sue Sharkey and there's a Richard Ball whose a Professor and they're absolutely expert in this that's what they were set up to deal with and I'm not an expert in that field I'm only an expert in the fact matter*
- [REDACTED] *um*
- POC: *and I think it might be best if you do that to start with and just take things nice and gradually I'm not suggesting that you shouldn't continue to go and see your anger management or your counsellors there*
- [REDACTED] *I'm continuing anger management because I need to, my temper got too bad for me not to deal with it now*
- POC: *ok well look what I will do I'll write you a letter.....(p28-29)*
- (vii) POC: *.....now as far as the other matter I mentioned about reporting this to the police what do you feel about that*

■ *he's not getting away with it that's I would like to sue him for damages because the more I look into this the more and more damage I see that he's done to me. It's not he's given me a mental disorder you know, I haven't been able to communicate with people just so many things that have been affected because of it and I have had a gutful*

POC: *I was thinking more in terms of ....*

■ *yes I'd report it to the police if they would do something about it but would they do anything*

POC: *well*

■ *what could they do*

POC: *he has been charged with other offences and as I understood it he had pleaded guilty to some charges but I hear it may be that he's qualifying that but however the police are doing it all the time of course and not happily. The fact is that priests who are just a small proportion of people who engage in child abuse its still the most prevalent source of child abuse unhappily as parents and grandparents but what I'm only anxious to tell you is that if you want to report it to the police you've got the right to and I'd say do it if you want to. You don't have to do it immediately you might feel more like doing it after you've had a talk to people and formulated sometimes these things become clearer with a bit of talking and thinking about it your memory becomes clearer*

■ *it does need to wait a while because I got into drugs because of it cos I'm not helping the situation by continuing them and I can't think about it properly by doing that (p30-32)*

(viii) F: *am I allowed to say something*

POC: *sure*

F: *don't want to interrupt. I made the initial phone call to Rosemary off my own bat*

POC: *yep*

F: *but telling ■ that I was going to take some sort of complaint and I got the reply letter from you which I thank you very much for but I didn't do anything about making another appointment. I told ■ I had the letter and that the papers were there but I didn't do anything about making an appointment until I was sure ■ was ready and ■ wanted to make*

*the initial appointment and on that basis I would like for [REDACTED] to go away from here and have a think about*

*POC: that's what I'm saying there's absolutely no as I say everything what I'll do is I'll get this typed up.....you can have a copy of the transcript and what we've discussed here today I'll write you a letter. I do think its desirable that you go and see Carelink as I'll explain to you when you speak about drugs tell me about that....(p 32-33)*

4. On 2 June 1999 I wrote to [REDACTED] as follows:

*"I refer to our conference of 1 June 1999 and confirm that I have written to Carelink and I suggest that you ring them following the receipt of this letter and make an appointment to see them. Their telephone number is [REDACTED]*

*You will recall I discussed with you the issue of whether you should report this matter to the police. As I understood you it was agreed that you would defer consideration of that at least for the moment pending your meeting with Carelink and otherwise reviewing your situation. I recognise that as an entirely reasonable and justified approach and at some appropriate time in the future I will discuss this aspect of the matter further with you. In the meantime you should contact Carelink and I can assure you that they will be most anxious to assist you in dealing with the matter.*

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

5. My letter to Carelink is **Attachment 3**.
6. In my Submission in reply to the Police Submission, I refer to having facilitated "A" to report his complaint to the Police, which he did, and this resulted in Daniel being charged with offences against A, and subsequently being charged with offences against [REDACTED] (see para 8(a) and 8(b) of my Submission).
7. On 2 June 1999 I spoke to Detective RB who was the Informant in respect of the charges laid against Daniel. My redacted notes of that conversation are set out below.

*"I spoke to RB on 2 June and he told me that the hearing of what I had gathered would have been Daniel's plea was to take place on 26 July. However I had been speaking with Brendan Murphy (the Barrister representing Daniel) the day previously and he told me that he believes that Daniel is endeavouring to change his plea from guilty to not guilty. Murphy was somewhat critical of that approach.*

*I told RB that I had heard on the grapevine the above and he had not heard anything at all and was naturally quite surprised.*



*I told him that I had met with another victim of Daniel who did not at least at this stage want to report it to the police. RB was very interested and asked that I reveal his name and I said I could not at this stage but that I would keep in touch. In doing this I emphasised that I was making no criticism of the person involved and RB readily agreed with that.” (Emphasis supplied)*

8. On 2 July 1999 I wrote to [REDACTED] (Attachment 4) and having referred to the agreement that consideration of whether he should report to the police would be postponed I wrote:

*“I am not suggesting that it is necessary for you to make that decision yet but I write to advise that Detective RB has advised me that Daniel has changed his plea from guilty to not guilty, and consequently there will be a contested Committal Hearing. So far as I am aware the only complainants in respect of whom Daniel has been charged are his relatives. As I understand it because of the indication that he proposed to plead guilty the police have not pursued further investigations. However Detective RB says that he would be proposing to advise Daniel that there are other complaints. In that context he knows that I have been approached by another complainant, but of course his name has not been discussed and will not be discussed unless you otherwise consent.*

*What Detective RB asks is are you prepared to allow (him) to tell Daniel that you have complained to the Independent Commissioner. If you so authorise RB to do this through me there is no obligation upon you to take the matter further. RB fully respects any decision you would make as to whether you desire to be involved in the Court process or not.*

*But if Fr Daniel was made aware of other potential complaints the theory hopefully is that he will revert to a plea of guilty.....”*

9. On 30 July 1999 I was rung by [REDACTED] and my notes of that conversation are:

*“I was then rung by [REDACTED] who told me that he was happy to co-operate with RB and give him an interview. I asked him how he was going. He told me pretty well he is getting there. Sue Sharkey had previously told me that she had seen him this morning following him having a CAT scan..... Clearly it will be necessary to get details of what he has told Carelink. In that context it will be important that his complaints are consistent. It is highly likely that the conversation I had with him will be called for as indeed anything he did with Carelink. When I speak to RB on Monday I will mention this.”*

10. On 12 August 1999 Ian Lawther rang me and I noted:

*“Ian Lawther rang me apropos me of [REDACTED] having been in to see RB yesterday and being required to go in again. He said that [REDACTED] whom I told him RB had said certainly*

*confirmed as an angry young man was perhaps a bit uplifted because he had struck people in more trouble than himself. He said that he wouldn't have my job for quids".*

11. On 19 January 2000 I wrote to Ms Lethe Gaskin of Carelink (**Attachment 5**) recommending that [REDACTED] be continued to be referred to Carelink and for Carelink to provide such services etc as are required.

11.A On 14 July 2000 David Daniel was convicted of a number of counts of indecent assault, gross indecency, indecent acts with a child under 16 including pleading guilty to an indecent act and indecent assault of [REDACTED]

12. On 22 January 2001 I spoke with Ms Angela Sdrinis of Ryan Carlisle Thomas who was acting for [REDACTED] My notes record:

*"I then looked at the file of [REDACTED] and the last letter of 19 January and I said I would send her or him an Application for Compensation. She said not to do that at the moment because he is considering his options ie. as to whether he will take proceedings rather than apply for compensation. When looking at the file of this troubled young man it can be noted that he initially did not want to go to the police but then did and I think ultimately Daniel was pleading guilty to his charges having contested those of the family members".*

13. On 14 August 2001 I was advised by the solicitors for the Archdiocese that a County Court Writ had been issued by Ryan Carlisle Thomas on behalf of [REDACTED]

14. On 4 June 2003 Ms Sdrinis wrote to me (**Attachment 6**). Relevantly that letter stated:

*"The status of Mr [REDACTED] proceedings before the County Court are that both parties have agreed to seek an adjournment of the hearing date of 8 September 2003 to allow [REDACTED] to apply to the Melbourne Archdiocese's Compensation Panel before a decision is made to proceed to litigation....Assuming that you are satisfied that our client has been the victim of sexual abuse we would be grateful if you could advise us of arrangements for our client's compensation to be assessed..."*

15. I responded to that letter on 23 June 2003 (**Attachment 7**) stating:

*"It is unnecessary therefore for me to again see [REDACTED] because I am satisfied that he was the victim of sexual abuse for obvious reasons. I have forwarded by mail this day an Application to the Compensation Board (sic) which you should have [REDACTED] complete and return to me. I will then refer that to the Compensation Panel who will accept my findings that abuse did occur.... In due course [REDACTED] will be contacted by the Chairman*

of the Compensation Panel Ms Sue Crennan QC and an informal hearing will be held. The Panel will then determine what is the appropriate amount of compensation to recommend to the Archbishop should be offered to [REDACTED]. The limit on the maximum amount of compensation is \$55,000. The recommendations of the Panel are binding on the Archbishop.

The Archbishop will write to [REDACTED] conveying that offer and an apology for the wrong he suffered from Fr Daniel. If [REDACTED] accepts the offer he would then sign a release in the usual form. However, if he does not wish to accept the offer he is perfectly free to institute or continue proceedings in the Courts.....”

16. (a) On 7 August 2003 Angela Sdrinis emailed:

*“Sorry for my delay in responding to your email but I have been away for several weeks and have only just returned to work. The claim form has now been forwarded to [REDACTED] for his completion and return.*

*I note that if the matter settles Mr O’Callaghan refers to our client signing a release ‘in the usual form’. Can you please advise me of a confidentiality agreement that will form part of the terms of settlement”.*

- (b) I have a recollection but no record of having advised Ms Sdrinis that there will be no confidentiality agreement, as indeed there was not in the release signed by [REDACTED] nor in the releases signed by other victims.

17. On 6 January 2004 Ms Sdrinis wrote enclosing her client’s application for compensation (**Attachment 8**).

18. On 16 March 2004 I wrote to Ms Sdrinis (**Attachment 9**). I said in part:

*“I wish to advise that I have forwarded to the Chairman of the Compensation Panel Mr David Curtain QC the transcript of my interview I had with [REDACTED] some considerable time ago together with the material you have forwarded to me. The reason for the delay in forwarding these documents was that it was not until recently that Mr Curtain was appointed the Chairman of the Compensation Panel taking the place of Ms Sue Crennan QC , now Justice Crennan of the Federal Court....”*

19. On 16 March 2004 I also wrote to Mr David Curtain QC the Chairman of the Compensation Panel (**Attachment 10**).

20. On 23 March 2004 Ms Sdrinis wrote me:

*“Thank you for your letter of 12 March 2004 the contents of which have been noted. In particular we note your comment that it would be desirable for [REDACTED] to have an update of his psychiatric report. Whilst we are more than happy to make arrangements*

*for an updated report can you please advise as to whether or not the cost of the report could be claimed through the Compensation Panel”.*

21. On 19 April 2004 I wrote to Ms Sdrinis stating:

*“I enclose herewith a copy of the letter I have forwarded to Carelink which hopefully deals with the matter you raised in your letter of 23 March 2004. I recommend you forthwith arrange an appointment with Dr Brann”.*

22. The letter to Carelink of 19 April 2004 (**Attachment 11**) contains the following relevant extracts:

*“My reason in writing to you is twofold.*

*(a) are you in a position to provide a report consequent upon [REDACTED] attendance upon Carelink some time ago*

*(b) I authorise you to meet the costs of an updated report from Dr Brann”.*

23. On 3 August 2004 I wrote to Ms Sdrinis:

*“It would be appreciated if we could have as soon as possible the report by Dr SK Brann re the abovenamed as a hearing by the Compensation Panel is imminent.*

*The cost of the report is to be borne by the Commission.”*

24. The hearing of the Application for Compensation took place on 22 September 2004, an offer of compensation was made to the son on 12 November 2004 and accepted on 22 December 2004. Thus the time which elapsed between the son first complaining (July 1999) and the son being compensated (December 2004) was 5 years, but that delay was a function first of awaiting the outcome of the Court proceeding which resulted in Daniel’s conviction. The delay after that was due to [REDACTED] as was his right, pursuing County Court proceedings. The period which elapsed between my obtaining the signed Application for Compensation and the making of an offer of compensation was 11 months. Thus Lawther’s complaint in his letter to the Pope, that time had been used as a weapon against his son was quite wrong.

25. I have obtained from the Solicitors for the Archdiocese the Compensation file. In that file there appears my letter of 16 March 2004 to the Chairman of the Compensation Panel (see paragraph 19 above). In that letter I note:

*“However in January 2004 I received from his solicitors Ryan Carlisle Thomas (Angela Sdrinis) the following documents:....”*

26. (a) This makes nonsense of the claim that [REDACTED] was told he did not need legal representation. In fact he had it. Dealing with the allegation that 'his son was confronted by six solicitors without representation' I refer to the letter of Mr David E Curtain QC, Chairman of the Compensation Panel to [REDACTED] of 9 August 2004.

*"The Independent Commissioner Mr Peter O'Callaghan QC has written to me as Chairman of the Compensation Panel informing me that he is satisfied that you were a victim of sexual abuse.*

*If it is suited to your convenience the Panel would propose to meet with you and discuss your application on Tuesday 7 September 2004 at 6.45 pm. The meeting will take place at 228 Victoria Parade, East Melbourne. Please let me know as soon as possible whether this date and time are convenient to you.*

*The Panel offers each applicant the opportunity to meet with it as part of its consideration of the application. To date the Panel has found these informal meetings very helpful in its deliberations and believes that applicants have also found them to be useful and not as traumatic as they may have feared. Because the Panel acts on the findings of sexual abuse by Mr O'Callaghan there is no need for the applicant to repeat the events of the past on which that finding has been based.*

*Assuming that the date and time are convenient, it would be appreciated if you could meet with the Panel at the specified time for approximately 30 minutes. I encourage you to bring a relative, friend or counsellor with you to the meeting if you wish.*

*If you have any further information that you want to place before the Panel please forward it to me as soon as possible.*

*I note that the Panel has been provided with copies of:*

- (a) Mr O'Callaghan's letter dated 16 March 2004*
- (b) Your Application Form*
- (c) Report of Dr SK Brann dated 22 October 2001 and*
- (d) Report of Dr Peter L Johnson dated 7 October 2000.*

*If you would like to discuss any aspect of the meeting please feel free to contact me." (Emphasis supplied)*

- (b) The Panel which heard [REDACTED] application was comprised of Mr David Curtain QC (Chair), a psychiatrist, a solicitor and a pharmacist/social

worker). Lawther's assertion 'that his son was confronted by six solicitors without representation' is simply wrong.

27. On 21 September 2004 Archbishop Denis Hart wrote to [REDACTED] stating:

*"You will be aware that in October 1996 Archbishop Pell announced a range of initiatives to respond to allegations of sexual abuse concerning the Archdiocese of Melbourne. At that time, he apologised sincerely and unreservedly, on behalf of the Catholic Church, to both the victims and more generally to the people of the Melbourne Archdiocese for the betrayal of trust perpetrated upon them. He also expressed regret that it had taken the Church a long time to come to grips successfully with these issues.*

*I understand that based on findings made by the Independent Commissioner, your claims have been considered by the Compensation Panel. The Panel has provided me with a recommendation, which I accept, and this letter is accompanied by a formal offer made on my behalf.*

*The Archdiocese seeks to address the issues of sexual abuse of minors and adults in a professional, caring and appropriate manner. In addition the Church has implemented procedures aimed at preventing any recurrence of sexual abuse and is confident that these initiatives will go a long way towards addressing this issue, which has shocked all in our community.*

*Unfortunately we cannot change what has happened in the past. You may never be rid of the memories or the hurt. Services such as those provided through Carelink can assist you in your recovery. The payment of compensation raises difficult and complex issues. It is my hope that my offer based on the Panel's recommendation, will be accepted by you as a preferable alternative to legal proceedings and that it too will assist you with your future.*

*On behalf of the Catholic Church and personally, I apologise to you and to those around you for the wrongs and hurt you have suffered at the hands of Fr Daniel. Whether or not you choose to accept the enclosed offer I offer you my prayers...." (Emphasis supplied)*

28. On 12 November 2004 the Solicitors for the Archdiocese wrote to [REDACTED] stating inter alia:

*"The litigation that you have issued will also need to be discontinued. We note, however, that you will remain able to receive treatment and counselling through Carelink. We have enclosed two copies of the Release. Assuming that you wish to sign the Release, you should sign one copy for return to us and retain the second copy for your records.*

*The Release that you signed contains no confidentiality provisions. Whilst your right to confidentiality will be respected if that is your wish, you are under no confidentiality*

restrictions if you accept the offer. You are free to discuss the abuse and the payment you have received if you want to.

*If you reject the offer, you remain bound by the terms of the application for compensation form. This offer is put on a 'without prejudice' basis, in order to preserve the rights of all concerned if your claim proceeds to Court. The only matters that you are asked to keep confidential are the details of your application to the Panel and this 'without prejudice' offer. However there are no restrictions in you discussing the circumstances of the abuse and its effect on you whether publicly or in any other forum.*

*The Archbishop and the Archdiocese acknowledge that for some applicants, the ability to speak publicly about the abuse that they've suffered is important, and the Archbishop wishes to assure you that you have every right to make your allegations public if you so wish...."(Emphasis supplied)*

29. (a) On 3 December 2004 Ms Angela Sdrinis wrote to the Solicitors for the Archdiocese:

*"We refer to your letters of 25<sup>th</sup> and 29<sup>th</sup> November 2004 and advise that our client has instructed us to accept your client's offer of payment of the sum of \$23,000 as recommended by the Compensation Panel plus payments of costs and disbursements fixed and agreed in the sum of \$9,000 upon the discontinuance of all legal proceedings.*

*Please advise us if you wish our client to sign the Deed of Release that was forwarded by the Compensation Panel or if you will be preparing an amended Release..."*

- (b) On 15 December 2004 Ms Angela Sdrinis wrote to the Solicitors for the Archdiocese stating:

*"We refer to your facsimile transmission of 9<sup>th</sup> December 2004 and confirm that we have now requested our client to sign and return the Deed of Release previously prepared and forwarded to him.*

*On return of the signed Release, we will forward signed Notices of Discontinuance in relation to sets of proceedings. We would be grateful if you could forward two cheques, one in respect of costs fixed and agreed in the sum of \$9,000 payable to this firm and a cheque in the sum of \$23,000 payable to our client".*

30. So much for the Lawther assertion that his son did not have and was urged not to have legal representation.

31. (a) I repeat again that I have dealt with and will continue to deal in detail with my handling of the complaint of ██████████. This is because the way in which I dealt with the complaint typifies the manner in which the vast majority of complaints have been dealt with.
- (b) The Committee's legal advisers have had the opportunity to inspect my files, but I would invite the Committee to themselves inspect at least some files, including the ██████████ file. A fair reading of that file will demonstrate to the Committee how unfounded are the criticisms made by Ian Lawther.
32. I repeat what I said in my evidence to the Committee that whilst obviously there may be some complaints about my handling of issues, I believe that the vast majority of the victims who have seen me are not critical of the way in which their complaints have been handled. This of course is not to say that many victims remain dissatisfied, because as I have repeatedly said, no matter how solicitous the handling of the complaints, how adequate the provision of counselling support and compensation and the apology from the Archdiocese, the deplorable abuse remains an indelible blight on the life of so many victims.

#### **LAWTHER'S TRANSCRIPT REFERENCES TO FR BARRY ROBINSON AND THE HEALESVILLE PARISH AND OTHER MATTERS**

33. I set out below some extracts of Lawther's transcript and Submission (in italics) and comment thereon.

*"My file starts off with a link to a story about the Papal Nuncio transferred recently from Australia. This is the same Nuncio I delivered my fair dinkum letter to the Pope written The World Youth Day Year 2008. I wrote this letter for World Youth Day because I was highly insulted that they would bring World Youth Day here when in my Parish there was an active paedophile priest (T2)*

#### **COMMENT:**

- (a) It is wrong to say there was an active paedophile priest in Healesville in 2008. Pavlou was on sick leave from the Parish since October 2006 and was later placed on administrative leave and subsequently convicted, and is now laicised. Pavlou has had no contact with the Healesville Parish after October 2006.



- (b) Fr David Daniel left Healesville in 1995. Following the departure of Fr Daniel, Fr Robert Coghlan (now retired) was Parish Priest until 2003, when he was succeeded by Fr Greg Bourke (now Director of Ministry of Priests) until 2004, then Fr John Madden (now Parish Priest of Seaford) until December 2005 when Pavlou was appointed Administrator. Pavlou left the Parish in October 2006. During the time he was there he sexually abused "John" (a pseudonym), and because of their proximity in time and place to the abuse I have accepted that John's mother and his siblings are also victims of the abuse. Some considerable time ago I found this to be the fact but John has not made application for compensation, though I understand he will, and whilst the mother for herself and her children has made application that application has not as yet been pursued by the mother.
- (c) Fr Julian Langridge has been the Parish Priest of Healesville since 2007 and in 2009 he invited Fr Barry Robinson to officiate at the Easter ceremonies in Healesville, thus allowing Fr Langridge to perform the Easter ceremonies at Lilydale the other church in the Healesville Parish.
- (d) Because of protests of some Parishioners at the prospect of Fr Barry Robinson so performing, Fr Langridge cancelled the ceremonies at Healesville, save for Sunday Mass which Fr Langridge celebrated. Fr Robinson was subject to extreme criticism, including being described as a paedophile, which clearly he was not.
34. Unfortunately, I have no alternative but to set out the true position in respect of Fr Barry Robinson, so as to correct and refute the misconceptions and false allegations which have been made against him.
35. Fr Barry Robinson was a priest of the Archdiocese of Melbourne and was in 1994 the Parish Priest of East Melbourne. In that year he applied for leave to study at a Boston University. Leave was granted and he took up residence in the Archdiocese of Boston. He was incardinated into that Archdiocese and carried out his priestly ministry in conjunction with his studies. In April 1995 he had a homosexual encounter on three occasions with a 16 year old male.
36. Fr Robinson sought treatment, and in doing so informed his therapist of the aforesaid sexual encounter. In the State of Massachusetts therapists were mandatorily obliged to report sexual conduct between an adults and a 16 year

old, notwithstanding that the age of consent in Boston was 16 years of age. Upon being advised by the therapist about Fr Robinson's statements, the Archbishop of Boston withdrew his faculties to practice as a priest in the Archdiocese of Boston, and informed Archbishop Little who likewise withdrew Fr Robinson's faculties to practice as a priest in the Archdiocese of Melbourne.

37. Fr Robinson remained in Boston for one month and during which time was not interviewed or sought to be interviewed by Police. A priest from the Melbourne Archdiocese went to Boston and recommended to Fr Robinson that he return to Melbourne which he did openly. There was nothing restraining him from returning to Melbourne. When he returned to Melbourne he was suffering from depression. He was admitted to hospital and came under the care of Dr Leigh Granger (now deceased) and Dr Peter Evans (now retired) psychiatrists. It was recommended that Fr Robinson should undertake a course of treatment at the Southdown Institute in Canada. This he did and received protracted treatment over a period of months.
38. In 1995 the Southdown Institute recommended that Fr Robinson was fit to return to the Ministry. Archbishop Little sought the opinion of Dr Peter Evans and Professor Richard Ball as to whether it would be appropriate for this to occur. Both those doctors provided detailed reports as to why in all the circumstances they considered it appropriate for Fr Robinson to be returned to the Ministry, subject to Fr Robinson giving undertakings which (summarily stated) were that he continue to submit himself for supervision and treatment in the terms described by the psychiatrists. Fr Robinson's duties at this time were limited to chaplaincy at a Melbourne Hospital and providing supply.
39. Following Archbishop Pell's appointment as the Archbishop of Melbourne, I was asked to provide an opinion as to whether it was appropriate for Fr Robinson to continue in the Ministry. Naturally, I was made familiar with the reports of the Southdown Institute, Dr Peter Evans and Professor Richard Ball. I also interviewed Fr Robinson at some length. In December 1996 I gave my opinion that it was appropriate for Fr Robinson to continue in the Ministry subject to the continuance of the undertakings referred to above.
40. In March 1997 Fr Robinson was appointed Assistant Priest to the Parish of Williamstown where he remained until 2004. Thus at that point of time Fr Robinson had acted fairly, competently and responsibly for a period of almost 10

years, which was a vindication of the decisions of Archbishop Little and Archbishop Pell. During this time Fr Robinson was not contacted either directly or indirectly from the Boston authorities.

41. In Boston the Archbishop had given an undertaking to the Boston authorities that he would make available the files of all priests, of whom it had been said they engaged in sexual misconduct. Fr Robinson's file was one of those made available.
42. The Boston Globe was given access to these files and in January 2004 published an article in respect of Fr Robinson, which was repeated in similar terms by the Melbourne Age.
43. (a) At this time in addition to being the Assistant Priest at Williamstown Fr Robinson was Chaplain at a large public hospital in Melbourne.  
(b) Consequent upon the widespread publicity and the concerns expressed by some Parishioners of the Williamstown Parish, I was asked to provide an opinion to that hospital as to the appropriateness of Fr Robinson continuing to act as Chaplain. (**Attachment 12**) The Hospital then sought updated opinions from Dr Peter Evans and Professor Richard Ball and also obtained the opinion of a psychiatrist nominated by the hospital. (Schedules to that opinion include the reports of Dr Evans, Professor Richard Ball and the Southdown Institute). All three agreed that it was appropriate for Fr Robinson to continue to act as Chaplain.
44. With respect to continuing as Assistant Priest at Williamstown Archbishop Hart published a statement on 16 January 2004 (**Attachment 13**) which included the following:

*"Archbishop Hart acknowledges that it will only be in a rare case that a priest will be returned to the Ministry after he has abused the trust placed in him. This was such a case. Father Robinson acknowledged and confessed his past transgressions, and over a period of eighteen months received intensive and successful treatment. Following this and having received the advice of legal and medical experts, first Archbishop Little and then Archbishop Pell (as he then was) decided that in this case it was safe for Father Robinson to resume Ministry subject to specified conditions.*

*Since then Father Robinson has and continues to carry out his assigned duties under the supervision of the Parish Priest in a satisfactory and proper manner. He has duly*

*complied with the undertakings given in respect of the acceptance of supervision and therapy as recommended by his doctors and pastoral consultants.”*

45. Notwithstanding, in 2004 Fr Robinson asked to be and was relieved of his duties at Williamstown. Fr Robinson continued to act as a priest providing supply.
46. In May 2004 I was made aware that the District Attorney's Office in Boston was conducting an investigation into the 1994 sexual encounter between Fr Robinson and the 16 year old. It was my practice, when a priest of the Melbourne Archdiocese was being investigated with the potential for that priest being charged with a criminal offence, I recommended to the Archbishop that the priest be placed on administrative leave pending the completion of the Police investigation and any proceedings resulting there from. Consonant with this, in May 2004 I made a recommendation, and Fr Robinson requested that he be placed on administrative leave.
47. In May 2005 following being advised by Attorneys in Boston that the investigation of Fr Robinson had ceased with no action being taken, I withdrew my aforesaid recommendation. Since then Fr Robinson has continued to act as a Priest though not attached to a Parish
48. Thus the facts are that whilst Fr Robinson did in 1994 engage in reprehensible sexual conduct, and for which he was undoubtedly remorseful, he has continued to act as a priest as above and has not been charged or convicted of any offence nor has he been the subject of any complaint of sexual abuse. The accusations made by Ian Lawther, Ms Pam Krstic, Ms Helen Last and other members of Melbourne Victims Collective are wrong, misconceived, and have resulted in Fr Robinson having been the subject of unfair and damaging publicity. I emphasise that Fr Robinson did not engage in paedophilic activity nor did he, as Lawther has wrongly asserted engage in sexual conduct involving penetration. The vital fact is that for a period of 17 years, (save for the short period of administrative leave) Fr Robinson has carried out his priestly duties in a proper and satisfactory manner.
49. *“These people were forced up until 2009 to sign release deeds. Once again, if we go back to Brian Darcy's movie, these people have been through what they call mediation. They are suffering bad they could be as little as 12 years old but they are asked to like to sign things under the heading “No harmful statement or conduct”.*

*The releasor must not make statements whether written or oral about the claim, the subject matter of this Deed or any other matter which is likely to harm the reputation of the releasee or all the released parties.*

*10.2 The releasor recognizes that a breach of Clause 10.1 of this Deed is a breach of this Deed and may result in legal action being taken against the releasor”.*

*This disgusting piece of legalistic strangulation is what CSA sufferers had to sign after mediation.*

*The bloke who was locked into this was probably 12 years old at the time of the mediation and in no fit state to be signing his rights away” (T4)*

**COMMENT:**

This is false. There is no case in the history of the *Melbourne Response* in which a 12 year old has been asked to sign anything. Further as I said in my Reply to the Police Submission *“Victims of sexual abuse who accept the offer of compensation provided pursuant to the Melbourne Response are not required to sign a confidentiality agreement. Moreover they are specifically advised that there is no obligation of confidentiality and that they are free to discuss with anyone the facts and circumstances of the abuse and the compensation obtained. (See para 33(b) of my Reply to the Police Submission).*

50. *“The fact that most people when presented with this insult to Australian law have no legal representation and are in fact told they need none – as my 18 year old son was, and ended up in a room with more than 6 lawyers before his Tribunal hearing – is yet another way in the fullest compassion it boasts of intimidates CSA sufferers”. (T4)*

**COMMENT:**

This is wrong. There are many instances of victims having legal representation both when they see the Independent Commissioners and/or when before the Compensation Panel. For Lawther to say that his 18 year old son was told he did not need legal representation is untrue, as has been demonstrated above. As appears in paragraph 12 of this Submission in Reply, following Daniel's conviction [REDACTED] obviously sought the representation of a most experienced and competent solicitor in this field, Ms Angela Sdrinis of Ryan Carlisle Thomas.

Following Ms Sdrinis contacting me on 19 January 2001, I thereafter dealt only with her in relation to [REDACTED] Application for Compensation.

51. *"I'm actually reading a report of David Daniel, which is in your Submission, and I do not really think I need to read it out here so I'll just skip that. I might add that while I'm trying to find out where I'm going that this priest who got at my son also abused his nephews and nieces, yet our Parish put out a child protection policy which said: 'you needn't worry about a priest if the child is a relative'. That is just so completely wrong. For that to be put out in our parish when they knew full well that the priest in our parish got at his own rellies was just a shocking thing to do"* (T4)

**COMMENT:**

I have no knowledge of any such statement being issued by the Parish, and I doubt that it was. The fact is that the relatives of Daniel in respect of whom he was convicted, all (save one) then came through the *Melbourne Response* and were duly compensated. With respect to the other one whom I referred to as "A" in paragraph 6 above, he took legal proceedings which I understand were settled.

52. *"After David Daniel went to jail the authorities did nothing to help the families of the Healesville Parish – or not much.....we tried so hard to get dialogue with Bishops, and I guess my main thing here is to point out that we had 3 paedophile priests in a very short time. Yet to minimize things, in typical minimization speak, the Parish Priest stood up and said there had been two in 30 years. This was a complete lie because after the second one had been convicted they brought in a third one right on top of him who was a self confessed sodomiser of a 16 year old boy. He had been spirited out of America before he answered charges".* (T5)

**COMMENT:**

- (a) I trust that the Committee will understand why I consider it necessary to refute in detail the allegations made by Lawther, namely because his criticisms typify those of other members of Melbourne Victims Collective who have made the most extravagant and false accusations against me in my capacity as an Independent Commissioner. With respect, these accusations appear to have been accepted without question by Members of the Committee.

(b) It is utterly wrong to say “we had three paedophile priests in a very short time”. There have been two paedophile priests in the Healesville Parish namely Daniel who left the Parish in 1995, and Pavlou who came to Healesville ten years later and was there for one year in 2005. One paedophile is one two many, but Lawther’s claims are exaggerated. Barry Robinson was not a paedophile though he engaged in homosexual activity which he admitted, and for which he was remorseful, and following extensive treatment was returned to the Ministry where he has served without fault for nigh on 17 years. Robinson was not ‘brought in’ and did not conduct any ceremonies at Healesville, nor indeed did he attend there. I refer to the explanation of Fr Robinson’s position above.

53. *Mr Wakeling: Do you have any faith in the Melbourne Response process?*

*Mr Lawther: Absolutely none – zero, zilch, none”.*

*“As I say they allowed my son into a room with 6 solicitors as an 18 year old kid, no representation, told he does not need representation and he was questioned by this panel of 6 solicitors. I think it is disgusting that that can happen in this country. It is the biggest unnatural disaster that could happen to anyone” (T7)*

**COMMENT:**

This evidence of Mr Lawther published for the world to see is demonstrably false, and ought not have been allowed on the public record.

54. *Mr O'Brien: No problem I would just like to then ask you another question if I could – what levels of accountability or apologies or statements of contrition have you received from the Church hierarchy in relation to the abuse that has occurred to your family?” (T8)*

*Mr Lawther: “Absolutely zero. Absolutely zero....”*

**COMMENT:**

This is false. [REDACTED] was the recipient of compensation and also an apology to [REDACTED] and those around him from the Archbishop (see paras 24, 27 and 29 above).

55. To a question from Mr McGuire, Lawther answered:

*“Time and again – like my son five and a half years – they just used time as a weapon. As I say in the fair dinkum letter to the Pope they used time as a*

*weapon. That is what he got upset about. I was not allowed to say they used time as a weapon but it is just so true.” (T9).*

**COMMENT:**

As I explained above, a period of approximately 5 years from the date of complaint to the date of compensation was essentially attributable to time consumed in the police prosecution and conviction of Daniel and then in the pursuit of County Court proceedings. I repeat that from the time the Compensation Application was received by me was a period of 11 months, and some of that delay resulted from the obtaining of updated medical reports. At no time, did the solicitors for [REDACTED] complain as to my handling of [REDACTED] complaint of sexual abuse. I have not the slightest doubt that had Ms Sdrinis considered that I had not properly dealt with [REDACTED] complaint she would have raised that matter in no uncertain terms. Ian Lawther's unjustified complaints reflect the hostility which HEAR and the Melbourne Victims Collective have towards the *Melbourne Response* generally and me as Independent Commissioner in particular.

56. *“Mrs Coote: Ian thank you so much and also thank you for your written submission because it was really comprehensive. I think we all really have appreciated the time and effort that you have put into being here today and the information and knowledge that you have given us thank you.*

*In your submission you spoke at length about Peter O'Callaghan. Could you just elaborate a bit more. You say you believe he informed a priest that in fact the authorities were going to come and check him out and that therefore enabled that priest to be able to get rid of important material is that right?*

*Mr Lawther: Absolutely. He was warned by O'Callaghan via his solicitors that he was under police investigation. I saw the letter but I cannot remember exactly how it was worded. It was enough time for him to get rid of his computer records and to hold the whole investigation up for six months. “ (T9)*

**COMMENT:**

- (a) The allegations implied in Mrs Coote's question, and Lawther's answer impute criminal and unprofessional conduct on my part, which I utterly reject as being unfair, wholly wrong and irresponsible. The facts are that I advised the solicitors for both parties that I would take no further action,



because the matter had been referred to the Police. This is set out at length in my Reply to the Police Submission (see para 37-39). No policeman has ever made any complaint to me that I had, to use the colloquialism employed by The Age newspaper, 'tipped off' Fr Pavlou. It is false to say that my communications with the solicitors as aforesaid resulted in evidence being lost. The fact is that the last time that the priest's computer was accessed for the purpose of 'wiping off' anything was 18 days before I had written my joint letter to the solicitors for the Complainant and Pavlou.

- (b) I cannot conceive how Ian Lawther would have seen any letter, let alone the joint letter I wrote to the solicitors. It concerns me that there is an apparent acceptance in Ms Coote's question of these allegations in respect of 'tip off'. It is this which makes it imperative for me to respond. A barrage of criticisms of me as the Independent Commissioner impels me, however tedious is that task, to refute those criticisms in the same manner as I did in respect of the Police Submission and Ashton, and which I will do in respect of other criticisms.

A handwritten signature in black ink, appearing to read 'Peter J O'Callaghan', written over a dotted horizontal line.

Peter J O'Callaghan QC

27 May 2013