

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

**SUBMISSION BY WAY OF REPLY TO THE SUBMISSION OF  
MR PAUL BROCKOFF**

**BY PETER O'CALLAGHAN QC INDEPENDENT  
COMMISSIONER**

## INTRODUCTION

1. In the week commencing 2<sup>nd</sup> September 2013 there was published on the Parliamentary Committee's website a Submission by Mr Paul Brockoff which Submission had been sent by email to the Committee on the 25<sup>th</sup> March 2013.
2. In his Submission Mr Brockoff submits that I as Independent Commissioner effectively ignored and failed to deal with Mr Brockoff's complaints and particularly the complaint he made against Ronald Pickering, thus that I had failed properly or at all to discharge my duties as Independent Commissioner. As I demonstrate hereunder, Mr Brockoff's recollection of relevant events is quite wrong. I advised him first in 2005, then in 2006 and again in 2013 that I saw no reason but to accept his complaint that he had suffered sexual abuse from Fr Pickering and on first and third occasions I forwarded him an application for compensation, inviting him to complete and return to me, which he failed to do. Before I go further, I make it clear that I have great sympathy for Mr Brockoff because of Pickering's abuse, but notwithstanding I must correct his testimony, which is now part of the public record.
3. I am aggrieved at the Committee publishing Mr Brockoff's Submission, without having provided me with a copy of the Submission so that I could respond to it. Further the Committee knew or ought to have known that I have kept a file in respect of my meetings with and corresponding with Mr Brockoff, but notwithstanding, the file was not called for, nor (apparently) inspected and reported upon. Had this been done it would have been revealed that Mr Brockoff's recollections were wrong. This is yet another instance of the Committee publishing Submissions, without regard to what appears in the file that I had kept in respect of that victim.

**MY CONTACT WITH MR BROCKOFF**

4. I first met Mr Brockoff on 8 March 2005 when I conferred with him in my Chambers. That conference was recorded and transcribed, the transcript comprised 29 pages, and a copy was provided to Mr Brockoff. Briefly stated Mr Brockoff advised me that he had three complaints in respect of which he had made statements to the Police. As appears below his complaints referred to Fr Ronald Pickering, former Priest of the Archdiocese of Melbourne, which was clearly within my jurisdiction; but the other two were not.

5. The following is an extract from the transcript:

*POC: You've lodged those statements with the Police*

*P: Mmm, and I was told to wait.*

*POC: Of the three without going into the detail which we may or we can do, it would be only the third which would attract if you like my jurisdiction. Father Pickering a former priest of the Archdiocese of Melbourne and if you have a complaint against him you articulated that complaint in a statement to the Police have you....well look because we don't necessarily want to trouble you with going over all the details what you put in the statements I ask you formally are those statements true and correct*

*POC: well perhaps a shortcut to that situation is to send me copies of the statements... as delivered to the Police*

*POC: Yes*

*P: Ok"*

6. I wrote to Mr Brockoff on 16 March 2005 in which I stated inter alia:

*"I refer to our conference on 8 March and now enclose herewith a transcript thereof....*

*I am awaiting the receipt of your Police Statements and when I have received same I will communicate further with you.*

*I also enclose herewith an authority to Miss MH your psychologist to provide a report. I would appreciate if you would fill in the address of Miss MH, sign the authority and return same to me...".*

7. On 1 June 2005 Mr Brockoff wrote to me which redacted letter is Attachment 1. I refer to the following extracts:

*"I wish to convey my surprise at your assessment both on and off tape that the instances of abuse that occurred to me at the hands of Fr Ronald Pickering Mr SW and Mrs GJ, and as outlined in the three Police Statements you now have before you are somehow beyond your jurisdiction.*

*It is my contention these grotesque incidents occurred under the auspices of the Catholic Church. If the connections between Mr SW and I and Mrs GJ and I have not been made clear enough please allow me to make the connection clear and unambiguous....*

*Mr O'Callaghan, I find your own assessment of my personal circumstances and the description of the 'Towards Healing process' (if they are separate entities) both somewhat lacking in sympathy and devoid of compassion and it is certainly very disappointing from the point of view of a survivor seeking redress and advice from an Independent Commissioner."*

8. On 28 June 2005 I wrote to Mr Brockoff which redacted letter is (Attachment 2) in which I stated inter alia:

*"I am sorry that you consider I am 'lacking in sympathy and devoid of compassion', which I certainly did not intend in any way to convey and if it was perceived by you this may reflect the stresses and strains of the problems of which you complain produce....*

*At no time have I suggested that I do not have jurisdiction against complaints by Fr Pickering. Indeed, I see no reason but to accept your complaint that you suffered sexual abuse from him, and I am accordingly forwarding herewith an Application for Compensation which you can complete and return to me in that regard.*

*Further because I am satisfied on your testimony that you were abused by Fr Pickering I am entitled to refer you to Carelink which as explained in the brochure previously forwarded to you is the agency set up to provide free counselling and psychological support for victims of sexual abuse...."*

9. No reply was received to that letter and on 17 January 2006 I wrote to Mr Brockoff stating:

*"I refer to my letter of 28 June 2005 and previous correspondence of meeting with you. I have not received any response to that letter in which I forwarded an Application for Compensation in respect of your having been sexually abused by Fr Ronald Pickering.*

*Would you advise me as to whether you wish to proceed with that application and if so return the form to me.*

*Would you also advise me as to the progress of your complaints to the Police in relation to the other matters you referred to.*

*I repeat and confirm that I have no difficulty in respect of the abuse perpetrated by Fr Pickering but different considerations apply in respect of the other matters..."*

10. The next I heard from Mr Brockoff was a letter he wrote on 9 July 2013 (Attachment 3). I refer to the following extract:

*"In 2004 I submitted to the Melbourne Archdiocese Victim Impact Statements regarding three persons in particular (whose names appear below). I had several interviews with you on the subject and several interviews with the Victoria Police. I advised you at the time of the occurrence and the content of the interviews with Police. I subsequently received a letter*

*from you advising me that the Melbourne Archdiocese accepted no responsibility for the offences I allege were committed against me as a child by these three persons. I request that you resend me a copy of this letter advising me of the Archdiocese's position in relation to my Submissions. (This letter has since been mislaid)".*

11. Mr Brockoff did not advise me, nor was I aware that he had made a Submission to the Parliamentary Inquiry in March 2013. I replied to his letter on 6 August 2013 which with redaction I set out relevant extracts, albeit they repeat what I have set out above:

*"Dear Mr Brockoff*

*I refer to your letter of 9 July 2013 and apologise for the delay in getting back to you. Before dealing with the matters you raise in your letter I trust it is helpful if I refer back to the contact I had with you.*

*On 8 March 2005 I had a conference with you.*

*On 16 March 2005 I wrote to you enclosing the transcript of that conference. At paragraph 9 of that transcript I said:*

*"POC: Of the three without going into the detail which we may or we can do, it would only be the third which would attract if you like my jurisdiction, Fr Pickering a former priest of the Archdiocese of Melbourne and if you have a complaint against him you articulated that complaint in a statement to the Police.*

*You nod...."*

*In my letter I also said:*

*"I am awaiting the receipt of your Police Statements and when I have received same I will communicate further with you".*

*On 1 June 2005 you wrote to me stating inter alia:*

*"Thank you for your correspondence dated 16 March 2005 regarding your status as an Independent Commissioner appointed by the Archdiocese of Melbourne to inquire into allegations of sex abuse by priests, religious and lay persons within the Diocese and also regarding our conversation on 3 March 2005...*

*I enclose the Police Statements tendered to Victoria Police Sexual Offences and Child Abuse Unit....*

*I wish to convey my surprise at your assessment, both on or off tape that the instances of abuse that occurred to me at the hands of Fr Ronald Pickering, Mr SW and Ms GJ and is outlined in the three Police Statements you have now got before*

*you are somehow beyond your jurisdiction. It is my contention these grotesque incidents occurred under the auspices of the Catholic Church..."*

*I wrote to you on 28 June 2005 and I enclose a copy of that letter.*

*For convenience I note in that letter I stated:*

*"At no time have I suggested that I do not have jurisdiction against complaints by (sic) Fr Pickering indeed, I see no reason but to accept your complaint that you suffered sexual abuse from him and I am accordingly forwarding herewith an Application for Compensation for you to complete and return to me in that regard...."*

*In the balance of that letter I explain my reasons for finding that the complaints against SW and GJ did not come within my jurisdiction.*

*On 17 January 2006 I wrote to you stating:*

*"I refer to my letter of 28 June 2005 and previous correspondence of meeting with you. I have not received any response to that letter in which I forwarded an Application for Compensation in respect of your having been sexually abused by Fr Ronald Pickering.*

*Would you advise me as to whether you wish to proceed with that application and if so return the form to me.*

*Could you also advise me as to the progress of your complaints to the Police in relation to the other matters you referred to. I repeat and confirm that I have no difficulty in respect of the abuse perpetrated by Fr Pickering but different considerations apply in respect of the other matters...."*

*In your letter under reply you state:*

*"I subsequently received a letter from you advising me that the Melbourne Archdiocese accepted no responsibility for the offences I allege were committed against me as a child by these three persons. I request that you resend me a copy of this letter advising me of the Archdiocese position in relation to my submission (this letter has since been mislaid)..."*

*With respect that is not a correct recollection of what appeared in my letter as I refer to above.*

*(I then replied to his inquiry as to who of the three offenders were included in the revised figures submitted to the Inquiry in June 2013, stating that none of these were, though in fact the complaint against Pickering was).*

*I trust this satisfies your queries. In conclusion I emphasise you remain entitled to pursue your Application for Compensation in respect of the abuse that you suffered from Fr Pickering. If you return your Application for Compensation I will refer that to the Compensation Panel and report that you were abused by Fr Pickering in the circumstances*

you described in your Statement to the Police and at page 11 of your interview with me in which you said:

*P: What I wrote in the Statement to Police which is what I remembered at the time was inappropriate touching of my genitals whilst in the Sacristy*

*POC: Were you an altar boy*

*P: I was an altar boy. In a nutshell that's it. Some rather dominant behaviour bullying and shoving and shouting*

*POC: On how many occasions approximately*

*P: Approximately 4 or 5 that I can remember*

*POC: Over a period of how long approximately*

*P: Several weeks*

*POC: you were then a boy of about*

*P: almost eight*

*POC: and you were living with your parents presumably*

*P: I was living with mum and dad"*

*I await your reply."*

## **CONCLUSION**

I request that this Reply be published forthwith on the Parliamentary Committee's website, so as to redress somewhat the damage to my personal and professional reputation.



.....  
Peter J O'Callaghan QC

8<sup>th</sup> October 2013



Paul Brockhoff

1 June 2005.

Commission into Sexual Abuse  
Peter O'Callaghan QC  
Owen Dixon Chambers West  
18/15, 205 William Street  
Melbourne 3000

Dear Mr O'Callaghan

**Re: Interview regarding instances of abuse by persons within the Catholic Church.**

Thank you for your correspondence dated 16 March 2005 regarding your status as an Independent Commissioner appointed by the Archdiocese of Melbourne to enquire into allegations of sex abuse by priests, religious and lay persons within the diocese, and also regarding our conversation of 3 March 2005.

I reiterate my position as a survivor of such abuse, and as requested by you, I enclose the police statements tendered to Victoria Police Sexual Offences and Child Abuse Unit (SOCAU) in October / November 2003.

These statements are first draft, and I have not received feedback on them from the police. In addition I enclose the parent documents from which the statements were drafted. They contain more context and detail, some of which was considered irrelevant for the purposes of the statements.

I wish to convey my surprise at your assessment, both on and off tape that the instances of abuse that occurred to me at the hands of Father Ronald Pickering, SW and GJ, and as outlined in the three police statements you now have before you, are somehow beyond your jurisdiction.

It is my contention these grotesque incidents occurred under the auspices of the Catholic Church. If the connections between SW and I, and GJ and I have not been made clear enough, please allow me to make the connection clear and unambiguous.

SW became known to the family through our mutual connection with camps run by Fr Peter Robinson of the Catholic School for the Deaf. These camps were held in Porepunkah in January of each year. My father was the cook for those camps. SW was also present at these camps and associated functions, though he had no deaf children. Our connection arose solely through functions associated with this organisation, and directly with functions associated with the Catholic Parish of St Peter's in Clayton.

It is my assertion the actions and behaviour of this man was known to church authorities at the time he committed his crimes of child abuse. You will find statements to back this up in the parent document. It has not been included in the police statement, because the intention of the police statement was to bring charges against SW , not Father Robinson.

GJ was introduced to my mother by our parish priest, Monsignor Twomey. Monsignor Twomey's aim was to get my mother to return to work after giving birth to me. I was too young to go to kindergarten, and so daytime care was arranged with a woman who was an employee of Corpus Christi seminary in North Clayton. She was one of the librarians there.

It is my assertion that the instances of abuse committed by these people were done under the direct sponsorship of the Catholic Church. If you wish to assess these as beyond your jurisdiction, I shall require explanation from you as to why this should be so, when the charter of your appointment includes lay persons.

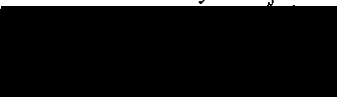
I also seek clarification on why the 'Towards Healing' process (if this is the process to which I will be subjected) allows for claims of abuse to be investigated only against individuals who have bishops or religious leaders as a superior (Letter from Bishop Robinson to a victim, in article "Church hurting Me When I Want Healing: Accuser" – Martin Daly, published in the Age newspaper 22 August 2002).

Those lay persons against whom I have brought a complaint, who do not have any of these bishops or religious leaders as a superior still perpetrated their crimes against me and other children under the protection of a negligent Catholic Church. At least one of them is deceased. I require clarification whether it is possible to begin a case under the "Towards Healing" process, and if it is not, then why not. I also require clarification how the charter of this process differs from the charter defining your own appointment as Independent Commissioner.

Mr O'Callaghan, I find your own assessment of my personal circumstances, and the description of the "Towards Healing" process (if they are separate entities) both somewhat lacking in sympathy and devoid of compassion. It is certainly very disappointing from the point of view of a survivor seeking redress and advice from an Independent Commissioner.

It does not convey the Church's sincerest desires for true reconciliation with, and natural justice for the very children placed in its care – the ones in charge of its future. I speak not only for myself, but humbly for the many children who have not spoken, who are unable to speak, or who have simply not survived the sheer horror that a daily realisation of these terrible realities often brings.

Yours sincerely



Paul Brockhoff

RECEIVED  
11 JUN 2005

Commission into Sexual Abuse  
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28 June 2005

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e-mail [pjocallaghan@vicbar.com.au](mailto:pjocallaghan@vicbar.com.au).

**Private and confidential**

Mr Paul Brockhoff



Dear Mr Brockhoff

I refer to my meeting with you on 8 March 2005, my letter to you of 16 March 2005, and your letter of 1 June 2005 and enclosures.

I am sorry that you consider I am "lacking in sympathy and devoid of compassion" which I certainly did not intend in any way to convey, and if it was perceived by you, this may reflect the stresses and strains of the problems of which you complain produce.

Be that as it may, let me make clear my position.

I refer to and repeat the description of my position as set out in my letter of 16 May 2005.

You state,

*"I wish to convey my surprise at your assessment, both on and off tape that the incidences of abuse that occurred to me at the hands of Fr Ronald Pickering, SW and GJ and as outlined in the three police statements you now have before you are somehow beyond your jurisdiction."*

At no time have I suggested that I do not have jurisdiction against complaints by Fr Pickering. Indeed, I see no reason but to accept your complaint that you suffered sexual abuse from him, and I am accordingly forwarding herewith an application for Compensation which you can complete and return to me in that regard.

Further, because I am satisfied on your testimony that you were abused by Fr Pickering, I am entitled to refer you to Carelink which as explained in the brochure previously forwarded you is the Agency set up to provide free counselling and psychological support for victims of sexual abuse.

In that context I have written to Ms Michele Harris to obtain a report on your condition as given to her.

With respect to the complaints in relation to SW and to GJ, I note that you state that one of them is deceased. Please advise as to who this is. However, it is my invariable practice that if a complaint has been referred to the police then unless and until the police investigation and any charges emanating there from are completed, I take no steps in relation to the complaint. To do so would place me in the invidious position of being an apparent substitute for the police. The reason why this practice does not apply in respect to Fr Pickering is because he has departed the jurisdiction and in practical terms (I believe) there is little prospect of him being the subject of extradition proceedings.

I would require a great deal more detail as to the relationship between SW and yourself and Fr Pickering so as to find that he came within my jurisdiction. Such an enquiry would only be pursued by me after police investigations have been completed.

With respect to GJ my prima facie view is that in no sense was she a "Church Person" within the Terms and Conditions of my appointment, a copy of which I enclose for your information. The fact that Monsignor Toomey recommended to your Mother that GJ be the babysitter cannot impose liability on the Archdiocese. If GJ was an employee of or under the control of the Archdiocese different considerations apply. However as I understand the position Monsignor Toomey recommended her as a suitable babysitter, and there the matter rested.

As you yourself stated at page 23 of the transcript of interview,

*"I have no complaints against Monsignor Toomey. I am quite sure that the recommendation he made to Mum was in good faith. ..."*

Put another way, the Archdiocese could not be held responsible for the conduct of a person who was not within its control or employment but was the subject of a recommendation by a parish priest. To illustrate that point, imagine that a parish priest recommended to a parishioner that a person was a competent painter and this proved not to be the case. Whilst it may be that one could imagine a cause of action against a priest who so negligently recommended a person whom he knew was not a good painter, there would have to be that sort of proof.

If Monsignor Toomey had known that GJ had the propensities which you complain of, then perhaps different consideration would apply but only insofar as the responsibility of Monsignor Toomey is concerned.

Yours sincerely,

  
Peter O'Callaghan  
Independent Commissioner

Paul Brockhoff

9 July 2013

Peter O'Callaghan QC  
Room 1813, Owen Dixon Chambers West  
525 Lonsdale Street, Melbourne Vic 3000

**Re: Child Sexual Abuse within the Catholic Church**

Dear Sir

On Thursday 6 June 2013 the Catholic Church in Melbourne submitted new figures on the number of victims and abusers to the Victorian Inquiry into the Handling of Child Abuse by Religious and Other Organisations (the Inquiry).

Statistics in the original (Facing the Truth) submission cite 618 victims – the revised figures now identify 849 victims and 269 offenders. An article in *'The Saturday Age'* newspaper (8 June 2013) identified among the offenders 98 priests, 114 brothers, 9 nuns and 42 laypeople of whom 2 are female (as well as two seminarians and four with a status of 'unknown.')

In 2004, I submitted to the Melbourne Archdiocese victim impact statements regarding three persons in particular (whose names appear below). I had several interviews with you on the subject and several interviews with the Victoria Police. I advised you at the time of the occurrence and the content of the interviews with police.

I subsequently received a letter from you advising me that the Melbourne Archdiocese accepted no responsibility for the offences I allege were committed against me as a child by these three persons. I request that you re-send me a copy of this letter advising me of the Archdiocese's position in relation to my submissions (this letter has since been mislaid).

I also seek a response from you regarding the three persons:

1. GJ – Receptionist and Librarian at Corpus Christi Seminary North Clayton.  
An employee of the Melbourne Archdiocese. She was my baby sitter from the time I was 18 months old, until the time I started school at age 4 ¾. She came recommended to my mother by the then parish priest, Father Kevin Toomey.
2. Ronald Pickering – Parish Priest at St Peter's Clayton 1973 – 1978. Left the country, was apparently living in England somewhere.
3. SW – Parishioner at St Peter's Clayton

Were these persons included in the revised figures submitted to the Inquiry in June 2013?

If any or all of the above three persons are not amongst those revised figures, please advise me of such, and why they have not been included.

If you are unable to advise me, please forward me the contact details of the person who can advise me whether these three persons have been included in the revised figures submitted to the Inquiry in June 2013.

Yours Sincerely,



Paul Brockhoff