

# TRANSCRIPT

## FAMILY AND COMMUNITY DEVELOPMENT COMMITTEE

### Inquiry into the handling of child abuse by religious and other organisations

Melbourne — 23 November 2012

#### Members

Mrs A. Coote  
Ms G. Crozier  
Mr D. O'Brien

Ms B. Halfpenny  
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#### Witnesses

Mr A. Foster,  
Mrs C. Foster,  
Ms K. Foster, and  
Ms A. Foster.

**The CHAIR** — I would like to now invite our first witnesses to the table.

While our witnesses are taking their seats I would like to run through a few housekeeping rules. In accordance with the guidelines of the hearings, I remind members of the public gallery that they cannot participate in any way in the committee's proceedings. Only officers of the Family and Community Development Committee secretariat are to approach committee members. Members of the media are also requested to observe the media guidelines. Could you now all please ensure that your mobile phones are turned off while you are in the gallery.

On the behalf of the committee I welcome Mrs Chrissie Foster, Mr Anthony Foster, Ms Katie Foster and Ms Aimee Foster. Thank you for your willingness to appear before this hearing. All evidence taken by this committee is taken under the provisions of the Parliamentary Committees Act, attracts parliamentary privilege and is protected from judicial review. Any comments made outside the precincts of the hearings are not protected by parliamentary privilege. This hearing today is being recorded, and you will be provided with a proof version of the transcript. Following the presentation the committee members will ask questions relating to your submission and evidence provided today. We thank you again for appearing before us.

**Mr FOSTER** — Good morning, and thank you for the opportunity to present this oral submission, which is in addition to our written submission available on the committee's website. I am Anthony Foster. This is my wife, Chrissie, and our daughters Katie and Aimee. They survive Emma, who died nearly five years ago as a result of the trauma of her sexual assaults.

We would like to thank all our supporters. Without the loving support of our friends and family over the past 16 years we would not have been able to sustain our energy for justice all these years. Without the support of the media our story and the stories of other victims would still be hidden behind the closed doors of the Catholic Church. Contrary to what Cardinal Pell said at a press conference last week, dedicated journalists have not smeared the church: they have helped brave victims to report their traumas. For without the exposure of clergy atrocities these criminals would still be saying mass in Victorian parishes. The church has never lifted a finger to bring any offending priest or brother to justice. Without years of reporting by the media, Archbishop Hart, Cardinal Pell and other bishops would still be hiding, protecting and transferring offending priests, just as their predecessors did. In fact how do we know they are not still hiding offenders or moving them around? Without rigorous investigation by this inquiry we will simply have no way of knowing if their practices have changed. I am going to read an excerpt from Chrissie's and Paul Kennedy's book:

... Archbishop Sir Frank Little served as the leader of the Archdiocese of Melbourne for 22 years. His reign came to an end when George Pell took over in 1996. But the late Archbishop Little's handling of paedophile priests was abominable and should be noted in any discussion about the church hierarchy's cover-up.

In 1978 a prolific paedophile priest, Father Bill Baker, was in charge of the suburban Gladstone Park parish. The father of one of this cleric's victims found out his son had been sexually assaulted in the presbytery shower, so he took his complaint to the president of the parish council, Brian Cosgriff.

When he wasn't a parishioner, Mr Cosgriff was a senior magistrate in Melbourne. He was appalled by Father Baker's actions and decided to take the parent's complaint to the office of the archbishop. He asked a barrister, Brendan Murphy, to go with him as a witness.

The pair expected a fair hearing and a compassionate reaction from the church leader. Archbishop Little listened to the complaint about Father Baker before vigorously defending his priest.

'This is a despicable allegation', Archbishop Little yelled, 'absolutely despicable. How dare you? What about faith, hope and charity?'. The archbishop was wild with fury that anyone would accuse one of his priests of sexual assault. He had the magistrate and the barrister led away from the church property.

Our appearance before you today is, in a very personal sense, absolutely futile. We wish we did not have to be here, but we refuse to let the Catholic Church take any more children from us. Whatever we or you do will not restore Emma's life or heal Katie's injuries. But you can make a difference to the lives of thousands of other victims now and prevent the abuse of further children.

As our submission is on the committee's website we do not intend to read it in its entirety, but I will explore parts of it and particularly address what we believe should be your committee's recommendations to government and which should apply to all organisations. What we are about to present to you is only a very small insight into the suffering our family has endured, so it is therefore very important that you have read our

submission, especially Chrissie's and Paul Kennedy's book, *Hell on the Way to Heaven*, which tells the full story of what we have been through.

We are the parents of three daughters, two of whom were raped repeatedly over years by our parish priest, Father Kevin O'Donnell, while they attended Sacred Heart Primary School in Oakleigh. Emma started prep at the school in 1987. Katie started in 1989. This photo shows us as a family at about that time. The children who were raped — our children who were raped — by this animal, Father Kevin O'Donnell, were raped at this age. O'Donnell retired in August 1992. In March 1995 O'Donnell was charged with child sex offences dating from 1946 to 1977. In August 1995 O'Donnell pleaded guilty and was imprisoned for a mere 17 months for these 31 years of sexually assaulting children.

During the media coverage of O'Donnell's case we read that victims had reported O'Donnell's offences to the church hierarchy in 1946, 1958 and 1986. If, following any one of these assault complaints, a church official had taken the action of removing O'Donnell from ministry — as you would assume ordained men of God would — our daughters and many other children would have been spared their lifelong torment and the crippling effects of repeated childhood sexual assault. Emma would still be alive, and Katie would not be permanently disabled.

Our written submission includes a letter dated 31 October 1994. This letter, from Father A. P. Guelen, parish priest of St Mary's, Dandenong, to Monsignor G. Cudmore, vicar-general of the archdiocese of Melbourne. The letter is initialled by Cudmore on 2 November 1994. Father Guelen was assistant priest at Dandenong during the period when O'Donnell was parish priest. The letter describes Guelen's 1994 visit to a Mr Gerry Drummond, who was a scoutmaster in Dandenong in 1958 and documents Mr Drummond's 1958 reporting to Monsignor Moran, administrator at St Patrick's Cathedral, of O'Donnell interfering with a boy in 1958. Here I quote from the letter:

Someone from the cathedral had come to see Kevin O'Donnell and also talk to the boy and that everything was squared up since that time.

Chrissie's book documents an incident during this period when the same Father Guelen walked into O'Donnell's bedroom and discovered O'Donnell laying on top of a boy in O'Donnell's bed. Guelen looked at the boy, said nothing and left the room. Here are two glaring examples of crimes that should have been reported to the police and O'Donnell removed from the ministry. If they had been, Emma and Katie and scores of other victims would not have been assaulted by O'Donnell, and Emma would be alive today. It is that simple. Father Guelen, the priest who ignored O'Donnell abusing a victim, retired in 2009 but is currently acting priest at Jordanville, filling in for a priest removed as a result of allegations of child sexual assault.

Again I read from the book in regards to O'Donnell. O'Donnell —

... pressed his erection against their little naked bodies.

O'Donnell —

... left few physical scars. Instead he left them emotionally tortured and spiritually ruined. He irreparably altered their development as humans, so their relationships, their ideas of love and connection to others, were always strained and sometimes impossible. O'Donnell and the Church stole a part of their souls.

In March 1996, when in an adolescent psychiatric unit, Emma, aged 14, disclosed that Father O'Donnell had sexually assaulted her. Fifteen months later Katie also disclosed sexual assaults by Father O'Donnell. Less than two years later, in 1999, Katie began binge drinking to obtain respite from memories of her assaults and was hit by a car while crossing a road. She was drunk at the time. She spent 12 months in hospital and still receives 24-hour care. Emma took drugs in an attempt to escape her memories of the abuse, but took her own life at 26 years of age in 2008. She had led a life of torment and self-destruction.

For 16 years we have fought long and hard for an official inquiry into the dreadful actions of the leaders of the Catholic Church and their systemic cover-up of the horrific sexual crimes perpetrated by their clergy against so many innocent children. We have attempted to positively engage with the Roman Catholic Church, right through from our local parish priest in 1996 to the Pope during his 2008 visit to Sydney for World Youth Day. In our interactions with the now Cardinal Archbishop Pell we experienced a sociopathic lack of empathy typifying the attitude and responses of the church hierarchy.

I read from the book:

Standing on the freshly cut lawn at the Oakleigh presbytery, I held my pile of my papers, my proof, and tried to forget the butterflies in my tummy.

This was Chrissie's tummy.

I felt like I was waiting to be interviewed for an important job, rehearsing sentences and phrases in my mind, hopeful they would be well received. My questions were reasonable and my discomfort with the Church's position and attitude justified. Up until this point it seemed the archdiocese was standing by paedophile priests, supporting them instead of the victims. O'Donnell had not been laicised, although he had admitted his guilt, had been convicted and was in prison for his crimes. It was hard to comprehend the difficulty the church was having in understanding the plight of victims. The new compensation and complaints scheme from Archbishop Pell seemed so very cruel.

I looked at my watch. Seven o'clock.

It was time to go in.

I sighed nervously as Anthony and I walked to the presbytery door. Anthony was silent, maybe also rehearsing sentences in his mind. Our parish priest, Ted Teal, heard us knock and opened the front door. He issued a welcome and ushered us into a small room at the front of the house. We believed Father Teal was there to help us, but I wondered whether he was a supporter of the archbishop. It was no secret George Pell had polarised the opinions of priests in Melbourne. His time as rector of the Melbourne seminary was controversial because he was a stickler for traditional methods and advocated a stricter curriculum. The Church, from Rome to Melbourne, was wrestling with relevancy and some priests were supportive of a less formal mass to attract a broader, younger audience. Archbishop Pell was not.

It turned out Father Teal was his boss's friend. They'd played football together decades earlier, while studying for the priesthood, and more recently lived —

in the same house —

at the same parish in suburban Mentone.

Father Teal left us standing in the small cramped room, strewn with old chairs and a dusty office desk — a real furniture graveyard. It was a peculiar choice for such a meeting because the rest of the presbytery, a large house, appeared to be otherwise unoccupied. We took stock of our surroundings. The only uncluttered space was one step away from the door, an area cleared for a small timber bench and a large grandiose chair. We squashed up on the wooden bench, assuming it was for us. I placed my pile of proof on my lap, ready to reference it when needed, probably at the beginning as an introduction to establish the foundation of our discussion. I sighed again as we waited for The Most Reverend Archbishop of Melbourne DD, STB, STL, Med, DPhil ...

et cetera.

Within minutes, a squeak in the floor made us aware of a presence on the other side of the slightly ajar door. Suddenly the handle shifted and the door was opened a little further. Then it paused. We still couldn't see anyone but knew a man was there because he asked in a booming voice of another unseen man: 'Are they friends?'

Seconds later a voice a voice further away replied: 'Yes'.

We sat there puzzled, staring at the doorknob. It was Archbishop Pell of course but why was he asking his colleague Father Teal, at that late moment, for a short character reference on us? We had been asking for this meeting for months and the archbishop had plenty of time to research or briefly enquire about our character. He obviously knew about our case from the forum and our letters. The reason for his 'Are they friends?' question was plain. It was his first power play. Pure theatrics.

Archbishop Pell stepped into the room and sat in the big, padded leather chair. There were no polite introductions and the mood in the room darkened. A discussion ensued that was both gruelling and unpleasant.

We had come for compassion but were handed confrontation. Anthony and Archbishop Pell argued, not with raised voices, but with sternness and determination. I interjected to make a point every so often. It was very intimidating.

I was glad my husband wasn't Catholic because he was able to speak his mind and demand answers. I was compelled into silence, being challenged and mortified by what was bordering on a hostile exchange with a person I would have once bowed before. At that moment I reverted to being a docile Catholic, my proof sitting on my knee as useless as it was heavy. I had not even had the chance to open my mouth before the verbal jousting took on a life of its own. I felt for my dear husband defending our daughter as he fought to get words out, trying to finish sentences under a bombardment of legalistic grenades, thrown so freely and confidently.

Anthony said softly, almost whispering: 'What if my daughter dies? What if my daughter harms herself in such a way that she has a terrible life from now on? Shouldn't the Church look after her? The Church caused this'.

George Pell countered by saying the Church's liability would be defended in court.

When Anthony mentioned the Church had known about O'Donnell's paedophilia for many decades, Archbishop Pell said: 'That was before my time'.

Here sat a doctor of philosophy, who studied the history of the Church at Oxford. Did this mean that now, as he sat with us, he no longer cared about the Church's past? He had been the archdiocese boss for a year and was saying that whatever went before was not important enough for him to discuss. By that rationale, every time a new archbishop sits at the altar, all wrongdoing is forgotten forever, or at least never spoken about.

The seemingly good traditions of the Church and the people it helped along the way are still welcome, but the vile acts, the cover-ups, the victims are forgotten or hidden from view.

We believed Archbishop Pell knew O'Donnell assaulted Emma. But Anthony repeated the facts for him, just in case.

'I hope you can substantiate that in court', came the words that shook us most. Anthony winced.

'We are victims', my husband pleaded. 'Can't you understand we feel that way — can't you understand that many people feel that way?'

The discussion moved quickly to the new scheme for complaints and compensation. Anthony said it was a cost-saving measure, unfair and to the victims' detriment.

'It might look good on paper but as people involved in this, as victims, it all looks very shallow. Part of the reason is we see this cap and we see these restrictions'.

Archbishop Pell interjected: 'If you don't like what we're doing, take us to court'.

'We don't want to. We don't want to drag the Church through the courts. We don't want this', Anthony explained.

Anthony then outlined our opposition to Professor Ball's place at Carelink. 'The man who assesses whether we get Carelink facilities is the man who wrote the defence report [for O'Donnell and other paedophile priests] saying ...'

Pell interrupted but Anthony wanted to finish: '... there is a conflict of interest there'.

I worked up the courage to speak but could only manage to say: 'Why is he in charge?'

'Because he was the best man available', was the curt reply.

Anthony was pleading again but also demanding: 'This will go on forever. Now will the Church come to the aid of Emma?'

'I don't know', the archbishop muttered.

'You don't know? Almost all the emotional problems Emma will have for the rest of her life will stem from this', said Anthony.

I was anxious, feeling almost claustrophobic, but couldn't work out why. I wriggled again in my seat.

Archbishop Pell, like a tradesman who comes to fix a leaky roof, arrived at that meeting with a handful of trusted verbal tools. He used phrases such as: 'I hope that you can prove what you are saying in court' and 'take your evidence to court'. He used them to attack, deflect and interrupt. Meanwhile, we tried to defend the innocence of our daughter. The archbishop's tools were very effective, for they eventually exhausted Anthony. The man of the Church was used to confrontation and we were not.

Truth and justice were what we wanted from him, but did his views of right and wrong match our moral standards? We felt like we'd been hit on the head and bullied into submission. The archbishop's threatening words ended all avenues of conversation. I believe this was his aim.

Two of the items I had gathered as evidence of Emma's suffering were photographs. One pictured her receiving her confirmation certificate only two years earlier by none other than what was then Bishop George Pell himself. The other photograph was taken just a few months before the meeting, when she had cut her wrists in the laneway behind our home. To maximise the impact this photograph would have on the archbishop Anthony had enlarged it to A4 size.

When the meeting was almost finished, Anthony passed to Archbishop Pell the confirmation picture, to which he commented: 'That's nice'.

Then Anthony gave him the image of Emma with bloodied wrists and arms —

distressed, sitting on a bench in our backyard.

I held my breath, hopeful that we could reach this man on a deeper level and he could offer us some sympathy, or a display of surprise perhaps, something, anything.

Archbishop Pell, however, peered at it for a moment and with an unchanged expression said casually: 'Mm, she's changed, hasn't she?'. He handed the picture back to us. We couldn't believe his response. He was the first person we'd shown the image to. It was too distressing for anyone we knew to see. But it did not disturb the archbishop. Not a grimace or a frown.

What sort of people does he mix with, what sort of life experiences did he have, that allowed him to feel that his comment was appropriate? This man was Archbishop of Melbourne, leader of Australia's biggest archdiocese. He was partly educated in Rome, and had studied Latin, Italian, French and German texts. He had written books and academic papers. He edited *Light*, a Catholic news journal, writing editorials and book reviews for years. He had a seemingly decent grasp of language, had travelled the world, witnessing vastly different cultures. Why did he react the way he did to Emma's distressing photo, without emotion?

'She's changed.'

I'm nobody special. My family are just ordinary people, just like anybody else. But were we that worthless and dispensable?

This was the man who had taken it upon himself to be in charge of correcting the paedophile problem within the priesthood. How could he change the status quo when he appeared to feel nothing for victims?

After these brief words about Emma, his rejection of her pain, there was little left to say. We were stunned and sat trying to comprehend how our long hopeful wait to meet George Pell had been for nothing.

As I sat listening to Anthony lose the last moments of the battle, the uncomfortable feeling I had experienced through the meeting, the cramped sensation, recurred. Apart from the stress and near nausea I was enduring, another awareness was beginning to break through. Time and again I had sat stiffly upright, thrusting into the hard wooden back of the bench seat, feeling as if I needed to be further away from the archbishop, sitting up straighter but to no avail.

Once again, I was ramming my backbone into the hard timber, trying to sit up, only this time I spotted the source of my irritation. I looked down to see what I was instinctively trying to get away from — it was the toe of Archbishop Pell's shoe. His long legs were crossed casually and stretched out towards me, his shod foot protruding to just two or three centimetres from my knee. All this time he had been impinging on my personal space, spreading himself out in the cramped confines. My anger spilt over. It was ridiculous that we were even in this position, not just the horror movie our lives had become but in this tiny, obsolete furniture storage room, opposite this confronting man in his big padded chair.

Unable to restrain myself, I interrupted their futile conversation without excuse or politeness.

'Get your foot away from my knee,' I ordered.

They both looked at me in silence. I repeated my instruction and this time pointed at his intrusive foot. I was furious. We stared at each other until he complied. As pathetic as it was, this was the only point we won during the whole meeting.

It is so hard to understand people talking about innocent, molested children without compassion. Perhaps priests, bishops and archbishops don't have that connection with children because they can't or rather, according to their vows, shouldn't father them. But that's no excuse. They were once children too. Surely we are not so many worlds apart that we can't share a sense of loyalty and protection of young people, humanity's future.

Finally here we are today, 16 long years later, sitting in front of you, members of our state Parliament, once again presenting our story. We fervently hope that you have the strength of character to stand up for the rights of children against the might of the Catholic Church.

Following the announcement of the federal royal commission, we are here under different circumstances than expected. We are elated that there will now be the highest possible form of inquiry into child sexual assault ever undertaken in this country. However, this Victorian inquiry still has a very important role to play, and indeed Victoria could lead the way for the rest of Australia by you recommending and the Parliament implementing the very necessary legislative changes to provide justice for past victims and protection for future children.

After Archbishop George Pell's introduction of the Melbourne Response in 1996, Peter O'Callaghan determined that Emma had been assaulted by O'Donnell. After Chrissie and I appeared at the compensation panel, George Pell's solicitors offered her a \$50 000 ex gratia payment. The only other option was to take legal action, which in the words of the then and current Church lawyer, Richard Leder, would be strenuously defended.

Archbishop Denis Hart's lawyers later claimed that the assaults on Emma and Katie had never occurred. We were so disgusted with the \$50 000 price tag on our daughters' lives that we commenced legal proceedings to achieve a better outcome. After almost 10 years, countless hours of effort, a significant personal cost and the pro bono help of our dedicated legal team, we settled with the church for far less than we believe our children were entitled to. We were exhausted.

With the settlement funds, Emma was able to purchase a house, and Katie will soon move into her own specially designed home, but very few victims have the support our children had to achieve such a result. Most have to accept the paltry amounts that the church's internal system deems is the minimum amount to shut them up and prevent them from taking any further action against the church.

However, the pain and suffering for Emma continued. The 10-year legal battle had taken a toll on all of us, and she continued to self-harm and take whatever drugs helped numb the thoughts of what had happened. In 2007 she admitted herself to a St John of God rehabilitation centre in Dandenong, where an unqualified counsellor, a nun, and other staff convinced Emma that she and Chrissie were to blame for the sexual assaults. Emma was discharged on 3 January 2008. She died by her own hand the next day.

The church's internal system is an obscene imposition of the Vatican's rules and laws over citizens of the state of Victoria. It is rife with conflicts of interest, self-interest, lack of empathy, and an emphasis on minimising compensation and justice for victims. Our legal system currently helps to deny victims access to the enormous wealth of the church. The system should never have been allowed to exist in its current form. It must now be reviewed to ensure that it complies with the legal and moral standards of our society to ensure and enable just compensation and care for all victims. If victims had been awarded civil levels of compensation, the church would have acted decades ago to prevent incidences of sexual assault and the subsequent financial liability. Instead the church has been able to minimise payments to victims to levels that it dictates.

Our daughter Emma's death, Katie's injuries, the scores of suicides in the Ballarat area and the as yet untold loss of lives of scores — hundreds, maybe thousands — of victims in Victoria and the rest of Australia are not without cause. They are the result of the conscious policies and actions of some Catholic clergy — bishops, cardinals — their legal advisers, and supporters. Every Catholic who stands silent, every policeman who looks away, every one of the church lawyers who thinks he is just doing his job by attacking victims, every innocent priest who says nothing and every bishop who moved offenders stands guilty — guilty of aiding and abetting the criminals who have wrought such devastation on our children and of furthering the suffering of past victims — and they put future children at risk, all in the name of a church that claims to be the moral leader in our society but that has demonstrably failed in that role, a church that has six times as many offenders as all the other churches combined.

The words of Irish Prime Minister Enda Kenny, following the Ferns, Murphy, Ryan and Cloyne inquiries, in his 2011 speech delivered to the Irish Parliament, when introducing changes to their laws, should ring loudly with their relevance to the state of Victoria. I will quote some of what he said, and I believe this has great relevance here:

... in Ireland, a report into child sexual abuse exposes an attempt by the Holy See, to frustrate an inquiry in a sovereign, democratic republic as little as three years ago, not ... decades ago.

And in doing so, the Cloyne report excavates the dysfunction, disconnection, elitism ... the narcissism that dominate the culture of the Vatican to this day.

The rape and torture of children were downplayed or 'managed' to uphold instead, the primacy of the institution, its power, standing and 'reputation'.

Far from listening to evidence of humiliation and betrayal with St Benedict's 'ear of the heart' ... the Vatican's reaction was to parse and analyse it with the gimlet eye of a canon lawyer.

...

While it will take a long time for Cloyne to recover from the horrors uncovered, it could take the victims and their families a lifetime to pick up the pieces of their shattered existence.

If we make the right changes, someone will be able to continue on with this speech, which I again quote:

But thankfully for them, and for us, this is not Rome ... This is the 'Republic' of Ireland 2011.

This should be the state of Victoria 2012:

A republic of laws ... of rights and responsibilities ... of proper civic order ... where the delinquency and arrogance of a particular version ... of a particular kind of 'morality' ... will no longer be tolerated or ignored.

... those who have been abused can take some small comfort in knowing that they belong to a nation, to a democracy where humanity, power, rights, responsibility are enshrined and enacted, always ... always ... for their good. Where the law — their law — as citizens of this country, will always supersede canon laws that have neither legitimacy nor place in the affairs of this country.

This is some of what needs to be done. The wealth of the church and other organisations must be readily accessible to victims through our legal system. Victorian legislation currently allows the church to segregate its

wealth in ways that deny victims access to just compensation. Office-holders should be able to be held liable in relation to the sexual abuse of children occurring during the period of their predecessors in office. Unlike the managers of other entities, the Archbishop of Melbourne, for example, is able to deny responsibility for any wrongdoings done by his predecessor.

There should be no time limit for civil or criminal claims in regard to sexual crimes against children. There should be an independent reassessment of all past claims within the church's internal systems to raise the ex gratia payments to the level of compensation that would have been achievable under civil law. There should be a continuing public education campaign to ensure a high level of awareness of the danger, symptoms, causes and effects and the prevention of child sexual assaults. And finally, any person — any person — suspecting the sexual assault of a child should be required to report that suspicion to a state authority — any person.

In the words of Enda Kenny:

This report tells us a tale of a frankly brazen disregard for protecting children. If we do not respond swiftly and appropriately as a state, we will have to prepare ourselves for more reports like this.

I would now like to observe a minute's silence for my daughter Emma.

**A minute's silence was observed.**

**Mr FOSTER** — Thank you.

**The CHAIR** — Thank you, Anthony, very much, and can I also thank you, Chrissie, for providing committee members with your book, which we have all read. We do appreciate that.

Anthony, you raise in your evidence this morning the central question as to how an individual who was known to be a risk to children for so long, and I think you actually said in your evidence that there was reporting of Father Kevin O'Donnell from 1946, 1958 and 1986 — how someone like him was free to continue to act in relation to being in contact with your own children and other children. I think that is paramount, but do you think the way in which the church has handled sex abuse in more recent years has prevented ongoing abuse, as has been reported in the past in the instances you cited?

**Mr FOSTER** — I think we simply do not know. I think without adequate recovery of documents from the church and without passage of time we do not know.

**Mr McGUIRE** — Thank you all for your courage and dignity in bearing witness today. Thank you for your perseverance and for your pursuit of truth and justice. It is important to us all. I want to pick up, if I can, and ask you a few questions on the response to the two disclosures. Just from your evidence today you described it as a 'sociopathic lack of empathy'. I know you have gone to this in a few examples. Can you just elaborate on that? You made that reference and direct connection to George Pell.

**Mr FOSTER** — That is our direct experience of meeting with George Pell a long time ago. It is a direct experience of watching him discuss our family in the media, both on TV and in press. It is a judgement made on the actual words he has said, and it is a judgement made on the fact that he has never tried to contact us, and neither has the Archbishop of Melbourne — no contact at all. Talk about being cast asunder. That is why I say 'sociopathic lack of empathy'. I think it applies very, very well.

**Mr McGUIRE** — Is there a disconnect between the proposition of sin and crime? Can you can elaborate for the committee on that.

**Mrs FOSTER** — A connection between the two?

**Mr McGUIRE** — A disconnect between the Catholic Church's view of what is sin and what is crime.

**Mrs FOSTER** — I think our civil laws make that division, and raping a child is against the laws in this state. So I think it goes beyond a sin; that is something secondary. What is the main thing is that it is a crime.

**Mr FOSTER** — This has been a crime for a long, long time. I think in Chrissie's book there is a particular example of someone in —

**Mrs FOSTER** — Beechworth in 1867.

**Mr FOSTER** — Beechworth in 1867 being hung for sexual abuse of a child. This has been known as a severe crime in our society for centuries, and here we have people like George Pell, Archbishop Hart and many others in the church minimising what we all know is a crime — what this building has created as a crime — yet they call a sin, which they did not understand the effects of. The reason we had this on the statute books for so long is because we know — our Parliament knew — what effect this had on children and how obscene and how terrible it is. Society has known about this for centuries, and yet the Catholic Church still defends it as sin, or, ‘We didn’t know the effects on the children’.

**Mrs FOSTER** — But they did not need to know the effects on the children; that is a secondary thing, in a way. It was a crime. They knew it was a crime, and they admit today that they did not do anything because they did not know the effect it would have on children. That is what we were hearing. I hear that from here. Vicar-General Cudmore said that, and I hear that overseas. It is no excuse at all, because it was a crime. They do not have to know the effect. They knew it was a crime, and they are covering it up by saying that. It is just an excuse.

**Mr FOSTER** — And it does point to the Catholic Church in the Vatican regarding their canon laws as being superior to the laws of this state of Victoria. That is why they think it is a sin: because that is their law.

**Mr McGUIRE** — Yes. I just want to go to, Chrissie, your recent article in the *Saturday Age* where you made the point:

Every one of those ‘good’ priests, as if of one mind and voice, said to the criminal: ‘Go home and pray.’

How did that leave you?

**Mrs FOSTER** — I just find that astounding. This case up in Queensland — it is in this country; it is not another country. It is astounding that over 25 years that paedophile priest confessed his sins in face-to-face confessions. So it was not anonymous; priests hearing the confession knew he was a fellow priest, and for 25 years they just forgave him and let him be. Not one of the ‘good’ priests encouraged him to hand himself in or go to the police or get help; Just ‘Go home and pray about it’, for 25 years. I think I worked it out as 1500 confessions to 30 different priests over that period. It worked out to be about 50 confessions per priest over that time. So it was the same — and some were a long way away, so they would have had less. Closer to where he lived, there would be more. There must have been hundreds of times he was confessing the same sin, and they said the same thing.

**Mr McGUIRE** — I just want to go to your the submission, where you also refer to the internal investigation of the Melbourne Response and the ending of your case once lawyers became involved. Can you again, for the record, just explain the impact that the cessation had on you in terms of not getting a finding? How did that leave you as a family?

**Mr FOSTER** — Certainly if I look at it now, in many ways I wish we had not accepted what we did at the time. I now feel as though we might have been able to achieve greater justice for a lot of other people if we had pushed through, but we were exhausted. That day of mediation was just an awful day. It was a day when the Catholic Church put a value on our children’s lives, and because of our exhaustion we had to accept that final figure — which I have to point out was much, much, much greater than what at that stage was the cap that the Melbourne Response was imposing.

We had achieved a much better result than what so many other victims were able to achieve. We hear stories of victims who have been asked by the compensation panel, ‘What are your legal fees?’ and then giving them \$1000 or \$2000 more than their legal fees. So there was a minimisation and we managed to fight through that, but most victims do not have the power and the ability to do that.

**Mr McGUIRE** — Given the strength that you have been able to harness as a family to confront all this — and you are saying that by that stage enough was enough — how do now feel for other people who went through what you had to go through? You are saying you got the best result. You know what that took.

**Mr FOSTER** — How do I feel about it?

**Mr McGUIRE** — About other people.

**Mr FOSTER** — You see it today. We are here for all those other people. We are here in the hope that you will make the Catholic Church accountable and that our legal system will then be able to step up and act for victims who currently have no hope in our legal system. We are here for them.

**Mr McGUIRE** — Thank you.

**Mrs COOTE** — First of all I would like to thank you, Katie and Aimee, for being here today and for the support and courage that you have shown. Chrissie, the minute that we knew we were going to have this inquiry, I read your book online and it gave me a grounding for what we have been hearing. As for your presentation today, I think you have certainly laid out an extraordinary case and I personally would like to thank you.

I would like to ask you about an issue that other states have taken on board — South Australia particularly — which is the grooming. You talked to us about us putting in recommendations for legislation here. Other states have grooming as a crime. I am particularly interested to hear from your experience and from the experience of others that I know you have spoken with about how these priests set it up, because it would seem, from the South Australian exercise and from other jurisdictions that this too is a crime that should be looked at. Is that your experience? Is that something that you believe would be helpful in a legislative framework?

**Mr FOSTER** — Maybe I will read you something else that I was going to put into our presentation today — a couple of things that we have been talking to everyone we met over the last 16 years and something that has developed between the both of us. I will lay them both out and we can talk about both of them.

Our sexuality is at the core of who and what we are as human beings. It really is; it is the very core of what we are. Our experience is that when this very basis of who we are is corrupted at an early age the result will be a child with massive difficulties when they reach puberty and later in life. You have heard lots of evidence about that.

The other thing is that the sexual assault of children is an invisible epidemic — and the grooming process is part of that. It is a crime carried out in silence. The perpetrator grooms the child to the extent that they are confident that the only people to know of the crime will be the perpetrator and the child. So it is very, very different from a bank robbery, a traffic accident and many other crimes which are out in the public, freely reported and seen. There are very few crimes — blackmail is probably the only other one — where the crime is held in a circle of silence that no-one else gets to see for a long, long, long time.

So anti-grooming legislation I believe is a potential part of a much greater approach that we have to employ. We need to shift to a point where children are freely able to express any violation of their body and where any potential abuser knows that the child will report to a believing adult. The crime would not occur if the abuser knew that the child would report the crime to a believing adult. It just would not occur, because that is the very basis on which the perpetrator applies the assaults. It is the grooming process that leads to this circle of silence around the victim and the perpetrator so that no-one else can see. So, yes, the grooming process is very important, I believe.

**Mrs COOTE** — Given that we are talking so much more as a community about the sexual abuse of children et cetera, do you think there is a greater awareness out there of certainly parents and other people around children to be able to report and feel more comfortable, or do you think that if we were to suggest and recommend grooming legislation there would have to be an awareness program put in place for that, not just for the children and their awareness of their own bodies but an awareness for the people who care about children, about what to look for? Where do you think we sit today in comparison with 20 years ago in recognising some of these grooming antics, as it were?

**Mr FOSTER** — There are programs out there. They need to be funded on a massive scale.

**Mrs COOTE** — Hand in glove with legislation?

**Mr FOSTER** — Hand in glove with legislation, I am sure. But we need community education; we need openness; we need children who can actually talk about these things and adults who will believe and adults who are aware of all the factors.

**Mrs FOSTER** — And understand, yes. When we look at the sexual assault of a child by a stranger, we usually read about it in the paper because the child comes home and says what has happened to it. That is I think the crux of this. Where we have a paedophile that grooms the child and works on the child, that is, like Anthony just said, the silencing part of it. It is all part of the silencing of that child so that that child does not go home and tell parents what has just happened to them. So that is what we have to crack: we have to get the children to react the same as if it was a stranger doing it.

**Mrs COOTE** — And the parents? The police have said to us that stranger danger is not as prevalent as people would expect —

**Mrs FOSTER** — No.

**Mrs COOTE** — and that of the children who report sexual abuse, very, very, very few ever lie.

**Mrs FOSTER** — Yes.

**Mrs COOTE** — How do we get the parents to think that someone who has ingratiated themselves into their hearth or their lives is a perpetrator? To me that seems to be the issue we have got to overcome. Can you see that as an issue as well?

**Mrs FOSTER** — I think that is the campaign program, and I think Dr Joe Tucci said there should be a 30-year program. I agree it is vital that parents learn. We cannot put this on children to protect themselves. They are combating an adult mind. It is not right. They are never going to win. It needs us in there — parents, adults — informed, keeping an eye out, understanding how paedophiles operate, just understanding symptoms in children. All of that we need to be very aware of. You were saying before about stranger danger. When I was a little girl it was the man in the bushes.

**Mrs COOTE** — Yes.

**Mrs FOSTER** — When my children were young it was stranger danger. Yet only 5 per cent of sexual assaults of children are from a stranger; the other 95 per cent are from someone who we and our child know. It is horrendous. Parents need to know that fact.

**Mr FOSTER** — And in regards to grooming, of course it is so often the parents who are groomed.

**Mrs COOTE** — That is the insidiousness of it, yes, which I think comes through very clearly in your book. Thank you very much indeed. Thank you all.

**Mrs FOSTER** — Thank you.

**The CHAIR** — Before we go on can I just ask: would you also advocate, therefore, in relation to some of those aspects that Mrs Coote has just raised, to include the criminalisation of knowing concealment of abuse, if that was part of the grooming process and what was happening?

**Mr FOSTER** — If the other campaign is not, cannot be or is not seen to be able to be successful in educating the community well enough, then yes, I think criminalisation of knowledge of the sexual assault of a child would be appropriate. I know there has been a lot of discussion about the seal of the confessional in recent weeks and whether in that particular instance reporting of sexual assault of a child should be mandatory. I think to a great extent that has been a red herring, because as far as I am concerned it is a no-brainer and it should be part of a much broader approach, which I have indicated today, that anybody with knowledge of a sexual assault of a child should be mandated to report. It is that serious. It is absolutely that serious.

**Ms HALFPENNY** — I have two questions. The first is: are you aware of any preventative actions that the church has taken to prevent abuse? We have heard from other witnesses, for example, about the way the church operates, where a parish priest has complete autonomy and independence and maybe no accountability to anybody within the parish and a very powerful authority over the school or schools that may be connected to the

parish. Are you aware of any programs or any steps that they have taken to ensure abuse does not happen or try to stop abuse happening?

**Mrs FOSTER** — Yes. Archbishop Hart speaks about that publicly, about his having introduced procedures and protocols to prevent sexual abuse of children and adults in the parishes. But I do not know what they are; I have not seen them.

**Ms HALFPENNY** — You have not seen any details of what they would be?

**Mr FOSTER** — No. We have seen an example of them not being — —

**Mrs FOSTER** — Yes, not working.

**Mr FOSTER** — During the process of Chrissie and Paul writing the book, Chrissie asked Paul if he wanted to see the room where Emma was assaulted, raped, by O'Donnell, and Chrissie contacted the parish priest who, after needing some time to clean the room up, we went and visited. If you have read the book, you will understand that O'Donnell had a particular room, and he was the only person in the parish with a key to that room. Three years ago, when we went to visit, the current parish priest was still the only person with a key to that room. That has not changed. So there has obviously been no audit in our parish.

That parish priest had a key to the playground gate, and at the time there were extensions and renovations being done, under the government scheme, to the school, and there were classes being held in the school hall. The parish priest led Chrissie, myself and Paul Kennedy — none of us had passes; none of us had had checks — through that school hall, past three classes of schoolchildren, and the teachers looked up, saw it was the parish priest and allowed us to proceed through, and we wandered through. And I then wandered around the building on my own and Chrissie and Paul and the priest looked at the room. So that parish priest had unfettered access to that classroom three years ago.

You ask me if they have changed protocols and procedures. I think that is a glaring example that they have not. They may have written things down in some places; it is obviously not the practice. We left that meeting, walked outside — —

**Mrs FOSTER** — And the priest just said out of the blue, 'Oh, in my last parish there was a little girl who said that the teacher was sexually abusing her', and then the priest said about the teacher, 'Oh, well, he's a happily married man with three children of his own. What do you do? What do you do?'. This was three years ago, less than three years ago. So here is the man in charge of the parish, to guide the people, and Denis Hart is saying there are all these protocols and things in place, yet he had no idea, he was saying to us. I was writing a book about this. He knew of the history of the parish and that O'Donnell had gone to prison and yet he said that. I just could not believe it.

**Mr FOSTER** — 'What do you do? What do you do?'.  
— —

**Mrs FOSTER** — 'What do you do? What you do?' — and he is in charge.

**Mr FOSTER** — Three years ago. So ask me if their practices and protocols have changed.

**Mrs FOSTER** — It does not sound like it.

**Mr FOSTER** — It does not sound like it.

**Mrs FOSTER** — It sounds like PR.

**Mr FOSTER** — And let us drill down into that story. Where is that little girl today? What has happened to her? What will happen to her? It was not reported. It should have been.

**Mrs COOTE** — Did he say which school that was at?

**Mrs FOSTER** — No, he did not — his last parish. I am not sure.

**Mr FOSTER** — That would be very easy to track down.

**Mrs FOSTER** — Someone needs to find out.

**Ms HALFPENNY** — I want to go on from that. From your experience as well, it seems to me from what people have said and what we have read that there seemed to be no follow-up in terms of if a person has made a complaint, necessarily about if there have been other people involved or any sort of proper information provided by the church so that the victims or whoever can understand the extent of the problem or a particular priest. I think that has been your experience as well. During your going to them with your cases, did they make you aware of other cases involving this priest and the church?

**Mrs FOSTER** — The church?

**Ms HALFPENNY** — Yes.

**Mrs FOSTER** — No, nothing. It was always trying to close everything down.

**Mr FOSTER** — Yes, we were never told, ‘Oh, yes, we know about O’Donnell, and we know all these other things he’s done’. There was no tracking, and to our knowledge there has been no system of the church actually going back looking for victims.

**Mrs FOSTER** — We spoke to Angela Ryan, who is Towards Healing coordinator or something.

**Mr FOSTER** — Part of Towards Healing.

**Mrs FOSTER** — And she spoke at a local pub a few years ago. Anyway, we asked her what statistics did Towards Healing keep on reporting victims coming forward, and she said they do not keep any statistics; they just pass it on. I thought here was a great opportunity, with all the calls they get into that central body, to look at where this abuse happened, where these priests were trained, which seminary. For example, were the Salesian Brothers 80 per cent offenders and only 2 per cent in the Christian Brothers. They could find out where the trouble spots were or which seminary they were trained in — for the parish priests; but nothing.

**Mr FOSTER** — There should be an extensive analysis of where the offenders were, what parishes they were in, what years they are in, and cross-referencing all of that, and then maybe better targeting support systems for victims in those areas. The church has done none of that — absolutely none of that; it is always hosing down. As you would have read in Chrissie’s book, when we told our parish priest, as he was walking out the door he said, ‘Don’t tell anyone’. It is all trying to keep the silence. So I would suggest this committee needs to do some very serious investigatory work and recovery of documents to ensure that you have the full picture of where all these offending priests have been.

I am sure that this particular letter about Guelen’s visit to Mr Gerry Drummond is something which may well not have turned up if it had not slipped through the system during legal proceedings. So I think there is an awful lot of hidden documentation, and I think there is a lot of documentation that would be able to be used, not just to show where the blame is but actually to get out there and help victims, which is the most important thing. Instead we have this sort of letter, where there is obviously a hosing down and a quietening up of it. The thrust of this letter was that this Mr Drummond was going to stay quiet; offered our support and we will not be part of talking about it. So the church has been very good at shutting things down, and I suggest that other organisations are similar. To our great detriment, our society seems to be able to put human beings into organisations where they become dehumanised. Somehow as a society we need to counter that.

**Ms HALFPENNY** — Just one other question about compensation. I think you are saying there needs to be legislative change so that there is proper accountability in terms of there being no protection of property and so on. Do you see that there is also a place for redress schemes, not necessarily controlled by the organisation that is involved, but schemes that people can go to if they do not want to go through the full legal system? I am not talking about the criminal side of it but the actual civil compensation side.

**Mr FOSTER** — It is something I have put my mind to a little bit. We have had a lot to do with that particular side of it, of course. We have been involved in both the Catholic Church’s compensation scheme and with the legal system, and from our point of view the legal system came out on top by a long, long way. I want to see victims given access to that legal system, and I am sure that if the processes are in place and the means are in place for that, we will see the legal practitioners come out of the woodwork in droves to help victims. I

think that is probably the best way. Our laws, our civil laws, need to be the overriding laws in regard to compensation and dealing with victims, but the cost of that needs to go back to whatever organisation caused the problem in the first place.

**Mr WAKELING** — Chrissie and Anthony, thank you very much for your attendance and your presentation, and as well to Aimee and Katie. Can I firstly, on the record, thank you for not only your submission but your persistence over many years on this issue. It certainly has been heard and noted by this committee.

I am interested in terms of the Melbourne Response and the process, we hear from some that there is a process that is fair, that is equitable, that people are advised that they have the opportunity to go through a legal process or report the matters to the police, but this is a possible avenue to have it dealt with in a timely manner. I am interested, though, in whether or not that actually is the case. Were you supported, were your children supported by those involved through this process and were you afforded the opportunity and encouraged to report these matters through the police, or did you get the clear impression that it was to be confined within that body and that there were no external parties that were going to be involved in this process?

**Mr FOSTER** — Firstly, we were in a slightly different position as the perpetrator had died, so reporting it to the police was not particularly an issue. Emma did report the assaults against her to the police, but O'Donnell was dead at that stage.

**Mr WAKELING** — But given the fact that an alleged crime had occurred, there was obviously the opportunity for these matters to be reported to the police. Given the fact that there could have been other victims, was anything said to you about that in terms of encouraging these matters to be referred to the police by the church?

**Mrs FOSTER** — In the church system, no, and I think it actually says somewhere that if you take your complaint to the police, then Peter O'Callaghan's investigation will stop. Like Anthony said, our offender was already gone, so sort of we did not go there.

**Mr FOSTER** — But Emma did report the crime to police, because there was an intention to approach the state government system of compensation as a possibility. But that report did not go anywhere after that, and it certainly did not go to looking at whether there were any criminal acts on the part of the church in covering up that led to that crime.

**Mrs FOSTER** — Also we engaged lawyers, and Peter O'Callaghan somehow found out about that. He was investigating Katie's case, which came after Emma's. We had only seen him the week before when he rang me at work and said, 'I believe you've engaged lawyers', and I said, 'Yes, I have, for other purposes. Which lawyers do you mean?', and he would not answer, so I would not answer him either. But he stopped all the proceedings. It was true; I had engaged lawyers for some years. He just stopped for that reason.

**Mr WAKELING** — What support was afforded to your children through this process?

**Mr FOSTER** — We received counselling, and the church did pay for our counselling for quite some time and for Emma's counselling.

**Mrs FOSTER** — But our counselling was a mistake. Someone said to us — almost a temporary person in Carelink — 'You should be having counselling'. As far as we knew we were not allowed to because Peter O'Callaghan said in writing that Anthony and I are not victims and we do not get anything, so we had to pay for our own counselling. But then another more compassionate person in Carelink said, 'Are you having counselling?'. We said no, and she said, 'Well, you should be. Just send me the bill'. So we did that for about five years until Peter O'Callaghan found out about it and it was all stopped.

**Mr FOSTER** — Which is interesting because it goes to the independence of what they claim is the independent commissioner. It was not his role; his role was to determine whether there had been an assault. Another instance of his lack of independence was when he came to our house one night after Emma had received the offer of \$50 000 from the Melbourne archdiocese. O'Callaghan came to our house and wanted to talk to Emma about accepting the offer. The offer is made by a compensation panel — quite separate to the proving of the crime — and here he was in our house trying to encourage her to take the \$50 000. So there is a

web of lack of independence there, which we have heard of many times before. Certainly there was no situation for us to be encouraged to take the case to the police with an active file to chase the offender. There certainly have been in other cases, and you would have heard of those.

**Mr WAKELING** — I mentioned that because the police have indicated that regardless of whether the perpetrator is alive or deceased they still want as much information as possible, and that is why I raised that. In your submission you also called on the hierarchy of the church to be held accountable for their deemed failure to act, and I am just interested in what accountability would look like to you. If we were going to achieve an outcome from this — and you have been a major advocate for change — what would justice look like to you, particularly in regard to the Catholic Church being held accountable for their actions of the past?

**Mr FOSTER** — Obviously at law we have all the issues of retrospectivity of any laws that might be brought in in terms of misprision of felony, for instance. I am sure there have been multiple examples — and this Guelen letter is one of them — where church officials have known of the execution of crimes against children and have failed to go to police with those. There have been past examinations and investigations around some officials — I think Bishop Mulkearns in Ballarat was in that position — but it is very difficult of course to go back and chase down people who have not reported crimes in the past, particularly where our laws do not allow for prosecution because it was not at that stage regarded as a serious enough felony or for whatever reason.

I think the greater issue is the justice for victims, and so the accountability of the church has to come out of providing real justice for victims and really doing whatever is necessary to restore victims to the position in life that they would have otherwise been in if this had not happened to them. That can come in various ways. In our society a major way of that is money. Some victims say it is not about the money. I think some victims do not realise what they are entitled to in order to restore their life to how it should have been.

Certainly when you look at the pittance that the church has been giving as ex gratia payments to victims, it is no wonder victims think it is not about the money, because it is hardly anything. For the effort that they have to go through, often it is a very poor result. That is why we need to have victims be able to get accountability from the church in the full terms of what our civil legal system would have allowed them, rather than this quasi-independent system that is imposed on victims by a foreign state and a foreign set of laws.

**Mr O'BRIEN** — Thank you, Chrissie, Anthony and family for coming to give your evidence today. I express my condolences for what you have been through. I thank you again on behalf of other victims in the community for your willingness to continue to fight for justice in the way you have outlined. From reading your book and your written materials I have identified a number of key questions that remain outstanding that I anticipate that you and the community would like to have answers to be forthcoming from the Catholic Church about under the terms of reference given to this inquiry. If I could pose a number of these key questions for you, could I ask you to comment for the record as to what answers you have received to these questions and whether or not you wish us to seek some of these answers on your behalf and on behalf of the community.

The first one draws upon the central issue outlined by the Chair in her opening question to you, namely, why did the Catholic Church and individuals within the church allow Kevin O'Donnell and other priests to be moved from parish to parish after they had received numerous complaints about his behaviour dating back to the complaints made as early as 1946, 1958 and 1986, when the church and those relevant individuals within the church ought to have known about the risk he posed to innocent communities and families like your own in the late 1970s and early 1980s? If you could draw down a central question that must be infuriating for you in the lives you have lived, but which nevertheless remains unanswered.

**Mr FOSTER** — It does. It is a central question that must come out of this inquiry, and a central question that can only be answered by seeing documentation from the church and by questioning members of the church.

**The CHAIR** — Anthony, can I just reassure you that documents are being obtained and they are being carefully analysed.

**Mr FOSTER** — I have heard that, and can I reassure you that I will keep pushing.

**Mr O'BRIEN** — Thank you. Also we have identified the need for the extensive analysis that you have outlined of particularly this role of not only the perpetrators but those who were in positions of authority or received complaints about the perpetrators, because that draws upon the systemic problems that have existed

and may still exist. It is obviously an extensive task, but we are proceeding to embark upon that. We can tell the only work that has been done to date on that task has been by victims groups or individuals like yourself, such as Broken Rites or In Good Faith. If you could continue to answer as to why you see that as a central question and perhaps to what extent there have been answers to date?

**Mr FOSTER** — There have been very few answers to date. There are simple things for us which are moral questions including: why does Kevin O'Donnell rest in the Catholic Church priest crypt at Melbourne cemetery? And still on it, why is his name still on the plaque at our parish church? Very simple things like that point to a much more systemic issue of continued reverence for people who have carried out terrible acts and continued support for them in a priestly way. But we have had no answers about why these things were not reported. We can see the answer, but we have not had answers given to us. It is all about prevention of scandal for the church and reduction of financial liability. That is what it is about.

**Mrs FOSTER** — When we first found out about Emma we asked our parish priest that O'Donnell be laicised, because at that stage he was in prison, he had pleaded guilty — sort of what was the problem? They got a canon lawyer out to see us, and he just sort of laughed and said, 'We can't do that'. So the next time we tried George Pell. In the meeting when he came to Oakleigh we asked him the same thing and we had the same reaction — the same bit of a laugh and then, 'Oh well! We can't do that'. No, he did not say that. George Pell said — what did he say? He just sort of blew it away, and then someone said, 'But it says in the canon law that you can laicise priests for doing this to underage children'. And he said, 'Oh well, the canon law is very hard to interpret'.

We did not know it then, but at that stage George Pell had been on the Doctrine of the faith for seven years with Ratzinger, who is the current pope. Seven years he had been on that body which handles the laicising of priests, and he just said, 'Oh well, it is hard to interpret the canon law, and I will get back to you', and he never did. Why was it so hard to get a priest laicised for raping children that he had pleaded guilty to for 31 years? We need honesty; we need truth. This is all we are after, all we are fighting for, because if they were there, then maybe this would not have happened to children. Maybe it will stop it happening in the future. They need to be honest, open and tell everyone what has happened, expose themselves to what they have done in the past to children and how they have covered it up. Maybe then there will be a breath of fresh air and they can recover their name. But while they keep covering this up and just minimising and denying things, it has got to be fought.

**Mr O'BRIEN** — That was my second question, which is very prominent in your book: why did the church not sanction or laicise Kevin O'Donnell and bestow and maintain the reverend title brother emeritus, which you also point to at page 60, and what action can still be undertaken to properly bring his misdeeds to account even after his death by the church? I imagine that is something you would still like them to do. I note that you have identified the letter dated 31 October 1994. I will read to you the last paragraph. It says:

Mr G. Drummond refused emphatically to get involved in any way. He told [him] that he could not understand him; he said that he could not believe that those so-called traumas could come up after ...

so many years. He also saw it as a 'sort of revenge' — this is about a victim, and:

... [he] should never forget how good O'Donnell had been to him over —

the years. So there is that reluctance to weigh the significant misdeeds of these offenders against what was perceived to be their good character. Is that still a problem that you think the church has to face?

**Mrs FOSTER** — Within parishioners I think there is a bit of that left — I am not sure because I left the church years ago — but that in itself is a problem too, the misunderstanding. In the beginning the victims who were coming forward were 'liars', 'after money', so that is where it started from. There were all sorts of strange stories going around when O'Donnell was pleading guilty — that he was pleading guilty but he was not guilty. In the parish among the older people he was still a hero, because he was sacrificing himself so that the victims would not be suffering, or some such excuse. But why would you do that? It made no sense at all, but some people believed that. If the church hierarchy came out and told the truth about what they had done to their parishioners, then you would not get this negative understanding.

**Mr O'BRIEN** — Thank you. If I could continue, the third key one follows on from what Mr Wakeling touched on in relation to the Melbourne Response, which again is outlined in your book. After the independent

commissioner under the Melbourne Response had written to you on 3 October 1997 with the opening statement in that letter saying:

I write to advise you that I propose to make a formal finding that I am satisfied that Emma was the victim of sexual abuse by Kevin O'Donnell deceased —

there was then a following letter from George Pell a year later, on 26 August 1998, which says:

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 question is: why, when you then proceeded to commence your civil proceeding, did the defendants to that proceeding at paragraph 11 of their defence to your civil claim dated 7 May 2004 continue to, in their words, 'not admit' that your daughter Emma, who was the plaintiff, 'was subjected to physical and/or sexual and/or psychological abuse while an infant by Kevin O'Donnell'? You had a situation where effectively they had admitted it in that independent process and you then engaged in the civil proceedings for the reasons you have said, and they have chosen to put you to your proof, which is what a non-admission is.

**Mr FOSTER** — It is interesting that during that process one of the reasons we had some strength in our case, and this is a little bit more technical, was that when first approaching Peter O'Callaghan — I hate to use the words 'independent commissioner'; so-called — in the application form there is a signing off of the usage of anything in the process in a civil claim. Emma signed that. She was 15 at the time she signed it. So when we went through the civil claim process it was an interesting situation because there we had a situation where the church had admitted, through Peter O'Callaghan's office, that the abuse had actually been committed and we could actually use that evidence in court, because Emma was under age when she signed the declaration. So we had a little bit more power there, and that is where some of our power came from in our final settlement.

But we found it absolutely distressing and disgusting that they would on the one hand say yes, we went through their process, and yes, this happened, and then there is a denial of it happening later. I think if you read what I read out today, there was a bit of a mention about the lawyers in the case in what I said. I think it is a case of our legal system sometimes and our lawyers sometimes believing that what they are doing is just a job, whereas in fact here they were dealing with the rape of a child. Yet on the evidence put before them that was very, very strong, they were willing to then write to us and say it did not happen.

**Mr O'BRIEN** — I think you summarised it — —

**Mr FOSTER** — Sorry, I will go on. The Catholic Church hierarchy, including George Pell and Archbishop Hart, were content for that to have been done. It was done on their behalf.

**Mrs FOSTER** — They were paying the lawyers.

**Mr O'BRIEN** — We had a discussion with another witness, but I think you summarised it: there might be legal entitlements or legal defences but there are also moral issues. Governments have had model litigant guidelines, which are not always that well observed either, to be frank, but they are there and they cover a number of practices about how a government body should conduct litigation. I suppose you are taking issue with the concept that you have to prove every allegation in court after you have been through what you have been through.

**Mr FOSTER** — Yes. Our legal system, our laws, need to match our moral idea of what should be done and how people should be dealt with and looked after. I think that is central to the case of what Parliament is all about. Parliament has to ensure that the laws match the moral expectations of our society. In this case, we have got another set of laws, as I have said before, from the Vatican — from a foreign power — overriding our laws. That must not be allowed to happen. Our laws must override them; there is no place for canon law in the operation of our legal system.

**Mr O'BRIEN** — They are the key questions I had. There may be some others and there is obviously lots of detail, but they are the key ones I identified. I had two other little instances or examples of where the process has gone wrong, as you have outlined in your book. One is at page 355 where you refer to an ABC *Lateline*

program investigating a story on Cardinal George Pell. I am happy for you to find the page so that you can follow it. It is about the fifth paragraph down, where you say:

Pell had sent two sexual assault victims a letter each and dated them the same day. Both victims complained about the same sexually-abusive priest. To one victim, he stated that the Church investigation showed that sexual abuse had taken place and the Church apologised. To the second victim, Cardinal Pell stated the Church investigation had shown that sexual abuse could not be substantiated —

and this is the key bit I think, if this evidence is correct. I have to say that I would like to see the original letters, but on the basis of what you have put and what the ABC put, this is the key bit. Notwithstanding that the first had been issued that day, the second letter says:

and that no other complaints had been received about the perpetrator.

If that is true, that shows something either inadvertent or systematically flawed in their approach. Is that a question you would like us to follow up?

**Mr FOSTER** — It is. And George Pell admitted that later in the media and simply said, ‘It was a mistake’.

**Mr O’BRIEN** — Thank you for that extra information. The last one is a matter that you have touched on in your evidence today, which is: why did Cardinal Pell on *60 Minutes* claim to not remember you providing him with the photograph of your daughter, Emma, with her wrists slashed? I had read about it, but I must say I think for all of us, and I think I can speak for anyone who sees that photo, it is not something you can easily forget. It is very disturbing and obviously very sad for you, and you have not had a satisfactory answer to that.

**Mrs FOSTER** — Yes.

**Mr O’BRIEN** — Tell me if you have. That is why I am asking you now before we take it further.

**Mrs FOSTER** — After I had written the book, a journalist in NSW, up in Sydney, Linda Morris, interviewed George Pell. In that interview she asked him about the photo, and he admitted that he remembered seeing it. So that was eight years after he nationally denied seeing it, on *60 Minutes*. He admitted in that newspaper that he had seen it. I almost brought it in today, but I did not. Yes, he has admitted, eight years later, that he remembers the photo.

**Mr O’BRIEN** — I would be grateful if you or someone else could provide us with that, and also in regard to ABC *Lateline*, the two letters that are referred to on page 355. The last thing I will ask is: could you just outline for us your concerns about ‘mental reservation’? That was a doctrine I had not heard about. Could you outline it for us? I leave this open to you. On page 27 you touched upon it. What is it all about?

**Mr FOSTER** — Mental reservation was actually referred to by the British Parliament a long time ago. There seems to be an ability, and apparently it is taught in the priesthood, that whatever a priest says is actually said to God, and we just happen to hear a little bit of it. If someone knocks on the door and says, ‘Is Chrissie home?’, and I say, ‘No’, that is valid, but I have reserved ‘to you’.

There was a case during the Irish inquiries where it came up quite strongly — that this had been used by Catholic Church witnesses at the Irish inquiries. For a fuller explanation of that, I ask you to look at that. There is a lot of documentation on it. It goes back a long time. It was a point of contention in regard to Chrissie’s book, where George Pell actually sent a legal threat to the publisher on the basis that the book was not true. For some reason he thinks this is not true.

**Mrs FOSTER** — He wanted the words ‘true story’ taken off an ad for the book.

**Mr FOSTER** — But he claimed that the book said that he used ‘mental reservation’, whereas it did not; it actually asked if he had used mental reservation. There is a whole series of thought around that, and it is certainly worth looking at.

**Mr O’BRIEN** — It is important today, and I know it is very difficult, that we be very careful how we make our statements, because we will give everyone the right to reply in due course. That is why I have outlined those questions. I appreciate your further answers and any other answers or questions you wish to provide.

**The CHAIR** — Before we go on, would Katie or Aimee like to make any comment to the committee?

**Ms A. FOSTER** — I have not prepared anything.

**The CHAIR** — Please do not feel pressured.

**Ms A. FOSTER** — I am the youngest of the three girls. We were all 20 months apart; I think Mum had three under three. I had an amazing childhood with two awesome, gorgeous older sisters, who I looked up to completely. I have suffered absolute heart loss and heartbreak from seeing their lives fall apart. I cannot describe to you the weight of the pain I have felt. It has really been a long journey.

That photograph mum showed you — I was 10, and I ran out to the backyard thinking a puppy was out there or something, because they were staring at something in the backyard. I ran out there as a 10-year-old and saw Emma that way. I have seen countless overdoses, ambulances to the house, cuts, self-harm, hospital visits, for many years, and there were Katie's injuries as well.

I am on antidepressants. I see a psychiatrist every week. I have panic attacks, depression, anxiety and I have nightmares. I dream about Emma a lot, that she is actually alive and, 'I thought you were dead'. Even during the day I will wonder a few times — it is embarrassing to say — whether in fact she is alive. We never got to see her body, because she was upstairs in her house in summer for two days, dead and alone. I wonder, 'What if she really is still alive, in witness protection or something?'. There is that dream, that holding on to that still. I do always fantasise about what our lives would have been otherwise.

**The CHAIR** — Sure. Thank you very much, Aimee.

**Mr FOSTER** — Thank you for listening to us, and I implore you to make the changes that are necessary. I implore you to ensure that the past victims are not forgotten. It is not over for them. The victims who have been put through the Catholic Church system need to be looked after much better than they have been, and we need to be sure, as best we can, that all the victims who are out there, who are on the edge now, do not fall over it. Thank you.

**Mrs FOSTER** — Thank you. Thank you very much.

**The CHAIR** — On behalf of the committee, Aimee, Katie, Chrissie and Anthony, I thank you very much indeed for coming before us this morning. Your evidence has been most helpful. We appreciate your time and your willingness to come before us. Thank you.

**Witnesses withdrew.**

**Proceedings in camera followed.**