



**Royal Commission**  
into Institutional Responses  
to Child Sexual Abuse

# REPORT OF CASE STUDY NO. 4

The experiences of  
four survivors with the  
Towards Healing process

JANUARY 2015

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# Report of Case Study No. 4

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The experiences of four survivors with the Towards Healing process

January 2015

CHAIR

The Hon. Justice Peter McClellan AM

COMMISSIONERS

Professor Helen Milroy  
Mr Andrew Murray



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# Preface

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## The Royal Commission

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The Letters Patent provided to the Royal Commission into Institutional Responses to Child Sexual Abuse require that it ‘inquire into institutional responses to allegations and incidents of child sexual abuse and related matters.’

In carrying out this task the Royal Commission is directed to focus its inquiries and recommendations on systemic issues but also recognise that its work will be informed by an understanding of individual cases. The Royal Commission must make findings and recommendations to better protect children against sexual abuse and alleviate the impact of abuse on children when it occurs.

A copy of the Letters Patent is at Appendix A to this report.

## Public hearings

A Royal Commission commonly does its work through public hearings. A public hearing follows intensive investigation, research and preparation by Royal Commission staff and Counsel assisting the Royal Commission. Although it may only occupy a limited number of days of hearing time the preparatory work required by Royal Commission staff and by parties with an interest in the public hearing can be very significant.

The Royal Commission is aware that sexual abuse of children has occurred in many institutions, all of which could be investigated in a public hearing. However, if the Royal Commission was to attempt that task a great many resources would need to be applied over an indeterminate, but lengthy, period of time. For this reason the Commissioners have accepted criteria by which Senior Counsel assisting will identify appropriate matters for a public hearing and bring them forward as individual ‘case studies’.

The decision to conduct a case study will be informed by whether or not the hearing will advance an understanding of systemic issues and provide an opportunity to learn from previous mistakes so that any findings and recommendations for future change that the Royal Commission makes will have a secure foundation. In some cases the relevance of the lessons to be learned will be confined to the institution the subject of the hearing; in other cases they will have relevance to many similar institutions in different parts of Australia.

Public hearings will also be held to assist in understanding the extent of abuse that may have occurred in particular institutions or types of institutions. This will enable the Royal Commission to understand the way that various institutions were managed and how they responded to allegations of child sexual abuse. Where our investigations identify a significant concentration of abuse in one institution, it is likely that the matter will be brought forward to a public hearing.

Public hearings will also be held to tell the story of some individuals which will assist in a public understanding of the nature of sexual abuse, the circumstances in which it may occur and, most importantly the devastating impact that it can have on some people's lives. A detailed explanation of the rules and conduct of public hearings is available in the Practice Notes published on the Royal Commission's website at [www.childabuseroyalcommission.gov.au](http://www.childabuseroyalcommission.gov.au). Public hearings are streamed live over the internet.

In reaching findings, the Royal Commission will apply the civil standard of proof which requires its 'reasonable satisfaction' as to the particular fact in question in accordance with the principles discussed by Dixon J in *Briginshaw v Briginshaw* (1938) 60 CLR 336:

it is enough that the affirmative of an allegation is made out to the reasonable satisfaction of the tribunal. But reasonable satisfaction is not a state of mind that is attained or established independently of the nature and consequence of the fact or facts to be proved. The seriousness of an allegation made, the inherent likelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding are considerations which must affect the answer to the question whether the issue has been proved to the reasonable satisfaction of the tribunal ... the nature of the issue necessarily affects the process by which reasonable satisfaction is attained.

In other words, the more serious the allegation, the higher the degree of probability that is required before the Royal Commission can be reasonably satisfied as to the truth of that allegation.

## Private sessions

When the Royal Commission was appointed it was apparent to the Australian Government that many people (possibly thousands of people) would wish to tell the Royal Commission of their personal history of sexual abuse in an institutional setting when they were a child. As a consequence the Commonwealth Parliament amended the *Royal Commissions Act 1902* to create a process called a 'private session'.

A private session is conducted by one or two Commissioners and is an opportunity for a person to tell their story of abuse in a protected and supportive environment. As at 30 November 2014, the Royal Commission has held 2,724 private sessions and more than 1,000 people were waiting to attend one. Many accounts given in a private session will be reported in a de-identified form in later reports of the Royal Commission.

## Research program

In addition to public hearings and private sessions the Royal Commission has an extensive research program. Apart from information gained in public hearings and private sessions the research program will draw upon research undertaken by consultants to the Royal

Commission together with the original work of its own staff. Significant issues will be considered in issues papers and discussed at roundtables.

## This case study

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This is the report of the public hearing that examined the experiences of four people in the *Towards Healing* process. The *Towards Healing* protocol is a set of principles and procedures established by the Australian Catholic Bishops' Conference and the Australian Conference of Leaders of Religious Institutes for a person who wishes to complain of having been, relevantly for this Royal Commission, sexually abused by a priest, religious or other Catholic Church personnel. It was introduced in 1997 and revised in 2000, 2003, 2008 and 2010.

## Executive summary

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*Towards Healing: Principles and procedures in responding to complaints of abuse against personnel of the Catholic Church in Australia protocol (Towards Healing)* is a set of principles and procedures for a person who wishes to complain of having been, relevantly for this Royal Commission, sexually abused by a priest, religious or other Catholic Church personnel. *Towards Healing* was established by the Australian Catholic Bishops' Conference and the Australian Conference of Leaders of Religious Institutes. It was introduced in 1997 and revised in 2000, 2003, 2008 and 2010.

The introduction of each version of *Towards Healing* states that the document:

establishes public criteria according to which the community may judge the resolve of Church leaders to address issues of abuse within the Church. If we do not follow the principles and procedures of this document, we will have failed according to our own criteria.

In general terms, the stated intent of *Towards Healing* is to give individuals the opportunity to tell their story to somebody in authority in the Church, receive an apology and be offered pastoral care and reparation.

*Towards Healing* is also one of the methods that Church bodies use to assess risk regarding those still holding a position within the Church. It is intended to apply to complaints received everywhere in Australia, except for complaints about accused persons who at the time of the alleged abuse were priests, religious and laypersons holding an appointment from the Archbishop of Melbourne. These complaints are dealt with under the Melbourne Response.

The procedures outlined in the original and revised versions of *Towards Healing* differ in terms of structure and procedure. The principles, however, have remained unchanged and include striving for truth, humility, healing for victims, assistance to other persons affected, an effective response to those who are accused, an effective response to those who are guilty of abuse and prevention of abuse.

This case study examines how the Catholic Church responded to the abuse of four people, each of whom suffered sexual abuse from priests or religious Brothers. Each of them has suffered significant and continuing adverse impacts from the abuse.

The Royal Commission will be reporting on redress later in 2015.

### Joan Isaacs' *Towards Healing* experience

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Mrs Joan Isaacs was sexually abused by a Catholic priest, Father Francis Edward Derriman, from 1967 to 1968. She was 14 to 15 years of age at the time and a student of the Sacred Heart Convent at Sandgate in Brisbane, Queensland.

Father Derriman was a priest of the Archdiocese of Brisbane and chaplain of the Sacred Heart Convent at the time.

Mrs Isaacs waited until Father Derriman was convicted of two counts of indecent dealing against her before starting the *Towards Healing* process. She felt that if she pursued a complaint with the police and Father Derriman was found guilty of any charges *Towards Healing* would be an easier process to go through because she ‘wouldn’t have to prove anything anymore’.

At the time, the original *Towards Healing* procedures which were drafted in 1996 and introduced in March 1997 applied.

The contact report and assessment usually done under the protocol were not needed. Mrs Isaacs’ process proceeded straight to a meeting with the Church, known as a facilitation.

Mrs Isaacs took her lawyer to the facilitation, but probably due to miscommunication, she believed that she could take only one person. That meant her husband did not come to the facilitation with her.

We accept that it was not the intention of the Queensland Director of Professional Standards, Dr Kenneth Robertson, to exclude Mrs Isaacs’ husband and it was unfortunate that that occurred.

At the facilitation, the Archdiocese was represented by Father Adrian Farrelly, the Judicial Vicar of the Regional Tribunal of Brisbane. Bishop John Gerry, a former Auxiliary Bishop who was assigned by the then Archbishop of Brisbane, Archbishop John Alexius Bathersby to deal with *Towards Healing* matters was unwell and could not attend.

Archbishop Coleridge, the current Archbishop of the Archdiocese of Brisbane said that it was available to Bishop Gerry, to suggest that a more senior member of the Church, such as the Archbishop attend the facilitation but ‘[c]learly it wasn’t the kind of communication that took place between the two men.’

The person who was delegated by Bishop Gerry to attend the facilitation was a person who had limited authority to give Mrs Isaacs what she wanted. Archbishop Coleridge said he thought the then Archbishop should have attended the facilitation.

- ▶ **Finding 1:** A senior person from the Church should attend meetings with survivors which have a pastoral element.
- ▶ **Finding 2:** It is clear that any process by which Survivors engage with the Church about the abuse they have suffered from a member of the clergy should be one in which they are consulted and listened to.
- ▶ **Finding 3:** It was unfair not to have had a discussion with Mrs Isaacs about paying her solicitor’s fee for attending the facilitation and it was unfair not to have paid that fee. As Dr Robertson acknowledged in these respects, he made a mistake.

On 20 April 1999, the facilitation took place at Centacare in Fortitude Valley, Brisbane. Mrs Isaacs, Ms Bernadette Rogers (acting as Facilitator), Father Farrelly (representing the

Archdiocese of Brisbane) and Mr Peter Deed (Mrs Isaacs' lawyer) were in attendance. Counselling, compensation and an apology were discussed at the meeting.

Father Farrelly offered that the Church would pay for 10 sessions of counselling and then review the situation after that time. At the facilitation, Father Farrelly expressed an apology for the abuse Mrs Isaacs suffered. Bishop Gerry later gave her a written apology.

- ▶ **Finding 4:** Mrs Isaacs received payments for counselling costs only following considerable prompting after the Archdiocese had already agreed to pay. These payments came to an end after the settlement sum was paid.

Mrs Isaacs understood that following the facilitation there would be discussions between her solicitor and the Church about compensation. It took over two years to resolve the issue of compensation. Throughout this time, Mrs Isaacs continued to attend counselling with her psychologist, Ms Lynne O'Donoghue, with the expectation that the Archdiocese would at least initially meet those costs. However, Mrs Isaacs had to pursue the Archdiocese to pay for her counselling sessions.

After two years of negotiations, on 20 April 2001 solicitors for the Archdiocese offered Mrs Isaacs an ex gratia payment of \$30,000 'all up'. After she had paid legal fees and Health Commission fees, she spent \$5,000 on Coles-Myer shares and bought a sewing machine. She said that after that she had 'little or no money left from the settlement'.

Mrs Isaacs' experience highlights some of the complex issues in the relationship between redress schemes and civil litigation.

- ▶ **Finding 5:** Actions of those representing the Archdiocese of Brisbane were as follows:
  - After a claim for damages was made, the Church, their lawyers and insurer engaged in protracted legal negotiations for a period of over two years before making the monetary offer to Mrs Isaacs.
  - The Archdiocese paid Mrs Isaacs \$30,000. After paying \$20,000 for legal costs, Mrs Isaacs was left with a small amount of money.
  - Even though Father James Spence thought that the offer of \$30,000 was 'mean', he took no action to either suggest a higher price or to find out if the Archdiocese would contribute additional money to Mrs Isaacs' settlement sum.
  - The Church relied heavily on advice from insurers and lawyers when negotiating compensation.

After the settlement sum was agreed on, Mrs Isaacs had to sign a deed of release.

- ▶ **Finding 6:** Mrs Isaacs ultimately signed a deed of release that prevented her from disclosing the terms of the settlement (clause 7) and required her not to make 'disparaging remarks or comments' about the Church Authority about the subject matter of the proceedings (clause 8). Clauses 7 and 8 effectively imposed on Mrs Isaacs an obligation of silence about the circumstances that led to her complaint. This was inconsistent with Part 2, clause 41.4, of *Towards Healing* (2000).

- ▶ **Finding 7:** It was not compassionate, fair or just to require Mrs Isaacs to sign a deed with clause 7 in it.
- ▶ **Finding 8:** Confidentiality clauses should never have been included in deeds of release relating to child sexual abuse.

Father Derriman was ordained in the Archdiocese on 29 June 1963 and remains an ordained priest of the Catholic Church. However, he can no longer function as a priest because he incurred a *latae sententiae* excommunication after he ‘attempted marriage’ on 16 October 1970. Archbishop Coleridge gave evidence that, while Father Derriman is still technically a priest, he is ‘completely removed from any public ministry’ by virtue of his excommunication.

On 29 September 2011, Archbishop John Alexius Bathersby, then Archbishop of Brisbane, was contacting priests who had decided to leave active ministry to see if they, ‘desire[d] to start a process to ... [be] dispensed from the obligations of the clerical state’. He sent a letter to Father Derriman as part of that exercise. In his letter, he said that if he had not heard from Father Derriman by 1 November 2011, he would ‘commence the process for requesting the dispensations from the Holy Father’. Father Derriman did not reply to Archbishop Bathersby’s letter. Despite this, Archbishop Bathersby did not commence the process to dismiss him from the clerical state.

It was not until November 2013 that Archbishop Coleridge, who became Archbishop of Brisbane after Archbishop Bathersby, commenced the canonical process to dismiss Father Derriman from the clerical state.

- ▶ **Finding 9:** The canonical process for dismissal of Father Derriman from the clerical state was not commenced until 14 November 2013 – 15 years after Father Derriman was convicted.
- ▶ **Finding 10:** In 1998, the Church knew that Father Derriman had been convicted of two counts of indecent assault, and the Church did nothing until September 2011.

## Jennifer Ingham’s *Towards Healing* experience

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Mrs Jennifer Ingham gave evidence that she was sexually abused by Father Paul Rex Brown in the Diocese of Lismore between 1978 and 1982. She was 16 years old when the abuse began and it continued into her early adult years.

In 1980, at the age of 17 and during her final year at school, Mrs Ingham was being treated in hospital for bulimia and also received psychiatric treatment. Because of her health issues at the time, she did not sit her final high school exams.

Father Brown ministered in Lismore from 1960 to October 1981. On 20 June 1986 Father Brown was removed from his appointment by the then Bishop of Lismore, Bishop John Satterthwaite.

- ▶ **Finding 11:** The Diocese of Lismore had, in 1986, taken appropriate steps to remove Father Brown’s faculties and in so doing had taken the steps necessary to effectively stop Father Brown from acting or holding himself out as a priest.

Mrs Ingham began the *Towards Healing* process in August 2012. While she was going through that process, a new Queensland Director of Professional Standards was appointed. Mr Patrick Mullins left the position of Director on 7 April 2013 and Ms Rogers took over. Mrs Ingham was not told of this transition.

- ▶ **Finding 12:** Mrs Ingham should have been told when Mr Patrick Mullins left the role of Queensland Director of Professional Standards in 2013 and Ms Bernadette Rogers took over.

Mrs Ingham had wanted a meeting with the Director of Professional Standards before the facilitation. This meeting did not occur.

- ▶ **Finding 13:** Ms Rogers relied upon the advice that Mr Mullins gave her about a meeting with Mrs Ingham and therefore Ms Rogers did not meet with her.
- ▶ **Finding 14:** Ms Rogers should have had a meeting with Mrs Ingham. Ms Rogers has since made changes to the office practice, including by adopting the practice of meeting with complainants before facilitations.
- ▶ **Finding 15:** It would have been preferable for Mr Mullins or Ms Rogers to have met face to face with Mrs Ingham to talk her through the process of the facilitation. However, it was not required by *Towards Healing* (2010) or the current guidelines.

On 9 May 2013, Ms Rogers wrote to Mrs Ingham advising her among other things, that “Michael Salmon, my counterpart in Sydney and an extremely experienced Facilitator has agreed to make himself available” for the facilitation.

- ▶ **Finding 16:** Ms Rogers’ email on 9 May 2013 was not framed in such a way that provided an opportunity for Mrs Ingham and the Church Authority to endeavour to agree on a Facilitator. Ms Rogers did not ask Mrs Ingham whether she agreed or disagreed with his appointment or of her option to suggest an alternative Facilitator from the approved panel or an otherwise qualified mediator, as contemplated by clause 41.4 of *Towards Healing* (2010).
- ▶ **Finding 17:** More could have been done by the Queensland Professional Standards Office to make clearer to Mrs Ingham the fact that she could suggest an alternative Facilitator.

We are satisfied that, despite a lack of consultation on the matter, Mrs Ingham did not express dissatisfaction with Mr Michael Salmon’s appointment. Mrs Ingham said that she found him to be ‘both compassionate and professional throughout the facilitation’.

At the time of Mrs Ingham’s *Towards Healing* process, Mr Salmon was Director of Professional Standards in NSW.

Before the facilitation, Mrs Ingham made it clear to Ms Rogers that she wanted Bishop Geoffrey Jarrett, the Bishop of Lismore at the time, to attend the facilitation. When it

was apparent that he could not attend, it was arranged that Bishop Jarrett would meet Mrs Ingham separately after the facilitation meeting.

- ▶ **Finding 18:** For many victims the most important part of facilitation for them is the experience of being listened to and acknowledged by the Church, particularly by someone senior in the Church. By meeting with the victim the Church Authority intends to demonstrate respect for the victim, as well as the importance of his or her individual complaint.

The facilitation occurred on 24 May 2013.

Ms Emma Fenby, representing Catholic Church Insurance (CCI), attended the facilitation. The outcome was that Mrs Ingham received \$276,736.64 inclusive of costs, \$250,000 from CCI, \$15,000 from the Diocese of Lismore and costs and disbursements of \$11,736.64 towards her legal fees of \$34,320. The money was paid promptly. Mrs Ingham signed a written document confirming acceptance of the offer that was prepared by Mr Kelso, dated 24 May 2013. Mrs Ingham did not sign a Deed of Release.

- ▶ **Finding 19:** In Mrs Ingham's *Towards Healing* process Ms Emma Fenby acted consistently with the principles and procedures of *Towards Healing* (2010) and responded to Mrs Ingham's needs with justice and compassion.

An issue that was raised in this case study was that Mrs Ingham said she attended a meeting in 1990 with senior clerics from the Diocese of Lismore. At that meeting she told the clerics that she had been sexually abused as a child by Father Brown. She gave evidence that Father Francis Mulcahy attended the meeting.

Father Mulcahy said to us that he had 'absolutely no recollection of any meeting with Mrs Ingham' and that he believed that the meeting never occurred.

At the time, Chancery did not maintain records of meetings and appointments. Mrs Ingham gave evidence initially that the Bishop was present and then accepted that he was not.

Deacon Wallace undertook some researches and inquiries into the 1990 meeting. He collated a list of the clerics of the Diocese and possible senior clergy at the time who may have been in attendance at the meeting. He then attempted to contact all of them and there was a 'negative response in all cases'.

- ▶ **Finding 20:** We are satisfied that Mrs Ingham attended a meeting in 1990 with senior members of the church.
- ▶ **Finding 21:** We have no doubt that Mrs Ingham now believes that Father Francis Mulcahy was present at the 1990 meeting.

There are some difficulties in finding that Father Mulcahy was present at the 1990 meeting.

In light of Father Mulcahy's denial, the absence of any contemporaneous record, the inquiries made by Deacon Wallace, Mrs Ingham's changed recollection about the presence of the Bishop and the effects of the passage of time on memories, we cannot be satisfied to the relevant standard that a finding that Father Mulcahy was present should be made.

However, Mrs Ingham impressed us as an honest witness who gave evidence to the best of her recollection. It would be consistent with Father Mulcahy's role in the diocese that he was present.

## DG's Towards Healing experience

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'DG' was sexually abused by Brother Raymond Foster, also known as Brother Celestine, while he was a student at a Marist Brothers college in the early 1970s. Brother Foster was a teacher at the college at the time. The Marist Brothers had received a number of complaints about Brother Foster before DG came forward in 1994.

- ▶ **Finding 22:** Brother Alexis Turton was Provincial of the Marist Brothers when:
  - an anonymous caller rang the Marist Brothers in 1991 alleging certain things of a sexual nature against Brother Raymond Foster
  - on or before 30 August 1993, the Marist Brothers received a complaint of child sexual abuse against Brother Foster at St Augustine's College in the 1950s
  - shortly after 25 May 1994, the Marist Brothers received a complaint of child sexual abuse against two Brothers, one of whom was possibly Brother Foster, at St Augustine's College in 1954–1955. Brother Turton received the complaint
  - sometime between November 1993 and 29 June 1994, Brother Turton held discussions with Brother Foster, who acknowledged that there had been two incidents in the 1950s that were inappropriate.
- ▶ **Finding 23:** Brother Turton did not take any further action in relation to these complaints, and did not take any action in relation to Brother Foster's acknowledgement.
- ▶ **Finding 24:** Brother Turton did not comply with the 1992 *Protocol for Dealing with Allegations of Criminal Behaviour* from the Australian Catholic Bishops' Conference. He did not refer complaints against Brother Foster to the relevant Special Issues Resource Group.

In early 1994, DG reported the abuse to the Queensland Police Service and made a statement. Brother Foster was interviewed by police on 25 August 1994. Brother Foster spoke with Brother Turton the next day.

- ▶ **Finding 25:** Brother Turton withdrew Brother Foster from ministry on or about 25 August 1994 immediately after becoming aware that the police had contacted Brother Foster, and that the matter was, or could be, serious.

Arrangements were made to extradite Brother Foster from New South Wales to face the charges in Queensland. On 23 March 1999, the morning he was to be extradited, Brother Foster committed suicide.

After Brother Foster's suicide, the then-Marist Brothers Provincial, Brother Michael Hill, wrote a letter to the Marist Brothers.

- ▶ **Finding 26:** The fact that Brother Hill did not mention the need to assist or pray for the complainant in the letter to the Marist Brothers on 24 March 1999, was a serious omission.

DG contacted the Marist Brothers in early 2000 and met with Brother Michael Hill, the then Provincial of the Marist Brothers. Brother Hill did not give DG a copy of the *Towards Healing* protocol or explain to him how the process operated. Brother Hill told DG he was willing to meet with him again, but he did not attempt to contact DG after this meeting.

- ▶ **Finding 27:** Victims of child sexual abuse should be provided with sufficient information by the Church Authority on the options available to them in order to make an informed choice about how to proceed, and which must include the provision of the *Towards Healing* protocol.
- ▶ **Finding 28:** At the time of his meeting with DG, Brother Hill knew the following information about Brother Foster but did not convey it to DG:
  - Brother Foster had been withdrawn from ministry after DG's complaint to the police.
  - Brother Foster intended to plead guilty to the charges relating to DG.
  - Brother Foster left a suicide note in which he asked for DG's forgiveness.
  - There had been other allegations against Brother Foster before DG's complaint.
  - Brother Foster had admitted to two incidents of inappropriate conduct in the 1950s.
- ▶ **Finding 29:** In a letter to the Marist Brothers dated 28 April 2000, DG asked for a copy of the transcript of the police interview with Brother Foster about DG's complaint. The Marist Brothers did not attempt to obtain those transcripts.
- ▶ **Finding 30:** The Marist Brothers did not attempt to contact DG after the initial meeting on 11 May 2000.

Over a year after DG's meeting with Brother Hill, DG spoke to Mr Michael Byrne, a barrister and member of the Queensland Professional Standards Resource Group. Mr Byrne gave DG a copy of the *Towards Healing* protocol and advice about the process.

Mr Byrne then contacted the Marist Brothers and told Brother Hill that DG 'has expressed an openness to engage in a mediation process along the lines identified in *Towards Healing*'. Brother Hill wrote to the principal of the school where DG was abused and said, 'I will instruct our solicitors to negotiate as best they can to keep it all out of the public eye'.

- ▶ **Finding 31:** Brother Hill tried to keep DG's matter out of the public eye. Brother Hill gave evidence that this was for the sake of the personnel currently at St Joseph's school.

Ultimately, DG's solicitors and the solicitor for the Marist Brothers and CCI arranged a settlement conference. Brother Turton attended DG's settlement conference on behalf of the Marist Brothers. DG's claim was settled for \$36,500 in exchange for a deed of release, a written apology and a copy of the report of a psychiatrist who had examined DG.

- ▶ **Finding 32:** The appointment of a Contact Person was not necessary in DG's case because there was an admission by Brother Foster, and DG had already made a police statement.

- ▶ **Finding 33:** At the time of DG's settlement conference, the Marist Brothers' representative knew basic details about Brother Foster, including that he had been suspended from teaching after the Police contacted him, and had access to the Provincial's records which contained records of complaints against Brother Foster, but did not inform DG of these matters.
- ▶ **Finding 34:** DG's *Towards Healing* experience was little more than negotiations between his lawyers and CCI about money.

## DK's *Towards Healing* experience

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In 1976, DK was sexually abused by a Brother in the infirmary at Marist Brothers' St Augustine's College, Cairns, after he had cut his foot.

In late 1980 or early 1981, DK was sexually abused by Brother Ross Murrin in Brother Murrin's dormitory. He was also abused by Brother Leonidas.

At the time of DK's abuse, Brother Gerald Burns was the principal of St Augustine's and Brother Andrew Moraghan was a teacher at the college.

Later in 1981, Brother Burns received complaints from two male students at St Augustine's College about Brother Murrin. Brother Murrin was convicted in 2008 and 2010 after pleading guilty to charges relating to child sexual abuse at two schools.

- ▶ **Finding 35:** Brother Burns received complaints from two male students in 1981 that Brother Murrin had inappropriately touched them at St Augustine's College, and:
  - Brother Burns spoke to Brother Murrin about these complaints
  - Brother Murrin admitted that he had inappropriately touched the boys
  - Brother Burns informed the Provincial of the Marist Brothers about the complaint
  - Brother Burns did not remove Brother Murrin from his position as dormitory master, and
  - Brother Burns did not remove the complainants from Brother Murrin's dormitory.
- ▶ **Finding 36:** Different protective steps should have been taken when Brother Burns received two complaints in 1981 about Brother Murrin touching boys inappropriately in his dormitory.

If different protective steps had been taken by the Marist Brothers, Brother Murrin's subsequent offending may have been avoided.

Brother Turton was appointed as the first Director of Professional Standards for the Marist Brothers in around January 2002. As Director, Brother Turton was directly answerable to the Provincial and was responsible for managing professional standards claims on a day-to-day basis.

In November 2009, DK rang the Marist Brothers and spoke to Brother Turton about the abuse by Brothers Leonidas and Murrin but did not disclose the identity of the Brother who abused him in 1976 in the infirmary.

Brother Turton told CCI that he was sure that the Brother who abused DK in the infirmary was Brother Michael Hunt, although DK never named Brother Hunt.

▶ **Finding 37:** It was not Brother Anthony Hunt who abused DK in the infirmary.

Brother Turton arranged for a facilitation of DK's complaint. He asked Mr Salmon, who was at the time the Director of Professional Standards in NSW, to act as Facilitator. Mr Salmon agreed.

▶ **Finding 38:** Mr Salmon did not act consistently with *Towards Healing* (2010) in that he acted as Facilitator without having obtained approval in accordance with clause 39.5 of *Towards Healing* (2010).

▶ **Finding 39:** A Director of Professional Standards acting as a Facilitator in a *Towards Healing* facilitation raises a real potential for an actual or perceived conflict of interest given that the Director is employed by the Catholic Church.

▶ **Finding 40:** A Director of Professional Standards should not act as a Facilitator unless:

- the victim knows the Director's position and makes an informed decision
- the Director obtains written consent from the victim
- the Director obtains the written approval of the Executive Officer of the National Professional Standards Committee.

DK's facilitation took place on 30 March 2010. At DK's request, Brother Turton arranged for Brother Burns and Brother Moraghan to attend the facilitation.

▶ **Finding 41:** Brother Turton and Mr Salmon knew that DK wanted the Marist Brothers to respond during the facilitation to his concerns that many people at St Augustine's knew of Brother Murrin's behaviour and that there were other victims.

▶ **Finding 42:** The discussion during DK's pastoral session plainly raised the question of whether the Marist Brothers present had reason to suspect Brother Murrin's behaviour at the time and, in particular, whether there had been complaints about Brother Murrin's behaviour while he was at St Augustine's.

▶ **Finding 43:** During the pastoral session, Brother Burns:

- did not inform DK about the 1981 complaints against Brother Murrin, of which he had personal knowledge
- caused DK to understand that the Marist Brothers were not, and had no cause to be, aware of Brother Murrin's behaviour at St Augustine's and did not know of any abuse.

After his facilitation, DK said that he was watching television and found out that Mr Salmon was the Director of the Professional Standards Office in New South Wales. DK contacted Brother Turton, Mr Salmon and Patrick Monahan, the solicitor who represented the Marist Brothers and Catholic Church Insurances at DK's facilitation.

- ▶ **Finding 44:** The Marist Brothers did not effectively communicate Mr Salmon's position as Director of the New South Wales Professional Standards Office to DK before the facilitation. They should have.
- ▶ **Finding 45:** Mr Salmon did not effectively communicate his position as Director of Professional Standards to DK or his barrister either before or during DK's facilitation. He should have.
- ▶ **Finding 46:** Brother Murrin has been convicted and jailed for child sexual abuse. He remains a Marist Brother.

# 1 Introduction

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This fourth public hearing by the Royal Commission looked at *Towards Healing* which is a set of principles and procedures established by the Catholic Church in 1996 to respond to individuals who have been, relevantly for this Royal Commission, sexually abused by a priest, religious or other Catholic Church personnel.

The process was intended to begin when a complaint of abuse came to the notice of any Church personnel. Church personnel were to immediately refer the complaint to a Contact Person.<sup>1</sup>

The Contact Person's role was to listen to the complainant's account, and provide a report signed by the complainant to the Church Authority.<sup>2</sup>

In 2000, the *Towards Healing* protocol was amended, and a Director of Professional Standards was appointed in each State and the Northern Territory. The Director was given responsibility for managing the process.<sup>3</sup>

Under the new provisions, complaints were to be passed on to the Director of Professional Standards.<sup>4</sup> The Director then forwarded the written complaint to the relevant Church Authority, who would inform the accused of the nature of the complaint if possible.<sup>5</sup> Where there was a significant dispute as to the facts, the Director of Professional Standards could appoint an assessor to investigate the facts of the case.<sup>6</sup>

If the Church Authority was satisfied of the truth of the complaint, whether through admission of the offender, a finding of a court, a canon law process or a Church assessment, the Church Authority was to respond to the needs of the victim as demanded by justice and compassion.<sup>7</sup> Responses could include providing an apology on behalf of the Church, counselling services or the payment of counselling costs. Financial assistance or reparation could also be paid to victims of a criminal offence or civil wrong, even though the Church was not legally liable.<sup>8</sup>

The next stage of the process was usually a facilitation. The Church Authority and the complainant should agree upon a person from an approved panel to conduct the facilitation (the 'Facilitator').<sup>9</sup> The Facilitator's role was to understand the ongoing needs of the complainant and the Church Authority's response to those needs.<sup>10</sup>

The Facilitator would usually arrange for a meeting between the complainant and the Church Authority in which apologies could be offered and unresolved issues, including monetary reparation, addressed.<sup>11</sup>

The Church Authority was to bear all ordinary and reasonable expenses of the process of facilitation.<sup>12</sup>

This public hearing looked at the experiences of four survivors with the *Towards Healing* process:

- Joan Isaacs, who was abused by a priest from the Archdiocese of Brisbane, and engaged with *Towards Healing* from 1999
- Jennifer Ingham, who was abused by a priest from the Diocese of Lismore, and contacted the Diocese in 2012
- Mr DG, who was abused by a Marist Brother, and contacted the Marist Brothers in early 2000, and
- Mr DK, who was also abused by a Marist Brother, and who went through *Towards Healing* in 2010.

The eighth public hearing by the Royal Commission considered the experience of another survivor, Mr John Ellis, with *Towards Healing* in the Archdiocese of Sydney.

## 1.1 Submission process

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Following the public hearing, Counsel Assisting made written submissions which were provided to parties with leave to appear. Many of these parties made written submissions in reply.

Counsel Assisting considered all written submissions in reply, and revised their submissions having carried out that task. Parties with leave were given the opportunity to make revised submissions if they wished.

The submissions on behalf of the Church parties began by making general submissions. The Church parties said that the *Towards Healing* protocol is a statement of the Church's 'position' and that it puts forward a series of 'possible steps' in a process 'which is, and is intended to be, inherently flexible'.<sup>13</sup> That approach to the interpretation and implementation of *Towards Healing* serves, in the Church parties' submissions, to excuse and justify departures from, or actions inconsistent with, the *Towards Healing* protocol. The Commissioners were surprised by this submission.

While it is accepted that the *Towards Healing* protocol is not 'a legislative instrument or a commercial contract',<sup>14</sup> it is a 'document [which] ... states public criteria according to which the community may judge the resolve of Church leaders to address issues of abuse within the Church'. The document acknowledges the following:

If we do not follow the principles and procedures of this document, we will have failed according to our own criteria.

Having publically committed itself to the principles and procedures set out in *Towards Healing*, and having invited public judgement on whether it has followed those principles and procedures, we do not agree that those principles and procedures are in effect optional, and that it is only compliance with 'a substantive or essential principle of the protocol' which is required.

Further, the Church parties said that no accepted or objective meaning of either ‘justice’ or ‘compassion’ was proposed or established and it was necessary to establish, ‘by evidence’, what is meant by and required by ‘justice’ and ‘compassion’ before any adverse finding could be made that there was a failure to meet those standards.<sup>15</sup> We do not accept that approach. Even in a court of law applying the rules of evidence, evidence of the meaning of a word is neither necessary nor admissible save in respect of specialised technical expressions — an exception that does not apply in this case. Further, none of the witnesses expressed any difficulty with regard to the meaning of ‘justice’ or ‘compassion’ and no objection was made about the use of those words in questioning the witnesses.

We use the ordinary meanings of those words in the context in which they appear in the *Towards Healing* protocol. *Towards Healing* commits the Catholic Church in Australia, and its various formations, to a ‘just and compassionate’ response to victims of child sexual abuse. It is the ordinary way in which readers of that public commitment will understand it that matters. That is the standard to which the formations of the Catholic Church in Australia and its personnel are accountable.

We accept that minor departures from the *Towards Healing* protocol should not be visited with specific critical findings by the Royal Commission.

However, we do not accept the submission that the actions of a Church Authority disciplining an offender do not properly fall within the parameters of a study on *Towards Healing*. Clause 42 of *Towards Healing* (2010) clearly requires the future ministry of the person accused to be considered, and that such decisions are consistent with Church law.

The Church parties submitted that an adverse finding in relation to an individual should only be proposed or made if the relevant assertion has been put to the individual directly and fully.<sup>16</sup>

According to the rule in *Browne v Dunn* (1893) 6 R 67, if a party wants to contradict evidence given by a witness, notice of the proposed contradiction must be given, for example by putting the proposed contradiction to that witness. A frequently cited description of the rule is that of Hunt J in *Allied Pastoral Holdings Pty Ltd v Commissioner of Taxation* [1983] 1 NSWLR 1, 16:

It has in my experience always been a rule of professional practice that, unless notice has already clearly been given of the cross-examiner's intention to rely upon such matters, it is necessary to put to an opponent's witness in cross-examination the nature of the case upon which it is proposed to rely in contradiction of his evidence, particularly where that case relies upon inferences to be drawn from other evidence in the proceedings. Such a rule of practice is necessary both to give the witness the opportunity to deal with that other evidence, or the inferences to be drawn from it, and to allow the other party the opportunity to call evidence either to corroborate that explanation or to contradict the inference sought to be drawn.

In *Re Minister of Immigration and Multicultural Affairs; Ex parte Applicant S154/2002* (2003) 77 ALJR 1909, 1918 found that the rule in *Browne v Dunn* did not apply to non-adversarial proceedings.

We accept that the factual foundation for the submission as to an adverse finding should be put to the witness. It is not accepted that the adverse finding itself must be so put. It is through the process of submissions that individuals are provided with the opportunity to respond to any adverse findings submitted to be available on the evidence by counsel assisting (see *Bond v Australian Broadcasting Tribunal* (1988) 19 FCR 494 at 512). It is always open to any person or institution with leave to seek a further opportunity to put evidence before the Royal Commission, prior to the conclusion of the submission process.

The Royal Commission cannot report adversely on a person or institution without first giving a person or institution an opportunity to answer the matters put against them and to put submissions as to findings or recommendations that might be made (*Ainsworth v Criminal Justice Commission* (1991-1992) 175 CLR 564 at 581, see also *Annetts v McCann* (1990) 170 CLR 596 at 601).

Each of the findings in this report that is adverse to an individual has been the subject of submissions by Counsel Assisting and each individual, personally or through their legal representatives has been given an opportunity to make submissions in reply to those of Counsel Assisting. There has been no request that any additional evidence be called or that oral submissions should be heard.

We are satisfied therefore that each finding adverse to an individual made in this report has been made after an appropriate opportunity has been given to that individual.

The Church parties also said that they offered to adduce evidence from witnesses on the *Towards Healing* process generally, but that that proposal was not accepted by the Commission.<sup>17</sup> We do not accept this. The solicitors for the Church parties offered to provide a presentation to the Commissioners in the solicitors' boardroom as to the operation of *Towards Healing*. For obvious reasons, that was declined.

At no time did the Church parties propose additional witnesses which were declined to be called by Counsel Assisting in relation to the general operation of *Towards Healing*.

We do not accept the submission by the Church parties that analysis of the four sub-studies within the present case study is not possible or appropriate in the absence of 'evidence from witnesses on the *Towards Healing* process generally'.<sup>18</sup> The development of the *Towards Healing* process over the years is apparent from the different revised versions from 1996 to 2010 as well as the reviews which preceded each version. It is the protocols themselves that were held out by the Catholic Church in Australia as applying at the different times and therefore to the different sub-studies.

## 2 Joan Isaacs' *Towards Healing* experience

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### 2.1 Child sexual abuse of Mrs Isaacs

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Joan Isaacs was sexually abused by a Catholic priest, Father Francis Edward Derriman, from 1967 to 1968.<sup>19</sup> She was 14 to 15 years of age at the time and a student of the Sacred Heart Convent at Sandgate in Brisbane, Queensland.<sup>20</sup>

Father Derriman was a priest of the Archdiocese of Brisbane and chaplain of the Sacred Heart Convent at the time.<sup>21</sup> Mrs Isaacs' sexual abuse was preceded by a period of grooming.<sup>22</sup> In 1967, Mrs Isaacs had contact with Father Derriman through lessons in religion, mass and confession.<sup>23</sup> Father Derriman also 'became close' to her family to the extent that he visited the family home for dinner 'on frequent occasions, including his birthday'.<sup>24</sup>

In 1968, on occasion, Father Derriman would drive Mrs Isaacs home from school.<sup>25</sup> Mrs Isaacs recalled that, around this time Father Derriman confided in a small group of students, of which she was a part.<sup>26</sup> She stated that Father Derriman:

created a cult like group which included myself and three other children. Frank Derriman used the Peanut comic as a platform and used the surname 'Brown' in reference to himself, the three other children and me. I believe that this conduct of Fr Derriman is what would today be called 'grooming'.<sup>27</sup>

While Mrs Isaacs was at school Father Derriman wrote her letters telling her that he was suffering from a fatal lung condition and would soon die. On a number of occasions he told her that she needed to have sex with him before he died. She gave evidence that:

He told me that he could have sex with me once I attained the age of 16, so I was terrified of turning 16 to the point of being suicidal. On one occasion he acted out in a fit in front of the 'Brown' group.<sup>28</sup>

Before the end of 1968, Father Derriman was transferred to another nearby parish. He remained ministering as a priest.

After she finished school, Mrs Isaacs maintained friendships with the other three children in the 'Brown group'. Two girls out of the group have told her that Father Derriman also sexually abused them. Mrs Isaacs said that one of them took steps to have him criminally charged with her sexual abuse and the other girl was pregnant with Father Derriman's child at the age of 17 years.<sup>29</sup>

Mrs Isaacs has suffered in many ways as a result of the sexual abuse by Father Derriman. She said:

I have had recurring depression throughout my adult life, which has involved suicidal ideation and insomnia. Prior to the abuse, I was one of the top students in my class and, both during and subsequent to the abuse, my results deteriorated significantly

and I consequently struggled to attain employment qualifications. I have also had serious difficulties in my marital relationship. During my working life I wasn't able to work full time at times, even though I was working as a qualified teacher, because of my depression and other difficulties. I feel that my life has taken a whole different track to what it would have taken had this not happened.<sup>30</sup>

## 2.2 Father Derriman is convicted of sexual abuse

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Almost 30 years after the abuse occurred, Mrs Isaacs took action against Father Derriman. She said she was motivated to do this because, in 1996, she saw Father Derriman for the first time in nearly 30 years on the beach with a young woman and a child.<sup>31</sup> Mrs Isaacs said that she 'felt really traumatised by knowing that nothing had changed in his life and he was still interested in young women'. She also knew that *Towards Healing* was being developed as a protocol for dealing with abuse victims.<sup>32</sup>

On 27 August 1996, Mrs Isaacs wrote to Father James Spence, who was a priest of the Archdiocese of Brisbane, and asked him to 'send [her] details of procedures for investigating claims of abuse from within the Church'.<sup>33</sup> On 2 September 1996, Father Spence replied and enclosed the almost-finalised *Towards Healing* protocol document. He said, 'If I can be of any assistance to you, please don't hesitate to telephone [redacted]'.<sup>34</sup>

She reported her abuse to the police and Father Derriman was prosecuted. On 10 December 1998, after two committal hearings and a trial, Father Derriman was convicted of two counts of indecent dealing against Mrs Isaacs.<sup>35</sup> At the time the offences were committed, the maximum penalty was imprisonment for two years. At the time of sentence it was 10 years. Father Derriman was sentenced to one year imprisonment, to be suspended after serving four months.<sup>36</sup>

Judge McGuire said when sentencing Father Derriman: 'You played on her emotions by pretending you were so chronically sick as to be in danger of imminent expiration.' His Honour described two incidents as involving a 'good deal of premeditation and deceit'.<sup>37</sup> Judge McGuire also made the following remarks:

By virtue of your office you were in a position of dominance over the complainant. Your acts constituted a gross and flagrant betrayal of priestly trust.<sup>38</sup>

## 2.3 *Towards Healing* process

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Mrs Isaacs waited until Father Derriman was convicted before starting the *Towards Healing* process.<sup>39</sup> She felt that if she pursued a complaint with the police, and Father Derriman was found guilty of any charges, *Towards Healing* would be an easier process to go through because she 'wouldn't have to prove anything anymore'.<sup>40</sup>

At the time the original *Towards Healing* procedures which were drafted in 1996 and introduced in March 1997 applied. Dr Kenneth Robertson, Convenor of the Professional

Standards Office in Queensland was listed as a Contact Person on a *Towards Healing* pamphlet that Mrs Isaacs obtained from her parish. He was someone who was known to her.<sup>41</sup> In January 1999, Mrs Isaacs telephoned Dr Robertson, who told her 'in general terms what the process involved'.<sup>42</sup>

On 12 February 1999, Mrs Isaacs wrote to Dr Robertson informing him of her intention to enter the *Towards Healing* process<sup>43</sup> and indicated that she had authorized her solicitor, Peter Deed, to act on her behalf. In her letter, Mrs Isaacs complained that she was not contacted by the Church following Father Derriman's conviction:

In spite of being informed about Derriman's activities at the time, the Catholic Church made no attempt to help me as a victim. Archbishop Bathersby in a media statement released on 19 October 1998 stated that the needs of victims are 'a priority'. No attempt was made by the current Church hierarchy to either contact me or to assist me since my trial in December.<sup>44</sup>

She wanted an apology, counselling and compensation from the Church. She wrote:

I seek an apology from the Church which failed to protect me from this abuse. I seek an apology from the Church which abandoned me in spite of having knowledge of my circumstances at the time. At my trial, Judge Fred McGuire made significant comments about the effects of Derriman's indecent dealings on me and my life during the ensuing period of thirty years. I formally seek compensation for the abuse and the subsequent effects that this had had on my life. As I require ongoing counselling, I seek support from the Church to enable this to continue.<sup>45</sup>

A handwritten note by Dr Robertson indicates that on 22 February 1999 he spoke to Mrs Isaacs and 'advised her of the delay caused by Bishop John's operation' and also 'explained about facilitated meetings - She needs to tell her story and have her needs provided for'.<sup>46</sup>

The reference to 'Bishop John' was to Bishop John Gerry, former Auxillary Bishop who was assigned by the then Archbishop of Brisbane, Archbishop John Alexius Bathersby to deal with *Towards Healing* matters.<sup>47</sup> Bishop Gerry was at the time recovering from major surgery.<sup>48</sup>

On 2 March 1999, Dr Robertson forwarded Mrs Isaacs' letter to Bishop Gerry and suggested that he arrange for a facilitated meeting between Bishop Gerry, Mrs Isaacs and her husband.<sup>49</sup> A handwritten note by Dr Robertson records that on the same day Dr Robertson spoke to Mrs Isaacs who indicated that 'she wants Peter Deed at the meeting'.<sup>50</sup>

On 8 March 1999, Mrs Isaacs provided Dr Robertson with her police statement and victim impact statement along with a personal statement detailing the psychological, emotional and sexual abuse that she suffered and details of her reporting of the offences to Church authorities at the time of the abuse.<sup>51</sup> In her letter, Mrs Isaacs acknowledged the difficulty in providing the documents to Church authorities which she wrote were 'very personal and painful aspects of my life'.<sup>52</sup> She also informed Dr Robertson that her lawyer, Mr Deed, 'wishes it be known that a full psychiatric report will be made available in the near future'.<sup>53</sup> Dr Robertson forwarded these materials to Bishop Gerry on 11 March 1999.<sup>54</sup>

Dr Robertson determined that no contact report or assessment was necessary and Mrs Isaacs' process proceeded straight to facilitation.<sup>55</sup> This was sensible and due to Father Derriman's criminal conviction and because Mrs Isaacs had supplied various documents which established the relevant facts.<sup>56</sup>

On 19 March 1999, Bishop Gerry wrote to Mrs Isaacs and advised that he was unwell and would be unable to attend a facilitation for at least two months.<sup>57</sup> He acknowledged the importance of Mrs Isaacs having the opportunity of 'meeting someone representing the Archdiocese as soon as possible to begin the much delayed process of healing of the abuse that [she had] suffered at the hands of a priest' and 'acknowledged that [her] earlier experience, when [she] turned to those from whom you might have expected support, was totally disappointing and distressing'.<sup>58</sup>

Bishop Gerry explained that Father Adrian Farrelly, the Judicial Vicar of the Regional Tribunal of Brisbane, had been identified by Archbishop Bathersby as the Church Authority in Bishop Gerry's absence, and offered for him to attend in his stead.<sup>59</sup> At the time of Mrs Isaacs' complaint, Father Farrelly had been working in that position for five years.<sup>60</sup> Although Mrs Isaacs was given the opportunity to wait until Bishop Gerry was available, she said that 'after the many years of trauma' she had experienced she 'wanted the *Towards Healing* process resolved as quickly as possible' and therefore 'felt it was the best option to go with Dr Adrian Farrelly'.<sup>61</sup>

Bishop Gerry's letter also offered Mrs Isaacs the services of Esther Trust, 'a resource available in the Archdiocese to help people who are victims of abuse or violence.'<sup>62</sup>

A handwritten note by Dr Robertson indicates the following interaction with Mrs Isaacs in late March:

Mar 23 Spoke to Joan Isaacs re Bishop John's letter. She wants to meet with Dr Adrian Farrelly as long as the case moves on. – She has her own Counsellor and wants to retain this Counsellor – Need to find out suitable dates – Peter Deed is her lawyer and support person.<sup>63</sup>

On 1 April 1999, Dr Robertson wrote a letter to Mrs Isaacs<sup>64</sup> and to Father Farrelly<sup>65</sup> setting out details for a meeting between them on 20 April 1999. Dr Robertson summarised who would be involved, what would be discussed and where it would be held. The letter stated:

Re our telephone conversation concerning a meeting between Ms Joan Isaacs and Fr Adrian Farrelly. The following arrangements have been made with both parties...

Attendance - Ms Joan Isaacs; Mr Peter Deed (Support Person); Fr Adrian Farrelly; Ms Bernadette Rogers (Facilitator)

Agenda - Should relate to the needs set out by the victim: Apology; Counselling; Compensation

Should there be any difficulty with any of the above aspects of the proposed meeting, please contact me.<sup>66</sup>

On 13 April 1999, Mr Laurie Rolls, the Manager of Special Projects at Catholic Church Insurance (the Church's insurer) wrote to the CCI Claims Manager, Mr Paul Reynolds, noting that he would 'write to Bishop Gerry to advise him of the position with regard to the QBE Liability Policies and the CCI Special Issues Cover'.<sup>67</sup>

On 19 April 1999, Mr Rolls wrote to Bishop Gerry<sup>68</sup> about that issue and also 'set out [his] views as to some of the factors relevant to that meeting', including detailed advice on how Father Farrelly was to conduct himself at the facilitation. Mr Rolls advised:<sup>69</sup>

You will, of course, be considering the claims from a pastoral viewpoint. It has been the custom of the Archdiocese in such cases to give sympathetic hearing to applications for assistance with counselling and other like expenses in recognition of the suffering experienced by the applicant, although it is clearly understood the responsibility lies with the alleged offender rather than the Archdiocese.

Further, there may be commercial reasons for offering to pay some compensation on an ex gratia basis. Notwithstanding the claimant's difficulty in commencing legal process, she may nevertheless attempt to do so and legal expenses will be incurred in responding.

I understand Father Adrian Farrelly is meeting with Ms Isaacs and her support person, Mr Peter Speed [sic] on Tuesday 20<sup>th</sup> April. I am concerned that Mr Speed [sic] happens also to be a lawyer. I have suggested to Father, he should bring the meeting to close, if Mr Speed engages in legal argument and agree to continue only with a lawyer representing the Archdiocese present. It should also be remembered, if Ms Isaacs resorts to legal representation, she forfeits the right to your continuing offer of pastoral communication.

Father Farrelly agrees he will engage in a form of apology which expresses sorrow that such events could take place, that a priest of the Archdiocese could act in such a manner but will avoid any suggestion the Archdiocese is itself responsible for the actions of the priest.

He will agree to consider the cost of counselling, preferably with our own service, Centacare. It may not be possible to insist on this. If not, no open ended arrangement is to be considered. Rather, a set number of sessions over specific period will be agreed. Depending on how much counselling has already taken place, it is not uncommon to agree to ten sessions over a six month period, followed by review.

On the question of compensation, Father will suggest he is not in a position to negotiate but will need to refer to the financial advisers of the Archdiocese on the question of whether a payment is required to be made, as well the appropriateness of any amount proposed. It is difficult sometimes for lay persons to understand why a Bishop or an Episcopal Vicar suggests he cannot decide such matters. It is useful then to refer to the principle that the monies held by the Archdiocese are the property of the Catholic community held in trust and formal procedures are in place governing the process of making disbursements for particular purposes ...<sup>70</sup>

We know from people who have more recently experienced *Towards Healing* that this approach has changed over time. In the 1990s the insurer took a commercial approach to the *Towards Healing* process.

Father Farrelly gave evidence that although he could not recall whether he saw the letter before or after the facilitation date,<sup>71</sup> the views expressed by Mr Rolls in his letter were virtually the same as those which he conveyed to him during their telephone conversation prior to the facilitation.<sup>72</sup> Before the facilitation, Father Farrelly prepared typed notes, which he used as an aide memoire at the meeting:<sup>73</sup>

#### MEETING WITH JOAN ISAACS

Peter Deed (support person) and Bernadette Rogers (Facilitator)

1. Apology, counselling, compensation.
2. Bishop Gerry's letter – earlier experience totally disappointing and distressing.
3. Sorrow that you were abused by a priest in this way. Court proceedings show the effects of that behaviour.
4. I am entitled to offer assistance with on-going counselling – 6 months (10 sessions) then review.
5. Re compensation I am not entitled to settle with you.<sup>74</sup>

Father Farrelly gave evidence that the notation, '1. Apology, counselling, compensation',<sup>75</sup> referred to three matters that he understood Mrs Isaacs wanted from the meeting.<sup>76</sup>

Father Farrelly agreed that, going into the meeting, he was not able to offer Mrs Isaacs any compensation,<sup>77</sup> that he was to express sorrow but not offer an apology<sup>78</sup> and that he was entitled to offer 10 sessions of counselling and then a review.<sup>79</sup>

Father Farrelly told the Commission that he did not view his telephone conversation with Mr Rolls prior to the facilitation as 'instructions'.<sup>80</sup> He said he was willing to be advised by people who had experience in these matters<sup>81</sup> and that consulting with those persons regarding insurance, compensation, liability and other matters appeared to be the prudent thing to do.<sup>82</sup>

Father Farrelly agreed that he did not do anything before the meeting to let Mrs Isaacs know that his role was limited so that she could set her expectations about what he did and did not have authority to do.<sup>83</sup> On reflection, Father Farrelly stated that, 'it would ... have been better if Bishop Gerry or Archbishop Bathersby had met Mrs Isaacs in person at some stage'.<sup>84</sup>

Archbishop Coleridge, the current Archbishop of the Archdiocese of Brisbane, said that Bishop Gerry could have suggested that a more senior member of the Church – for example, the Archbishop – attend the facilitation. But, he said, '[c]learly it wasn't the kind of communication that took place between the two men'.<sup>85</sup> He said that, 'as successor to Archbishop Bathersby, I would be very strongly committed to attending facilitations'.<sup>86</sup>

Archbishop Coleridge agreed that the person that Bishop Gerry delegated to attend the facilitation had no authority to give Mrs Isaacs anything that she wanted.

Archbishop Coleridge said he thought the then Archbishop should have attended the facilitation:

I am slightly puzzled by the choice of Father Farrelly at the time, a fairly junior member of the archdiocesan team, if I could put it in those terms. It was unfortunate, to put it mildly, that Bishop Gerry was out of action. Frankly, this is a point where, personally, I think the archbishop, wherever possible, should attend facilitations.<sup>87</sup>

► **Finding 1:** A senior person from the Church should attend meetings with survivors which have a pastoral element.

Mrs Isaacs gave evidence that, aside from the 1 April 1999 letter from Dr Robertson, no-one explained to her what the facilitation process would entail.<sup>88</sup>

Dr Robertson had difficulty accepting that he did not explain the facilitation to Mrs Isaacs<sup>89</sup> and gave the following evidence:

I believe, based on my usual practice and my Handwritten Notes, that this [that he had not explained to Mrs Isaacs what the facilitation process would entail] would be unlikely. I always tried to explain to victims what the various stages of *Towards Healing* involved, including facilitations. In that regard, I would respectfully draw attention to paragraphs 15 and 16 of Mrs Isaacs statement, and to the entries for 'Feb 22' and 'March 23' in my Handwritten Notes. However, as I have said, I do not now have any actual recollection of precisely what was said in my various conversations with Mrs Isaacs. In any event I am very sorry that Mrs Isaacs feels that she was not adequately informed of what would occur during the facilitation.<sup>90</sup>

The entry for 'Feb 22' in Dr Robertson's handwritten notes is set out above.

Dr Robertson understood that Mrs Isaacs felt unprepared and insufficiently informed about what would occur at the facilitation.<sup>91</sup> He accepted responsibility for this.<sup>92</sup>

Mrs Isaacs gave evidence that during a telephone call in January 1999<sup>93</sup> she was advised by Dr Robertson to engage a lawyer throughout the *Towards Healing* process. She said that Dr Robertson had said to her, 'Joan, this is off the record but don't go anywhere near the church without a lawyer'.<sup>94</sup> She said that prior to this conversation she had not intended to get a lawyer involved in the process.<sup>95</sup> She was under the impression that her husband would accompany her to the facilitation but due to Dr Robertson's comments, had decided to take a lawyer.<sup>96</sup>

Mrs Isaacs had engaged Mr Deed by the time she wrote her letter of complaint to Dr Robertson dated 12 February 1999.

Dr Robertson gave evidence that it was likely that he advised Mrs Isaacs to get a lawyer,<sup>97</sup> although he was not sure of when.<sup>98</sup>

Dr Robertson's said that generally, if survivors of abuse were seeking compensation, he would inform them that they may wish to engage a lawyer, as it was likely that the Church would engage a lawyer in such cases.<sup>99</sup> However, he said that it was not his practice to use language of the kind described by Mrs Isaacs<sup>100</sup> and had no recollection of saying the words, 'Joan, this is off the record but don't go anywhere near the church without a lawyer'.<sup>101</sup>

Under *Towards Healing* (1996), at the facilitation, 'Both the victim and the Church Authority may have one other person present with them' (clause 7.2.1).

Unfortunately, probably due to miscommunication, Mrs Isaacs believed that she could take only one person. She wanted to take her lawyer and she thought that meant her husband could not come to the facilitation with her.

In his letter dated 1 April 1999, Dr Robertson referred to Mr Deed as Mrs Isaacs' 'support person'.<sup>102</sup> Dr Robertson gave evidence that he knew that Mr Deed was in fact Mrs Isaacs' lawyer<sup>103</sup> but understood that he would be attending the facilitation in the capacity of a support person.<sup>104</sup> This is consistent with his handwritten notes dated 2 and 23 March 1999 in which, respectively, he noted: 'Spoke to Joan Isaacs – she wants Peter Deed at the meeting'<sup>105</sup> and recorded information conveyed in a telephone conversation that 'Peter Deed is her lawyer and support person'.<sup>106</sup> It is also consistent with Mrs Isaacs' diary entry after the facilitation, in which she records that she 'requested that [her] support person in this was to be [her] lawyer, Peter Deed'.<sup>107</sup>

Mrs Isaacs said that before the facilitation she asked whether 'someone', whether or not it was her husband, could attend the facilitation with her. She said she was told, 'Definitely, no you can only have one person there'.<sup>108</sup> Mrs Isaacs could not recall who said these words, but she stated that it was not Dr Robertson. She said that it was possible that Mr Deed had asked on her behalf and had relayed the response back to her.<sup>109</sup>

Mrs Isaacs recalled being angry after having read a clause in *Towards Healing* (1996) which provided that if there is a priest who comes under investigation he can come to a meeting with a support person but she was told to bring a lawyer.<sup>110</sup>

Dr Robertson was certain that he did not say to anyone that Mrs Isaacs could not have her husband as well as Mr Deed at the facilitation or that she could only have one person there. He stated that this would have been contrary to his 'usual practice which was not to restrict the number of people the victim wished to bring for meaningful support'.<sup>111</sup>

Dr Robertson's intention not to exclude Mrs Isaacs' husband from the facilitation are also evident in a letter to Bishop Gerry on 2 March 1999.<sup>112</sup> In that letter, Dr Robertson suggested a process for dealing with Mrs Isaacs' complaint, including:

2. I arrange a facilitated meeting for you to meet with Joan Isaacs *and her husband* [emphasis added] (This could take place when you are feeling better).

Dr Robertson said that, if someone associated with the Church had communicated this to Mrs Isaacs, it would have been the wrong thing to say.<sup>113</sup> He agreed that 'regardless of whether the protocol said you can only bring one support person, no proper authority

looking to mete out justice and compassion’ would have said to Mrs Isaacs that she could not bring her husband.<sup>114</sup> He said that, if Mrs Isaacs had asked whether her husband could also attend, he would have contacted the Church Authority and recommended that her husband be allowed to attend.<sup>115</sup>

We accept that it was not his intention to exclude Mrs Isaacs’ husband and it was unfortunate that that occurred.

Under *Towards Healing* (1996) (clause 7.2):

In the event of proven guilt, whether through admission of the offender or through a finding of a civil court or through a Church assessment, the Church Authority and victim shall mutually agree on a Facilitator from the approved panel.<sup>116</sup>

On 1 April 1999, Mrs Isaacs received a letter from Dr Robertson ‘in relation to [their] telephone conversation concerning a meeting between [her] and Fr. Adrian Farrelly’. Dr Robertson set out details of ‘arrangements [that had] been made with both parties’ and named Ms Rogers as the Facilitator for the meeting.<sup>117</sup>

Mrs Isaacs gave evidence that before she received the letter she had not been asked whether she agreed to Ms Rogers’ appointment as Facilitator. She said, ‘From memory, I was just told that Bernadette Rogers would be the Facilitator’. When she was asked once again whether she was told in this letter or before she received the letter, she said, ‘I am not sure, but I think I just got it with the letter’.<sup>118</sup> Mrs Isaacs had never met or spoken to Ms Rogers before the facilitation meeting.<sup>119</sup>

When Dr Robertson was asked whether he accepted Mrs Isaacs’ evidence that she was not consulted about the choice of Facilitator, he responded, ‘I don’t want to deny her evidence in any respect, but I find it difficult to understand that I didn’t talk to her about it’.<sup>120</sup> He agreed that there was no note of him having done so.<sup>121</sup>

Dr Robertson accepted that the memory of a person who has gone through the *Towards Healing* process, and how they were treated during that process, is likely to be deeply embedded.<sup>122</sup> He was not prepared to accept that he did not talk to Mrs Isaacs about the identity of the Facilitator, because it was ‘so imperative, and I was particular in those areas’.<sup>123</sup>

► **Finding 2:** It is clear that any process by which Survivors engage with the Church about the abuse they have suffered from a member of the clergy should be one in which they are consulted and listened to.

## Facilitation

On 20 April 1999, the facilitation took place at Centacare in Fortitude Valley, Brisbane. Mrs Isaacs, Ms Rogers, Father Farrelly and Mr Deed attended the facilitation.

Mrs Isaacs gave the following evidence about her expectations leading up to the facilitation:

My expectation leading up to the facilitation was that I would be dealt with warmly, the people involved would accept what I had to say, they'd understand that what was said in the past was true, that I'd been let down in the past, and I would be able to move forward and get that apology. I also expected to receive counselling and compensation. Compensation was not a big part for me, but I just knew that I might get words that were empty if I didn't go that step and ask for compensation and I thought that this would be paid for by the Catholic Church.<sup>124</sup>

Ms Rogers gave evidence that her practice was to read the material that had been provided before a facilitation so that she understood a victim's needs.<sup>125</sup> She said that she would have seen the letter from Dr Robertson setting out the agenda and she would have been aware 'that was what the complainant wanted to talk about'.<sup>126</sup> She said she knew that Mrs Isaacs' needs were 'apology, counselling, compensation'.<sup>127</sup>

While she could not now independently recall Mrs Isaacs' facilitation,<sup>128</sup> Ms Rogers said her usual practice on the day of a facilitation was to meet with each party separately first to give them an opportunity to get to know her and to discuss the facilitation process and their expectations.<sup>129</sup> During the facilitation, she would have the victim speak about their abuse and its impact upon them and have the Church Authority listen. She would then encourage discussion around the victim's needs.<sup>130</sup>

On the issue of counselling, Mrs Isaacs said that she told Father Farrelly that she had been seeing a counsellor, Ms Lynn O'Donoghue at her own expense 'for quite some years' and that she wished for the church to pay for ongoing counselling from that point.<sup>131</sup>

Father Farrelly recorded in his facilitation report:

[Mrs Isaacs] does not see her counsellor on a regular basis but, from time to time, will see a great need; at other times, a less need. This perception of need is what determines when she visits the counsellor.<sup>132</sup>

Father Farrelly offered that the Church would pay for 10 sessions of counselling and then review the situation after that time.<sup>133</sup> Mrs Isaacs 'was content with that offer as a starting point'. She viewed it as an interim measure that would be reviewed after the 10 sessions. However, she said that she 'was not told of any criteria regarding a review'.<sup>134</sup>

Mrs Isaacs then raised the issue of compensation. Father Farrelly wrote in his facilitation report:

This was not, she reiterated, her primary motive in having the meeting. The first thing she wished to happen was for the Church to hear, listen to what happened to her, and to respond to that ... She was hurt by this incident and hurt badly and, as she said, she does want the Church to feel some of that hurt through a compensation payment ... I responded by saying I was not entitled to discuss the allocation of monies entrusted to the Church, but would refer the matter to the appropriate processes and advisers who needed to be involved in such decisions.<sup>135</sup>

Mrs Isaacs said that, before the facilitation, she had not been told that Father Farrelly did not have authority to negotiate compensation.<sup>136</sup> Mrs Isaacs gave evidence that she hoped it would be resolved at the facilitation because the letter she received from Dr Robertson on

1 April 1999 had compensation as part of the agenda.<sup>137</sup> However, as discussed below, she quickly understood that it would be dealt with between lawyers after the facilitation.

The evidence of Dr Robertson,<sup>138</sup> Ms Rogers<sup>139</sup> and Mr Rolls<sup>140</sup> was that, under *Towards Healing* in Queensland at the time, the practice was to deal with the question of monetary payment between lawyers after the facilitation was complete.

Dr Robertson gave evidence that he knew that the issue of monetary payment and amount would not be dealt with or resolved at the meeting.<sup>141</sup> He agreed that when he wrote to Mrs Isaacs he gave her the expectation that compensation would be on the agenda<sup>142</sup> and would be dealt with.<sup>143</sup> He went on to say that he did not agree that he was creating an expectation that the issue of compensation would be ‘resolved’ but only that it would be dealt with.<sup>144</sup> In our opinion, there is no distinction of any significance.

Dr Robertson said that he ‘should have made it more clear to Mrs Isaacs that whether a monetary payment would be made and if so in what amount would not be able to be resolved at the facilitation meeting’.<sup>145</sup>

However, Mr Deed said to Mrs Isaacs at the conclusion of the facilitation that he wanted (thereafter) to put together ‘a very good compensation request’ for her. Mrs Isaacs said she understood that she would see a psychiatrist and an accountant about that, and that Mr Deed would also engage a barrister to assess the aspect of damages.<sup>146</sup>

Consistently with that approach, a letter from Mr Deed to Dr Robertson dated 27 April 1999 stated, among other things:

Could you also inform Father Farrelly that we are in the process of putting a submission together concerning a claim for compensation. Once we have it to hand, we will forward it to you and also Father Farrelly for the Church’s consideration.<sup>147</sup>

The submission was eventually sent to the Archdiocese’s lawyers on 31 August 1999.<sup>148</sup>

## Aftermath

Mrs Isaacs documented her experience of the facilitation in a diary entry dated 22 April 1999. She wrote:

When we finished the meeting we left the building quite different people than when we had arrived. I felt a sense of relief and achievement that I had at last dealt with something so important in my life. The Facilitator was clearly moved. Her hands were still shaking as we said our ‘goodbyes’. She said that although she had done a number of these interviews this one had left her visibly shaken. [Father Farrelly] said he would never be able to talk or read about the subject of abuse without seeing my face before him. I thought that was a good outcome ...

For me, I have now done what I set out to do. There are formalities to be seen to, but that is not my personal concern. It is now a job for the lawyers and they are welcome to that job. Whatever the outcome I will be content that I have challenged the system – both the legal system and the Church and that I have finally been

heard. My life will still be difficult at times. The pain will go on. But I have done what I had to do. It has just taken 31 years to get there.<sup>149</sup>

In a letter to Father Farrelly dated 26 April 1999, Mrs Isaacs described the opportunity to be heard by the Church at the facilitation as a 'crucial element to my healing process'.<sup>150</sup>

Dr Robertson spoke to Mrs Isaacs on 29 April 1999. His note records:

April 29 Rang Joan – meeting went well, impressed with Dr Farrelly – feels a great sense of relief – advised that the process is now complete and the question of compensation will now be settled at the lawyer level.

In his facilitation report, Father Farrelly also recorded that Mrs Isaacs was disappointed that she was not seen by one of the Bishops. He wrote, 'She was very keen on the Bishops themselves hearing what she had gone through and having her face in their mind when they think about these matters'.<sup>151</sup>

On 26 April 1999, Mrs Isaacs reiterated this view in a letter to Father Farrelly. In the letter she made suggestions for improving the Church's response to other victims in the future. She said that 'It would take a great deal of courage to do this however, this approach would be seen as a more genuine and meaningful response'.<sup>152</sup>

On 27 April 1999, Ms Rogers provided a short facilitation report to Dr Robertson. Ms Rogers gave evidence that the brevity of the report she produced was consistent with reports that she wrote in the early years of her experience as a Facilitator.<sup>153</sup> Dr Robertson also said that it was 'reasonably typical of the facilitation reports I would receive at around that time'.<sup>154</sup> Amongst other matters, Ms Rogers' report recorded that 'ongoing discussions will take place in relation to compensation'.<sup>155</sup>

*Towards Healing* (1996) states (Part 2, clause 7.2.6):

The Church Authority shall bear all ordinary and reasonable expenses of the process of facilitation.

By the time that Dr Robertson had sent the letter dated 1 April 1999 setting out the agenda for the meeting and the name of the Facilitator, Mrs Isaacs understood that she was to pay for the costs of Mr Deed, as she had not asked that the Church pay and nobody proposed they would.<sup>156</sup>

Dr Robertson said that, if a victim asked him whether the Church Authority might pay his or her legal fees, he would put this to the Church Authority.<sup>157</sup>

Although it is not expressly required under *Towards Healing* (1996), Part 2, clause 7.2.6, we are satisfied that the costs of Mr Deed attending the facilitation could reasonably be construed as an 'ordinary and reasonable expense of the process of facilitation' and could have been something that was offered to Mrs Isaacs. Dr Robertson agreed that the protocol did not prevent him from making that offer.<sup>158</sup>

Dr Robertson agreed that it was unfair not to have had a discussion with Mrs Isaacs about the payment of fees and that it was unfair not to have paid those fees. He said that he had made a mistake.<sup>159</sup> We accept Dr Robertson's evidence in this respect.

► **Finding 3:** It was unfair not to have had a discussion with Mrs Isaacs about paying her solicitor's fee for attending the facilitation and it was unfair not to have paid that fee. As Dr Robertson acknowledged in these respects, he made a mistake.

Father Farrelly wrote a report of the facilitation 'very soon after' the facilitation.<sup>160</sup> He recorded that he 'did not offer an apology on behalf of the Church but did express [his] sorrow at what had happened to her'.<sup>161</sup> Father Farrelly gave evidence that he should have offered an apology on behalf of the Church at the meeting.<sup>162</sup>

Although Mrs Isaacs 'felt that Dr Farrelly really got in his heart and stomach what happened to me' she thought that it was 'not good enough' and also requested a written apology signed by the Bishop.<sup>163</sup> Father Farrelly conveyed that he did not have instructions about this matter but that he would raise it with the Bishop.<sup>164</sup>

At this point, Mrs Isaacs felt that the matter was 'left up in the air' after she had 'made it quite clear' that a written apology was what she wanted.<sup>165</sup>

On 21 April 1999, Father Farrelly addressed Mrs Isaacs' request for a written apology with Bishop Gerry. On Bishop Gerry's instructions, Father Farrelly prepared a draft apology and sent it to Mr Rolls to 'run it by [him] to see what [his] thoughts about the request and the letter were'.<sup>166</sup> Father Farrelly gave evidence that he did so because 'given all these other issues – insurance, compensation, liability and all those things – that were in people's minds back in 1999, that seemed to be a prudent thing to do, to consult the ones with the experience to see what they thought'.<sup>167</sup> Father Farrelly gave evidence that he had no recollection of receiving a response from Mr Rolls.<sup>168</sup>

The apology that Bishop Gerry ultimately sent to Mrs Isaacs on 30 April 1999 was in very similar terms to the one that was drafted by Father Farrelly, except for some amendments. For example, the sentence 'I am sorry that you were not believed when you told other priests what had happened to you' was replaced in Bishop Gerry's letter with the sentence 'The response made at the time was less than you could have rightly expected'.<sup>169</sup>

A memorandum from Mr Rolls to Mr Reynolds dated 10 June 1999 indicates that Mr Rolls had 'instructed Bishop Gerry to remove' that sentence from the letter.<sup>170</sup> However, Mr Rolls had no recollection of 'instructing' Bishop Gerry to do this and he did not recall any conversation with the Bishop about the draft apology. He said that, if he suggested to the Bishop that it should be removed, he did not know why.<sup>171</sup> Bishop Gerry took responsibility for all changes to the draft apology that Father Farrelly had prepared.<sup>172</sup>

Bishop Gerry gave evidence that, while Mr Rolls' letter of 19 April 1999 referred to a limitation on the form of oral apology to be offered at the facilitation, it was not his usual practice to impose this limitation. He said that, when he subsequently himself offered Mrs Isaacs a written apology, he did not include any such limitation; rather, he offered an unqualified apology.<sup>173</sup>

Bishop Gerry's apology was in the following terms:

As I mentioned in my previous letter, I have been appointed by the Archbishop as the 'Church Authority' to act in the name of the Archdiocese in *Towards Healing* processes.

I write now in this capacity to say how sorry I am for what you suffered at the hands of Frank Derriman who was a priest of the Archdiocese at the time. You were taken advantage of in a most shameful way. He abused the position he had as a priest, the friendship your parents and family had with him and the trust you had placed in a priest. The response made at the time was less than you could have rightly expected. I am deeply saddened to hear what effect this abuse and lack of adequate response had on the faith of your own mother and father, and on your sons. You have been let down by those from whom you had every right to expect more.<sup>174</sup>

Mrs Isaacs gave evidence that the first thing that entered her mind when she read the letter from Bishop Gerry was 'that it had been written by a lawyer, not by Bishop Gerry' and 'said sorry for what happened, but that the Church had no role to play'.<sup>175</sup> This caused Mrs Isaacs to feel 'as though the Catholic Church were completely distancing themselves from Frank Derriman to protect themselves from any responsibility and maybe litigation'.<sup>176</sup>

Bishop Gerry gave evidence that he deeply regretted that he had not met face to face with Mrs Isaacs to hear her speak of her pain directly.<sup>177</sup> He said that he had missed a number of opportunities to establish a personal rapport with her, which again, he deeply regretted and apologised for.<sup>178</sup>

## 2.4 Compensation

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Mrs Isaacs' experience of the compensation negotiations highlights some of the complex issues in the relationship between redress schemes and civil litigation.

Mrs Isaacs understood that after the facilitation there would be discussions between her solicitor and the Church about compensation. She recorded in a diary entry after the facilitation that she was content for the lawyers to take care of this.<sup>179</sup> At that stage she 'had no idea what sort of amount would be considered or how it would be determined'<sup>180</sup> and 'had no understanding of how long the negotiations between Peter Deed and the Church might take, but thought maybe a couple of months'.<sup>181</sup>

It took over two years to resolve the issue of compensation.

Mr Deed continued to represent Mrs Isaacs. The Archdiocese was represented by Mr John Moore of Thynne + Macartney, with the participation of Mr Rolls and Mr Paul Reynolds from CCI as the Archdiocese's insurer.<sup>182</sup> Father Spence, the former Archdiocesan Chancellor, was nominated by Archbishop Bathersby to act as a 'conduit'<sup>183</sup> or 'liaison person'<sup>184</sup> between the Archdiocese of Brisbane and the lawyers and insurers involved.<sup>185</sup> Father Spence relied on those advisers in all insurance and legal matters.<sup>186</sup>

On 31 August 1999, Mr Deed submitted to Thynne + Macartney a claim for compensation with various attachments on behalf of Mrs Isaacs. The total amount claimed was about \$358,682. This included claims for general damages, aggravated and exemplary damages, special damages and past and future economic loss totaling some \$259,632. He also provided a report dated 22 April 1999 from Dr Donald Grant, psychiatrist, and an economic loss report dated 20 August 1999 from Vincents, Chartered Accountants.<sup>187</sup>

From this point on, the parties held different views on the nature of the compensation process. Mrs Isaacs thought that the negotiations flowed from the facilitation held under *Towards Healing*.<sup>188</sup> Father Spence<sup>189</sup> and Mr Rolls,<sup>190</sup> on the other hand, both understood that once Mr Deed submitted the claim for compensation Mrs Isaacs was no longer engaged in the *Towards Healing* process. Father Spence said that:

this step taken by Mrs Isaacs' lawyer confirmed [his] understanding that, apart from the ongoing counselling sessions which Mrs Isaacs was having, she was no longer engaged in a *Towards Healing* process, but rather was pursuing a substantial, detailed, legal claim for compensation ... When Ms Isaacs sought to press a claim for compensation, the Archdiocese essentially moved into a defensive litigation stance and there followed a drawn-out two year period before the matter was resolved. Apart from the provision of counselling which continued for some time, there was no further engagement with her on a pastoral level. I regret the lack of any further pastoral contact with Mrs Isaacs. I would also hope that if similar circumstances arose today, I would realise the importance of continuing concern for the welfare of the victim.<sup>191</sup>

Mr Rolls said that the nature and format of the calculations of the claim were 'typical of such claims made by solicitors in common law personal injuries cases, outside the context of *Towards Healing*'.<sup>192</sup> He thought that the 'claim was now being treated as an insurance claim against the Archdiocese and was outside the *Towards Healing* process'.<sup>193</sup>

In a letter dated 21 September 1999, Thynne + Macartney advised Father Spence that he should not discuss the issue of compensation with Mrs Isaacs and that:

If Joan Isaacs contacts you or other Church representatives direct over the issue of compensation, it would be our recommendation that she be referred back to her solicitors because it would not be ethical for the Church to talk directly with her when she has retained a solicitor to act in her interests.<sup>194</sup>

In a letter to Mr Deed dated 27 October 1999, Thynne + Macartney communicated the Church's position at that point:

we are working through a process with the Church in relation to the significant cash damages claim your client has presented. Despite your advice to us that your client was not pursuing a 'civil liability claim', quite clearly, with respect, that is the case and we note your advice that the matter is to be litigated.

In our view it is clear that the parties have different understandings with respect to the *Towards Healing* process and protocol. 'Compensation' in that arena can be directed towards reimbursement of properly incurred medical expenses in appropriate cases. The protocol otherwise seeks to provide for assessment and

where ongoing needs exist, continuing assistance designed to promote a process of healing. As we have previously indicated, *Towards Healing* is not a monetary compensation protocol in the sense of a process that deals with a substantial civil common law claim. No assessment by the Church interferes in any way with the processes of civil or criminal law.

In this instance your client seeks a substantial common law payment ... In our view, civil legal liability does not exist on the part of any Church institution for criminal or other alleged wrongful or disgraceful activities of a person who quite obviously acted outside any scope of authority or duty entrusted to them and, certainly, outside any religious teachings. On this basis, and as explained to you by phone on 19 October 1999, it is our expectation that ex gratia cash compensation will not be paid in response to the above very substantial common law claim.

The resources of the Archdiocese are directed towards supporting the *Towards Healing* program. It is our belief that on-going support under the *Towards Healing* program, which can take into account issues involving treatment expenses will be available to your client.<sup>195</sup>

Mrs Isaacs said that she felt this letter contradicted what Father Farrelly said at the end of the facilitation – that discussion about the compensation aspect would be ongoing. It also differed from Mrs Isaacs understanding of the *Towards Healing* procedures document.<sup>196</sup>

Mrs Isaacs gave evidence that:

At this point Peter suggested to me that I commence civil action against both Frank Derriman and the Catholic Church. Peter said that he did not want to engage in a civil claim on my behalf but he thought initiating the action would precipitate closure for me. I agreed with Peter's suggestions and he continued to engage with the Brisbane Archdiocese on my behalf. Accordingly on 6 January 2000, Peter sent me a copy of the Notice of Intention to Defend and Defence that had been served by the Brisbane Archdiocese.<sup>197</sup>

## 2.5 Counselling

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Throughout this time, Mrs Isaacs continued to attend counselling with her psychologist, Ms O'Donoghue, with the expectation that the Archdiocese would at least initially meet those costs.

During her first counselling session after the facilitation, she told Ms O'Donoghue that the Church would pay for 10 sessions and that she should send the accounts directly to Bishop Gerry. After attending nine sessions, Ms O'Donoghue told her that she had not been paid for the last eight sessions.<sup>198</sup> On 17 February 2000, Mrs Isaacs wrote to Bishop Gerry asking for payment and attaching Ms O'Donoghue's account.<sup>199</sup> Having to do this made her feel 'just devastated'.<sup>200</sup>

On 25 February 2000, Bishop Gerry responded and acknowledged that Father Farrelly had told him that he had offered payment for counselling. He also wrote that 'Father Farrelly had mentioned that at the meeting [Mrs Isaacs] indicated that she did not need to see a counsellor on a regular basis'. Bishop Gerry authorised another session and advised that the Church would need either 'a progress report or a professional assessment of the benefit of on-going counselling before any further commitment could be made'.<sup>201</sup> This 'really upset' Mrs Isaacs, as she had 'gone to great lengths in the facilitation to tell them that [she] had had counselling for quite a number of years'.<sup>202</sup>

Mrs Isaacs wrote to Bishop Gerry on 3 March 2000 stating that at no stage during the facilitation did she suggest that she did not need regular counselling, that she had told Father Farrelly that she had received intensive counselling since 1994 and that an assessment by Dr Donald Grant indicated there was a need for 50 sessions of continued therapy.<sup>203</sup>

On 7 April 2000, Mrs Isaacs forwarded to Bishop Gerry a report that Ms O'Donoghue wrote advising of the need for Mrs Isaacs to continue counselling.<sup>204</sup> On 2 June 2000, Bishop Gerry waived 'any detailed professional assessment' and authorised a second set of 10 counselling sessions for Mrs Isaacs.<sup>205</sup>

During a session with Ms O'Donoghue in early June 2000, Ms O'Donoghue informed Mrs Isaacs that she had not been paid for the second set of sessions.<sup>206</sup> Mrs Isaacs said that this had made her 'very angry' and prompted her to call Bishop Gerry on 6 June 2000.<sup>207</sup> Bishop Gerry told her that a letter and payment for counselling was in the mail and asked whether counselling was addressing the problem. Mrs Isaacs responded:

Counselling can address some issues but the total process of 'healing' is severely impeded by the Church's reluctance to see this to its conclusion. Part of the problem lies with my feelings of abandonment by the Catholic Church. Until the compensation issue is finalised my healing cannot be fully realised.<sup>208</sup>

Bishop Gerry gave evidence that he does not doubt that there was some delay in responding to payment for Mrs Isaacs' consultations with Ms O'Donoghue.<sup>209</sup> He said that he was 'quite shocked, because I don't know how that happened'.<sup>210</sup>

Archbishop Coleridge gave evidence that where Mrs Isaacs' matter 'went wrong was in the later phases to do with counselling'. He said that a lack of oversight by the then Archbishop led to a 'spectacular bungling on the part of the Archdiocese of Brisbane'.<sup>211</sup>

Clearly, Mrs Isaacs received payments for counselling costs only following her considerable prompting after the Archdiocese had already agreed to pay. These payments came to an end after the settlement sum was paid.

We will be considering further the desirable components of a redress scheme. However, it is clear that many victims will need counselling or other therapeutic assistance for years after the abuse and some for their lifetime.

► **Finding 4:** Mrs Isaacs received payments for counselling costs only following considerable prompting after the Archdiocese had already agreed to pay. These payments came to an end after the settlement sum was paid.

## 2.6 Two years later and \$30,000 was offered

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After two years of negotiations, on 20 April 2001 Mrs Isaacs was offered an ex gratia payment of \$30,000 ‘all up’ by Thynne + Macartney. Following further negotiations and correspondence between the lawyers, Thynne + Macartney indicated on 30 April 2001 that \$30,000 was a ‘top of the limit figure’.<sup>212</sup>

Mrs Isaacs was ‘not happy with the offer’.<sup>213</sup> No separate offer was made for legal costs.<sup>214</sup> At that point she had already incurred \$8,000 for legal costs for the civil claim against Father Derriman. Father Derriman’s lawyer put an offer to her through Mr Deed to waive costs if she did not pursue a further claim,<sup>215</sup> but she refused it. She gave evidence that ‘I could not allow Frank Derriman to take back the control that I felt I had gained from the criminal trial so I refused to sign the contract and accordingly had to pay the \$8,000 to Frank Derriman’s solicitor’.<sup>216</sup>

Mrs Isaacs gave evidence that ‘just after’ she was offered the \$30,000, she telephoned Archbishop Bathersby and made notes during that conversation.<sup>217</sup> Her notes recorded that she asked him: ‘Do you know that after two years of stonewalling I have accrued nearly that amount in legal fees I will have very little left?’ Archbishop Bathersby is then recorded as saying, ‘That’s your problem’. Mrs Isaacs said that she was ‘utterly defeated’ and decided to accept the offer and ‘get out of this terrible situation’.<sup>218</sup>

Mrs Isaacs gave evidence that she had also incurred \$12,000 for legal costs for the advice and representation she received from Mr Deed for the *Towards Healing* process and the civil claim. After she had paid legal fees and Health Commission fees,<sup>219</sup> she spent \$5,000 on Coles–Myer shares and bought a sewing machine. She said that after that she had ‘little or no money left from the settlement’.<sup>220</sup>

We are satisfied that there was a heavy reliance on advice from insurers and lawyers by the Church when negotiating compensation.

Father Spence told Mr Moore that he thought the offer of \$30,000 by Thynne + Macartney was ‘mean’.<sup>221</sup> Father Spence said that he did not suggest an alternate figure because he was, ‘not really in a position to quantify them.’<sup>222</sup> Father Spence said that he had not taken into consideration, as he perhaps should have, that outside of whatever the insurers would pay, the Church could pay more.<sup>223</sup>

Father Spence acknowledged that as far as decisions regarding amounts of monetary payment were concerned, he regarded those decisions as depending on the expertise of lawyers and other advisers.<sup>224</sup> Although a contribution from Church funds was not usually

made at the time of Mrs Isaacs' complaint, Archbishop Coleridge said he would offer that contribution today if the need were there.<sup>225</sup>

Bishop Gerry said that he had no control over compensation; he understood that Archbishop Bathurst dealt with the insurers about that matter.<sup>226</sup> He said that before hearing Father Spence's evidence that he was assigned by the Archbishop to liaise with insurers, 'it was a blank for me of what happened in that area'.<sup>227</sup> Bishop Gerry stated that:

as far as decisions concerning amounts of monetary payment were concerned, I regarded those as depending upon the expertise of lawyers and other advisers. On reflection, the Archdiocese could have and should have not relied so heavily on such advisers and should have formed an independent view of the appropriate approach to take.<sup>228</sup>

Archbishop Coleridge gave evidence that a lack of oversight by the Archbishop led to insurers and lawyers playing a damaging role:

I have learned many things, not only listening to the evidence but in preparing for the Royal Commission. One is that in this case there was what I would take to be a drastic failure of oversight ... when I talk about oversight, I mean the kind of episcopal oversight that leads to coordination, which is essential in these matters.

... in this particular case ... the role played by lawyers and insurers, all good and well-intentioned people ... I think the failure of oversight led them to play a role which was most damaging.<sup>229</sup>

Archbishop Coleridge stated that the Archbishop should provide this oversight.<sup>230</sup> Archbishop Coleridge provided details about what oversight there should have been and where oversight was lacking:

The oversight – as I understand it, the facilitation went well. The archbishop, I think, should be involved right from the start, so keeping an eye on the facilitation, not micro-managing but attending to the various personnel involved in the facilitation. But my understanding is that in this case, the facilitation did work well.

Where it went wrong was in the later phases to do with counselling, which – the counselling episode in the case of Mrs Isaacs seems to me to be a case of spectacular bungling on the part of the Archdiocese of Brisbane, where everyone seemed to presume that someone else was doing it. That's a lack of oversight. I think the Archbishop should have made sure that the commitment to pay for counselling was in fact honoured.

Then similarly with compensation. Now, lawyers and insurers have their words to speak, but they can't have a final word. That was always true. It wasn't so obvious back in the late 1990s, but it was true. It's certainly true now, that they have their words to speak – and, again, when I say the buck stops with me, I of course am obliged to take advice, and I take advice as much as I can, particularly from highly qualified professionals, like lawyers and insurers. But, in the end, I have to decide whether a proposal is within the terms of *Towards Healing*, just and compassionate,

and if I don't think it is, I have to make a final decision, and my decision in this matter would be final.<sup>231</sup>

Archbishop Coleridge gave the following evidence about the Church's over-reliance on advisers:

Bishops and major superiors were like rabbits caught in a headlight. They didn't know how to respond. That's why, when a seemingly trusted and competent professional, like a lawyer or an insurer, came forward, saying, 'This is the way forward', bishops and major superiors were inclined to breathe a sigh of relief and say, 'Yes, you are right'.<sup>232</sup>

► **Finding 5:** Actions of those representing the Archdiocese of Brisbane were as follows:

- After a claim for damages was made, the Church, their lawyers and insurer engaged in protracted legal negotiations for a period of over two years before making the monetary offer to Mrs Isaacs.
- The Archdiocese paid Mrs Isaacs \$30,000. After paying \$20,000 for legal costs, Mrs Isaacs was left with a small payment of money.
- Even though Father James Spence thought that the offer of \$30,000 was 'mean', he took no action to either suggest a higher price or find out if the Archdiocese would contribute additional money to Mrs Isaacs' settlement sum.
- The Church relied heavily on advice from insurers and lawyers when negotiating compensation.

A deed of release is a formal document in which a party agrees not to pursue legal proceedings against another party. In some deeds of release executed under the *Towards Healing* process, confidentiality provisions were included, requiring victims to keep confidential certain information such as the nature of allegations of sexual abuse or the amount of financial assistance paid.<sup>233</sup>

After the settlement sum of \$30,000 was reached, on 13 June 2001 Mrs Isaacs was provided with the first draft of the deed of release ('first draft deed'), on the basis that it 'still has to be approved by our client'. The letter attached to the deed also indicated that 'We have incorporated the standard provisions that we understand are now being required particularly in the area of confidentiality.'<sup>234</sup>

The first draft deed prevented disclosure of the terms of the settlement (clause 7) as well as requiring her not to make 'disparaging remarks or comments' about the Church Authority in relation to the subject matter of the proceedings (clause 8).<sup>235</sup> The deed also prohibited Mrs Isaacs from discussing the amount of compensation or bringing a civil claim against the Brisbane Archdiocese in respect of the abuse by Father Derriman.<sup>236</sup>

On 21 June 2001, Thynne + Macartney sent a letter to Father Spence enclosing a second draft deed that they indicated Mrs Isaacs would be 'required to sign'. The letter stated, 'We have endeavoured to make the confidentiality provisions quite strict, including an entitlement to cancel the settlement if the terms are breached'.<sup>237</sup>

On 22 June 2001, Mrs Isaacs was provided with an amended deed ('second draft deed'). The second draft deed provided changes to clauses 7 and 8 as follows:

- a. The terms of settlement were to remain strictly confidential 'prior to or after the release was executed'.
- b. Mrs Isaacs could not make 'other comments' about the releasees (or any one of them).
- c. She could not enter into discussions in relation to the subject matter of the proceedings or in relation to any process relating to any sexual abuse matter or issues involving the Church.

The second draft deed included the following additional clause 9:

[9] Notwithstanding the confidentiality requirements of Clauses 7 and 8 hereof, the Releasor shall be at liberty to make confidential disclosure of any sexual abuse issues and/or any consequential matters arising therefrom which are the subject of confidentiality under this release, discharge and indemnity for:

- (a) genuine therapeutic treatment purposes; and/or
- (b) if otherwise compelled by law to do so.<sup>238</sup>

On 22 June 2001, Mr Deed told Thynne + Macartney that Mrs Isaacs would sign the original deed. He said that the alteration to the original deed of release had 'greatly upset' Mrs Isaacs 'emotionally and spiritually'. He said that unless the first draft deed was agreed to, all settlement negotiations would come to an end and that prolonging the matter was not in the Church's or Mrs Isaacs' interests.<sup>239</sup>

On 3 July 2001, Thynne + Macartney told Father Spence that a few 'issues' had arisen in relation to the deed of release. They suggested a 'wait and see' approach be adopted.<sup>240</sup>

Mrs Isaacs gave evidence that she 'immediately' refused to sign the second draft deed.<sup>241</sup> She spoke to her psychologist, Ms O'Donoghue, about this deed. Ms O'Donoghue then wrote a report, dated 5 July 2001, highlighting her concerns about Mrs Isaacs being prevented from discussing the sexual abuse.<sup>242</sup>

The report said that at the time when Mrs Isaacs commenced therapy, she had not told anyone, other than her parents and her husband, about her experiences. She observed that there was a 'considerable body of research' that highlighted the importance for victims to disclose their past. It was an 'essential part of the healing process'. She said that disclosure has been a 'difficult task' for Mrs Isaacs but that confiding in and receiving support from friends and family had 'contributed to her ongoing recovery and in coming to terms with her past'.<sup>243</sup>

On 13 July 2001, Thynne + Macartney wrote to Mr Deed expressing disappointment that they 'cannot reach agreement on the terms of settlement'. They further wrote:

If it is your client's position that she is only prepared to sign the first Deed that was submitted and she has received appropriate advice in relation to the varied Deed, including particularly Clause 9, then we are prepared to make a further effort to

have the terms of settlement accepted by the various people we have to secure instructions through ...

Once we incur further legal defence expense, the offer previously made will not be revived. From a personal point of view, we think that would be a shame because we cannot see any basis upon which the action can succeed and the consequences of that would be a cost order against Mrs Isaacs.<sup>244</sup>

Mrs Isaacs said that she ‘found the letter to be particularly threatening’ – in particular, the final sentence concerning a cost order against her.<sup>245</sup>

On 10 August 2001, Mrs Isaacs signed a deed of release that was based on the first draft she received on 13 June 2001.<sup>246</sup> Mrs Isaacs gave evidence that she felt that the provision that she not make ‘disparaging remarks’ about the Church in the deed that she signed had ‘silenced’ her and it continues to ‘haunt’ her.<sup>247</sup> Her evidence was that ‘The silencing holds the same power and control over me that was used by Frank Derriman when he abused me as a child’.<sup>248</sup>

Before signing the deed of release, on 7 July 2001, Mrs Isaacs wrote a letter to Archbishop Bathersby.<sup>249</sup> The letter explained her concerns regarding the second draft deed. Once she had signed the deed with the original wording, Mr Deed sent her letter to Thynne + Macartney. Mr Deed requested that they pass the letter to the Archbishop as requested by Mrs Isaacs.<sup>250</sup> In the letter Mrs Isaacs stated:

Although I found the initial Deed of Release to be most restrictive and did not necessarily agree with the contents, I could understand and accept these conditions. However, on the other hand, the amended Deed of Release, in particular, Clause 9, severely limits my ability to continue healing into the future and I find this totally unacceptable.<sup>251</sup>

She referred to a media statement made on 20 October 1998<sup>252</sup> by Archbishop Bathersby in which he stated:

The needs of the victim are a priority ... The Church wants an open environment where the victims of abuse are encouraged to talk openly, and begin the long journey to complete healing with the help of professional counsellors, family and friends.<sup>253</sup>

She said in her letter that ‘The second Deed of Release, particularly Clause 9, does not, in its current form, afford me this right’.<sup>254</sup>

Father Spence agreed that he did not do anything with Mrs Isaacs’ letter dated 7 July 2001, and particularly, did not give it to the Archbishop respond to it on the Archbishop’s behalf.<sup>255</sup> However, a letter from Thynne + Macartney to Father Spence dated 16 August 2001 makes clear that the lawyers did not forward the letter to Father Spence until after Mrs Isaacs had signed the deed of release.<sup>256</sup>

Father Spence said that, while it did not occur to him at the time, he could see now that clause 7 of the first draft deed was ‘quite inappropriate’.<sup>257</sup> He also said that ‘we should not

bind a person not to speak about something that has had such a grave effect on her life'.<sup>258</sup> Father Spence gave evidence that he had not formed this view recently; it 'has been an issue for some time'.<sup>259</sup> He said that, at the time of the draft deeds, his experience in working with insurers was that 'they always required that clause of confidentiality on settlements, and so I just thought that this was part of the procedure'.<sup>260</sup>

Father Spence, when asked about whether he gave instructions, advice or information to Thynne + Macartney in respect of the drafting of either of the deeds, said:

I accepted their advice. They drafted them. They sent them to us. They included – and I presume this is where you are heading – on the confidentiality and they said that that was the usual situation, so we accepted it.<sup>261</sup>

Father Spence agreed that it was not compassionate, fair or just to require Mrs Isaacs to sign a deed with clause 7 in it.<sup>262</sup> He 'did not know' why he did not think of that then.<sup>263</sup> We accept Father Spence's evidence in this respect.

The negotiations concerning Mrs Isaacs' deed of release occurred in mid-2001. *Towards Healing* (2000) was in operation at that stage. Part 2, clause 41.4 provided:

No complainant shall be required to give an undertaking which imposes upon them an obligation of silence concerning the circumstances which led them to make a complaint, as a condition of an agreement with the Church Authority.<sup>264</sup>

- ▶ **Finding 6:** Mrs Isaacs ultimately signed a deed of release that prevented her from disclosing the terms of the settlement (clause 7) and required her not to make 'disparaging remarks or comments' about the Church Authority about the subject matter of the proceedings (clause 8). Clauses 7 and 8 effectively imposed on Mrs Isaacs an obligation of silence about the circumstances that led to her complaint. This was inconsistent with Part 2, clause 41.4, of *Towards Healing* (2000).
- ▶ **Finding 7:** It was not compassionate, fair or just to require Mrs Isaacs to sign a deed with clause 7 in it.

On 16 August 2001 Thynne + Macartney wrote to Father Spence confirming that settlement had been completed and advising him of its effect. They advised:

The settlement is in full and final satisfaction of all future claims. The settlement also brings to an end any further assistance, including payment of counselling or other medical expenses, under any present or future special issues program (including the current *Towards Healing* program) administered by the Church.<sup>265</sup>

Father Spence gave evidence that he was not of the same view as Thynne + Macartney, that there was no further assistance that could or should be given to Mrs Isaacs after the deed of release was entered into. He said that he 'would certainly have wanted the *Towards Healing* programs to be open to Mrs Isaacs, to be continually open to her' with the exception that 'questions of damages would seem to be resolved by the acceptance and the release'.<sup>266</sup> He believed that assistance that should still be available to her was the payment of counselling fees and 'what other areas of need Mrs Isaacs had'.<sup>267</sup>

On 5 December 2013 Archbishop Coleridge wrote a letter to Mrs Isaacs stating that he ‘very much regret[ted]’ that her experience of the process was not positive. He wrote about the confidentiality clauses in the deed of release that she was required to sign:

I am disappointed that the clauses were considered necessary at the time. In my view they should not have been included. Therefore, I want to let you know now that the Archdiocese of Brisbane no longer requires you to observe the requirements of those clauses.<sup>268</sup>

Mrs Isaacs gave the following evidence on Archbishop Coleridge’s letter dated 5 December 2013:

Too little, too late. I was waiting and waiting, and I heard the opening address from the church this morning about how sorry they were for everything that happened, and I went back to my letter and I couldn’t find ‘sorry’ anywhere.

I believe that I signed my deed of release under duress. I was silenced for the last 12 years. It has been so difficult to live like that. I believe when I actually signed it that the bishops conference had already talked about these silence clauses should not be included.<sup>269</sup>

Archbishop Coleridge said that Mrs Isaacs comment that his letter was ‘too little, too late’ was ‘probably an absolutely fair comment’ but that it was ‘the best [he] could do in difficult circumstances’.<sup>270</sup> He said that, although his letter was a ‘rather pathetic belated gesture’, he felt conscience bound to write it.<sup>271</sup> He said that after reading Mrs Isaacs’ statement he could not deny that ‘there was something about these confidentiality clauses that was not unlike some of the constraints or intimidations of the abusers’.<sup>272</sup> He ‘thought confidentiality clauses should never have applied’.<sup>273</sup>

► **Finding 8:** Confidentiality clauses should never have been included in deeds of release relating to child sexual abuse.

## 2.7 Father Derriman remains an ordained priest

Father Derriman is a priest of the Archdiocese of Brisbane. He was born on 12 July 1938.<sup>274</sup> He was ordained in the Archdiocese on 29 June 1963 and remains an ordained priest of the Catholic Church but no longer has faculties to function as a priest.<sup>275</sup>

On 16 October 1970, Father Derriman ‘attempted marriage’ and incurred a *latae sententiae* excommunication.<sup>276</sup> In a letter dated 14 November 2013, Archbishop Coleridge wrote that, as far as he is aware, the effect of this excommunication persists.<sup>277</sup> He wrote:

The excommunication is one reserved to the Holy See. Shortly after the attempted marriage, he abandoned priestly ministry in the Archdiocese and took up residence in Victoria.<sup>278</sup>

Archbishop Coleridge gave evidence that, while Father Derriman is still technically a priest, he is ‘completely removed from any public ministry’ by virtue of his excommunication.<sup>279</sup>

On 29 September 2011, Archbishop Bathersby was contacting priests who had decided to leave active ministry to see if they ‘desire[d] to start a process to ... [be] dispensed from the obligations of the clerical state’. He sent a letter to Father Derriman as part of that exercise. In his letter, he said that if he had not heard from Father Derriman by 1 November 2011, he would, ‘commence the process for requesting the dispensations from the Holy Father’.<sup>280</sup>

Father Derriman did not reply to Archbishop Bathersby’s letter.<sup>281</sup> Even though Father Derriman did not reply, Archbishop Bathersby did not commence the process to dismiss him from the clerical state.

Archbishop Coleridge did not commence the canonical process for Father Derriman’s dismissal until November 2013. Archbishop Coleridge said that ‘as soon as’ he discovered that Father Derriman had not replied to Archbishop Bathersby’s letter he ‘set in train the petition to the Holy See which is required in order for an ordained priest to be dismissed from the clerical state even against his will, or without his indication’.<sup>282</sup>

On 14 November 2013, Archbishop Coleridge appointed Father Adrian Sharp to carry out a preliminary investigation under Canon 1717 of the Code of Canon Law.<sup>283</sup> On 19 November 2013, Father Sharp advised him that a preliminary investigation could be dispensed with – it was superfluous given that the facts and circumstances of at least some of Father Derriman’s offences were both notorious and proven beyond reasonable doubt in the civil realm. Father Sharp said Father Derriman:

has committed the delict named canon 1395, § 2, a more grave delict reserved to the Congregation of the Doctrine of the Faith, and that this is gravely imputable to him and that ... All that remains is for him to be dismissed from the clerical state.<sup>284</sup>

Archbishop Coleridge said that the next step was to send the fully documented petition to the Holy See in Rome along with a covering letter that included his own ‘vote’ or view of the matter and then to await a decision.<sup>285</sup> He gave evidence that this was a belated gesture, but he was conscience bound to do it.<sup>286</sup>

Archbishop Coleridge agreed that in 1998 the Church knew that Father Derriman had been convicted of two counts of indecent assault and that the Church did nothing about it until September 2011. He gave evidence that this was ultimately a failure of oversight by the Archbishop.<sup>287</sup> We accept Archbishop Coleridge’s evidence in this respect.

Archbishop Coleridge’s said that it was:

extremely difficult to move against a priest who had abandoned ministry, without his consent. This was changed in the early 2000s when the Holy See changed its own provisions, where now it is far easier to dismiss a priest against his will ... That would be one of the factors that would explain why there was such a failure to move, to have him dismissed from the clerical state.<sup>288</sup>

Bishop Gerry gave evidence that the Archbishop was responsible, within the Archdiocese, for considering what if any action should be taken against priests who had convictions. Bishop Gerry gave evidence that he had no responsibility for that.<sup>289</sup>

- ▶ **Finding 9:** The canonical process for dismissal of Father Derriman from the clerical state was not commenced until 14 November 2013 – 15 years after Father Derriman was convicted.
- ▶ **Finding 10:** In 1998, the Church knew that Father Derriman had been convicted of two counts of indecent assault and the Church did nothing until September 2011.

## 3 Jennifer Ingham's *Towards Healing* experience

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### 3.1 Child sexual abuse of Mrs Ingham

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Jennifer Ingham gave evidence that she was sexually abused by Father Paul Rex Brown in the Diocese of Lismore between 1978 and 1982.<sup>290</sup>

She was 16 years old when the abuse started and it continued into her early adult years. In 1980, at the age of 17 and during her final year at school, Mrs Ingham was hospitalised for bulimia and also received psychiatric treatment. As a result of her health issues, she did not sit her final high school exams.<sup>291</sup>

After Mrs Ingham finished her schooling, Father Brown arranged for her to meet him regularly at the Sydney University Motel in Glebe, Sydney, where she said he continued to sexually abuse her. Throughout this time she continued to suffer from bulimia and receive psychiatric treatment.<sup>292</sup>

Father Brown arranged for Mrs Ingham to attend a specialist psychiatrist and helped to have her admitted to two private psychiatric clinics. Mrs Ingham was isolated from her parents as part of her 'treatment plan' and lived in the clinics for a substantial time.<sup>293</sup> The costs of this treatment were never invoiced to Mrs Ingham or her family. Mrs Ingham assumes that Father Brown paid for the psychiatric treatment she received.<sup>294</sup>

From 1981 to 1982, Father Brown arranged a waitressing job for Mrs Ingham in Sydney and sometimes arranged and paid for her to fly from Sydney to stay at his then residence at St Joseph's Parish Church, Tweed Heads.<sup>295</sup> She said that Father Brown sexually abused her on each of the occasions she stayed at his residence. During the years that Mrs Ingham said she was sexually abused by Father Brown, she attempted to commit suicide a number of times.<sup>296</sup> On two occasions she almost died.<sup>297</sup>

Mrs Ingham described the abuse she suffered as a 'horrendous black secret' that she held for 'far too many years'. She said she was 'full of despicable self-loathing' and 'petrified I would be found out for my sins'.<sup>298</sup>

Mrs Ingham remained in contact with Father Brown after the abuse ended and was 'so frightened that her acts of betrayal would be found out'. This was because he disclosed to her the name of someone else he had abused. She kept up the 'façade of a pleasant friendship' and asked him to marry her to her first husband, Mr Colin Riches. Father Brown did so in Lismore in November 1985.<sup>299</sup>

She started a treatment program for her bulimia in 1989 at Queensland University, St Lucia. She continues to receive private treatment under the care of Professor Roger Dooley.<sup>300</sup>

Mrs Ingham has had several operations on her face and mouth because of her bulimia and continues to suffer from severe facial pain as a result of those procedures.<sup>301</sup>

### 3.2 Other complaints against Father Paul Brown

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Father Brown ministered in Lismore from 1960 to October 1981. He went on leave from October 1981 to April 1982. In April 1982, he was appointed Parish priest to the Parish of Kyogle for two days before being appointed as priest to the Parish of Tweed Heads on 3 April 1982.

Father Brown remained at Tweed Heads until he was removed from his appointment by the then Bishop of Lismore, Bishop Satterthwaite on 20 June 1986.<sup>302</sup> Father Brown never publicly functioned as a priest again.

Father Brown took legal action in Australia against Bishop Satterthwaite's actions and appealed to the Vatican.<sup>303</sup> On 26 June 1986, the Supreme Court of NSW dismissed Father Brown's application for an injunction against the Decree of Removal.<sup>304</sup> On 8 August 1987, the Sacred Congregation of the Clergy in Rome confirmed the Decree of Removal by Bishop Satterthwaite.<sup>305</sup> On 26 October 1987, Bishop Satterthwaite issued a Decree to Father Brown withdrawing his faculties as a priest in the Diocese of Lismore.<sup>306</sup>

Bishop Geoffrey Jarrett, Bishop of Lismore, explained that the effect of the Decree of Removal was that Father Brown was removed from ministry. He had therefore returned to private life and could not present himself as a priest.<sup>307</sup>

A document was prepared as part of the process of removal of Father Brown's faculties. It recorded in part the following allegations of child sexual assault against him:

Permanent illness of mind and body which makes the parish priest unequal to the task of fulfilling his duties satisfactorily ...

(o) When we were drunk Father Brown asked REDACTED to sit on his knee. We were in the room with the television. REDACTED said he was getting too old to sit on Father Brown's knee. After that Father Brown asked me to come into another room on my own. He rubbed his hand on the inside of the top of my leg ...

(p) The other bag (we stole) contained magazines ... they had photographs of boys aged fourteen years and less who were naked and involved in sexual acts ... The names of the children known to REDACTED and I, and who stayed at the Youth

Refuge at Tweed Heads, were written in handwriting (Father Brown's) on these magazines ... Before visiting Father Brown we did not know that he would want physical contact with us ...

(q) Rex had his head buried beneath the sheets on my side of the bed and was practicing fellatio, with his mouth on my penis ... I was deeply shocked ... Since then he has invited me to share his bed on several occasions ... he would attempt to kiss me with his mouth on mine, trying to get his tongue into my mouth ...<sup>308</sup>

Despite these allegations, the principal reason given for Father Brown's removal from ministry was his problem with alcohol and the effect that had on his 'pastoral responsibilities'.<sup>309</sup>

Father Brown was convicted of possession of child pornography on 27 March 1996.<sup>310</sup> Father Brown died on 30 June 2005.<sup>311</sup>

Bishop Jarrett was asked whether there was anything further that could have been done after Father Brown had been removed from ministry in 1986 when his criminal conduct subsequently came to light.<sup>312</sup> Bishop Jarrett said:

I didn't consider that any action was needed from me in regard to this. Father Brown, I suppose, was a back number, too ... in the sense that his case had already been dealt with; he was out of ministry; he was living in retirement; and I don't think he was in contact with many of the priests.<sup>313</sup>

► **Finding 11:** The Diocese of Lismore had, in 1986, taken appropriate steps to remove Father Brown's faculties and in so doing had taken the steps necessary to effectively stop Father Brown from acting or holding himself out as a priest.

### 3.3 Towards Healing process

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On 1 August 2012, Mrs Ingham telephoned the Director of Professional Standards in Queensland, Mr Patrick Mullins, after reading media clippings about child sexual abuse.<sup>314</sup> Mr Mullins gave Mrs Ingham information about the *Towards Healing* process.<sup>315</sup> She found Mr Mullins 'very compassionate'.<sup>316</sup> She understood that *Towards Healing* was an opportunity to tell her story, be offered pastoral care, receive financial support for counselling and, in some cases, receive compensation.<sup>317</sup>

On 30 August 2012, Mrs Ingham sent an email to Mr Mullins thanking him for his 'compassion and the way you explained the process of *Towards Healing* ... That made the phone call so much easier. It was a nervous call to make. Having as much detail and knowledge is very important to me'.<sup>318</sup> She also expressed her anger and provided details about how she had previously informed church leaders of the abuse. She wrote:

I now want to add my name to the list of those abused by a senior priest in the church, but MOST OF ALL want to express my anger for the manner the then leaders

of the church personally swept this knowledge under the table. I ABSOLUTELY DESERVE that apology and so much more.

I have the total support of my daughter's father. He is still a very dear friend. He attended at the meeting in the early nineties when we met with the then Bishop and another priest to tell them of my abuse. Fr Mulcahy cried ... no sobbed ... and said he already knew. After this meeting there was no further communication ...

I met with a senior Priest at Dutton Park Catholic Head office for guidance. I told him of my abuse and struggle. He was compassionate, but there was no further communication.

Not long before my father passed away in 2008 I met with a local priest. I wanted to make peace with the church for my Dad's sake. I told him of my abuse and struggle with the church. (I had a friend with me). He just got really angry. I left and had no further communication.<sup>319</sup>

Mr Mullins responded on the same day. He advised Mrs Ingham that, 'the Church's position in these matters is that victims should take the matter to police'. He also explained what the next steps in the process would be after she sent him a signed letter of complaint.<sup>320</sup> After further assistance from Mr Mullins, Mrs Ingham reported her abuse to the police, however, as Father Brown was dead, nothing could be done by the police.<sup>321</sup>

A signed copy of the letter of complaint was received by the Queensland Professional Standards Office on 4 October 2012.<sup>322</sup>

On the same day that he received Mrs Ingham's complaint, Mr Mullins organised a copy to be sent to Bishop Jarrett. Bishop Jarrett was overseas at the time. However, Deacon Christopher Wallace, the Chancellor of the Diocese, accepted the complaint on Bishop Jarrett's behalf. Deacon Wallace had primarily managed the Diocese's response to *Towards Healing* complaints since his appointment to that role in 2005.<sup>323</sup> Deacon Wallace accepted Mr Mullins' recommendation that Mr Peter Scanlan, a retired police officer, be appointed the Contact Person.<sup>324</sup>

On 18 October 2012, Mr Scanlan visited Mrs Ingham's home to prepare a contact report. Mrs Ingham's husband and her best friend, Ms Alison Reichert, were also present.<sup>325</sup> Mrs Ingham said that Mr Scanlan was 'very professional, gentle and took a lot of care in asking questions'.<sup>326</sup>

On 25 October 2012, Mrs Ingham received a draft copy of the contact report.<sup>327</sup> Mrs Ingham said that Mr Scanlan informed her that there may be 'significant time' between when he submitted the contact report and when Bishop Jarrett determined whether an investigation was required.<sup>328</sup>

Mrs Ingham sent the signed contact report to Mr Scanlan on 5 November 2012<sup>329</sup> who forwarded it to Mr Mullins on 8 November 2012.<sup>330</sup> Mr Mullins sent it to Deacon Wallace on 13 November 2012.<sup>331</sup>

The contact report identified three things that Mrs Ingham wanted to achieve through the *Towards Healing* process:

Primarily Jennifer would like an audience with Father Mulcahy. She would like to confront him and ask him why he did not take any action to stop this priest as soon as he became aware of what was happening.

Secondly she would also like a compensation package. Over the years she has spent thousands of dollars on medical and psychiatric treatment. She is still being treated at the present time.

Thirdly she is seeking a Letter of Apology from the Catholic Church.<sup>332</sup>

On 15 November 2012, Mrs Ingham emailed Mr Mullins detailing her experience with Mr Scanlan. She commented that he 'was very professional, patient and empathetic' throughout the contact report interview.<sup>333</sup>

During the period before Bishop Jarrett determined whether an investigation would be required, Mr Mullins was prompt to respond to Mrs Ingham's queries. He emailed Deacon Wallace to follow up on progress, pointing out the reasonable anxieties and apprehensions that Mrs Ingham was experiencing.<sup>334</sup>

On 13 December 2012, Deacon Wallace emailed Ms Fenby and informed her of Mrs Ingham's *Towards Healing* complaint.<sup>335</sup> Ms Fenby was at the time a lawyer employed by CCI. He enquired what stage of the complaint CCI would like to get involved. Ms Fenby responded that day saying that 'now' would be a good time. Ms Fenby was then actively involved in many aspects of Mrs Ingham's case, including by suggesting who to appoint as the Facilitator<sup>336</sup> and being involved in the practical arrangements for the facilitation<sup>337</sup> and also the meeting between Bishop Jarrett and Mrs Ingham.<sup>338</sup> Ms Fenby attended the facilitation meeting. Ms Fenby's role is considered below.

On 18 December 2012, after the Diocese made a decision that they accepted Mrs Ingham's claim, Mr Mullins advised Mrs Ingham that the complaint could proceed straight to facilitation and no investigation or assessment was necessary.

Mr Mullins advised Mrs Ingham that a psychologist's report was needed before the facilitation could proceed. He suggested that, if Mrs Ingham was presently receiving treatment, her treating practitioner was the best person to provide the report. Mr Mullins said that the Diocese would meet the cost of the report and that, once the report was received, a date could be set for the facilitation.<sup>339</sup>

On 24 December 2012, Mr Mullins provided an overview of the process and advised Mrs Ingham that she should bring a support person to the facilitation meeting.<sup>340</sup>

It was decided that Professor Dooley would provide the psychologist's report. Mr Mullins made arrangements to obtain the psychologist's report. He made the request to Professor Dooley in early February 2013.<sup>341</sup>

On 13 February 2013, Mrs Ingham emailed Mr Mullins to request a meeting with him before the facilitation because she had 'a few questions'.<sup>342</sup> Mr Mullins replied that day and said: 'We can arrange this. I will contact you when I have Professor Dooley's report.'<sup>343</sup>

On 5 April 2013, Professor Dooley explained to the Professional Standards Office that he expected to provide the report within a month.<sup>344</sup> Professor Dooley's report was received in early May 2013.<sup>345</sup>

Mrs Ingham's complaint was resolved in 11 months including a period of almost five months when Mrs Ingham's psychologist was preparing a report.

### Mr Mullins leaves position of Director; Ms Rogers takes over

Mr Mullins left the position of Director on 7 April 2013 before Mrs Ingham's facilitation was organised. Ms Rogers took over as the Queensland Director of Professional Standards.<sup>346</sup>

On 5 April 2013, Ms Rogers and Mr Mullins had a handover meeting to discuss the *Towards Healing* cases that were current at the time.<sup>347</sup>

Mr Mullins had prepared a file note about Mrs Ingham's complaint. He recorded the involvement of CCI and that the Diocese of Lismore had determined that the matter would proceed to a facilitation without an assessment pending a psychologist's report from Professor Dooley.<sup>348</sup> He wrote:

The Diocese has reported the matter to CCI and they (Emma Fenby) are actively involved in the matter. They are awaiting receipt of the psychologist report from Professor Roger Dooley. When that comes to hand, my understanding is that they are agreed to proceed to Facilitation/Mediation so that the matter can be resolved. You will note that there is a completed Contact Report which was completed in November 2012.

The important thing is that the Diocese has determined that the matter can proceed direct to Facilitation and that no Assessment is necessary. Accordingly, as soon as Professor Dooley's report is obtained, that should go to both the Diocese and the CCI and arrangements can be made with CCI and the Diocese and the complainant for the appointment of a Facilitator so that the Facilitation can proceed.<sup>349</sup>

Mr Mullins agreed that the file note did not give information on Mrs Ingham's needs or her goals for the facilitation.<sup>350</sup> He said that those issues were addressed in the contact report on the file.<sup>351</sup> Ms Rogers said that at the meeting Mr Mullins also told her that 'there was a need to move quickly to facilitation as Mrs Ingham was seeking a speedy resolution of her complaint'.<sup>352</sup>

Mrs Ingham complained that from the first week of May onward<sup>353</sup> she did not receive any type of communication from the Queensland Director of Professional Standards and she was not told why Mr Mullins was no longer in the role of Director.<sup>354</sup> Ms Rogers' evidence confirmed that, at the time of changeover, neither she nor Mr Mullins discussed with Mrs Ingham why he had left the position of Director.<sup>355</sup>

Mr Mullins considered that it was not his role to inform claimants that he would be ceasing in that role. But he accepted 'that claimants ought to have been made aware', either by him or Ms Rogers, of the change of personnel and that he should have discussed it with Mrs Ingham.<sup>356</sup> He stated that he regretted not having spoken with her about it.<sup>357</sup>

Ms Rogers agreed that a 'more just and compassionate approach to Mrs Ingham would have been for there to be a discussion either by Mr Mullins, preferably or by her explaining that he was leaving'.<sup>358</sup> Ms Rogers further said:

...with the benefit of hindsight, I can see that by just passing Mrs Ingham's management of a file, if you like, from Mr Mullins to me, she did not have an opportunity to get to know me, to build up trust, to understand how I worked, to understand how I communicated, to understand the language I used. All of that is quite important.<sup>359</sup>

Ms Rogers explained that, when she leaves her position in January 2014, she will inform *Towards Healing* participants by either writing to them or speaking to them on the phone.<sup>360</sup>

► **Finding 12:** Mrs Ingham should have been told when Mr Patrick Mullins left the role of Queensland Director of Professional Standards in 2013 and Ms Bernadette Rogers took over.

### Mrs Ingham's request for a meeting prior to the facilitation

Mr Mullins' email dated 13 February 2013, in which he mentioned that they could meet before the facilitation once he had the psychologist's report, gave Mrs Ingham an expectation that she would have a face-to-face meeting with Mr Mullins before the facilitation.

Mrs Ingham emailed Mr Mullins on 11 April and 8 May 2013. In both emails she mentioned that she was keen to meet with him. Mr Mullins forwarded her emails to Ms Rogers after receiving them.<sup>361</sup>

Mr Mullins said that he intended to meet with Mrs Ingham when she first raised the issue with him on 13 February 2013, as he 'understood that it was to be a meeting prior to the facilitation'.<sup>362</sup> However, he received Mrs Ingham's request to have a meeting 'to prepare for the Facilitation' after he ceased acting as Director. He said that he would have been reluctant to attend that kind of meeting because he believed it was not the role of a Director to help a claimant prepare for a facilitated meeting.<sup>363</sup>

Mr Mullins said that he would have no problem meeting a victim to talk about the process of facilitation, but he would want to avoid getting into 'more details about the factual circumstances and how they might be presented, or best presented, at the facilitation'.<sup>364</sup> Mr Mullins said, 'I figured that I was the process person here and that I was not to get into the issues'.<sup>365</sup> It was Mr Mullins' practice to explain the *Towards Healing* process through email and telephone in order to 'keep that process moving', to 'avoid making claimants re-tell the circumstances of their abuse' and to distinguish his role from that of a support person.<sup>366</sup>

On 9 May 2013, Ms Rogers sought Mr Mullins' advice about whether she should meet with Mrs Ingham in person before the facilitation.<sup>367</sup> Ms Rogers said that before she accepted her position as Director Mr Mullins had told her that the Director would not typically meet with a victim and she wanted to confirm that approach in this situation.<sup>368</sup> Mr Mullins replied to her that it was not his practice to meet with complainants during the process.<sup>369</sup> He wrote:

I would not have met with her in person except perhaps to just introduce myself and welcome her at the time of the Facilitation (eg if it was held here). I wouldn't have had a formal meeting with her. That's not the Director's role. You can talk to her per phone as I had been doing and give her information about the process.<sup>370</sup>

On 10 May 2013, Mrs Ingham asked for a meeting before the facilitation because she had a number of questions and she wanted to 'ensure that [she had] a thorough understanding the intent/outcome of the facilitation'.<sup>371</sup>

Mrs Ingham emailed Ms Rogers again on 13 May 2012 referring to her expectation that she would meet Mr Mullins before the facilitation.<sup>372</sup>

On 14 May 2013, Ms Rogers telephoned Mrs Ingham and said that it was not her practice or Mr Mullins' to have a preliminary meeting before the facilitation.<sup>373</sup> She advised that it was the Facilitator's role to discuss the process. She said that she could arrange for the Facilitator to call Mrs Ingham. She also said that it was normal practice for the Facilitator to meet with the complainant an hour before the facilitation. Mrs Ingham was 'really upset' that Ms Rogers would not meet with her face to face to discuss the facilitation.<sup>374</sup>

Ms Rogers said that she understood how Mr Mullins' email to Mrs Ingham dated 13 February 2013 would have left her with an expectation of a face-to-face meeting with Mr Mullins. She said that, had she read that email, she 'may have agreed to meet with Mrs Ingham given her expectation that it would occur'.<sup>375</sup> Mr Mullins said that he should have pointed out to Ms Rogers that Mrs Ingham had requested a meeting before the facilitation.<sup>376</sup>

Ms Rogers said that she understood that Mrs Ingham was anxious and nervous but said that Mrs Ingham did not tell her that she was upset that they were not meeting and did not explain her concerns to her during the 14 May 2013 conversation.<sup>377</sup> Although Ms Rogers said that, although 'intuitively' she thought that she should meet with Mrs Ingham as requested, she felt that she should ask for Mr Mullins' advice 'given his experience, and since he had already been dealing with Mrs Ingham'.<sup>378</sup> She accepted his advice that these meetings were not part of the role of a Director. We accept Ms Rogers' evidence in this respect.

We accept that Ms Rogers had at least two lengthy telephone conversations with Mrs Ingham between 9 and 24 May 2013<sup>379</sup> and exchanged emails with Mrs Ingham on 9, 10, 13, 15, 16 and 17 May 2013.<sup>380</sup>

Ms Rogers accepted the proposition that '[a] just and compassionate response to Mrs Ingham ... would have been to meet with her, as she asked you to do'.<sup>381</sup> The Church parties submitted that, while Ms Rogers understandably agreed with this proposition, it

does not necessarily follow that not doing so displays an absence of justice and compassion. The Church parties submitted that Ms Rogers had cogent reasons for not doing so.<sup>382</sup>

Ms Rogers said that the structure of her office and accommodation has changed considerably and now she invites people to meet with her and has met with complainants at their request subsequent to Mrs Ingham.<sup>383</sup>

Ms Rogers gave evidence about the changes she had instituted at the Queensland Professional Standards Office since Mrs Ingham's complaint. She based the changes on her early experience in the role of Director.

The changes originally took the form of a series of recommendations to the liaison committee of the Queensland Professional Standards Office.<sup>384</sup> She said that the following changes have been put in place:

- The role of the Director is now a full time position with a full time administrative assistant.<sup>385</sup>
- The practice of meeting with complainants has been adopted.<sup>386</sup>
- Ms Rogers arranged a formal handover to her successor over a week in January 2014 in which each complainant would be contacted by her and her successor.<sup>387</sup>
- She established a process for imparting information to her successor, and assisting him in understanding the importance of the spiritual trauma of those coming to *Towards Healing*.<sup>388</sup>
- She oversaw a redrafting of the role description of the Director.<sup>389</sup>
- Meetings occur with contact people to instruct them on proper modes of communication with complainants.<sup>390</sup>
- A new office with a meeting room has been obtained where meetings with complainants or facilitations can take place.<sup>391</sup>

We accept Ms Rogers's evidence that in hindsight she should have had a meeting with Mrs Ingham<sup>392</sup> and that she has since made changes to the office practice.<sup>393</sup> She has now adopted the practice of meeting with complainants.<sup>394</sup>

The Church parties submitted that those changes have enhanced the effectiveness of the process for complainants in complaints that are managed by the Queensland Professional Services Office.<sup>395</sup>

- ▶ **Finding 13:** Ms Rogers relied upon the advice that Mr Mullins gave her about a meeting with Mrs Ingham and therefore Ms Rogers did not meet with her.
- ▶ **Finding 14:** Ms Rogers should have had a meeting with Mrs Ingham. Ms Rogers has since made changes to the office practice, including by adopting the practice of meeting with complainants before facilitations.
- ▶ **Finding 15:** It would have been preferable for Mr Mullins or Ms Rogers to have met face to face with Mrs Ingham to talk her through the process of the facilitation. However, it was not required by *Towards Healing* (2010) or the current guidelines.

## Appointment of Michael Salmon as Facilitator

*Towards Healing* (2010) provides (clause 41.4):

The Church Authority and the victim shall endeavour to agree on a Facilitator, either from the approved panel or otherwise a qualified mediator approved by the Director for Professional Standards, who is suited by reason of training and experience to understand the needs of victims of abuse. In the absence of agreement, the Executive Officer of the National Committee for Professional Standards shall appoint a Facilitator.<sup>396</sup>

On 19 April 2013, Ms Fenby emailed Ms Rogers and suggested that Mr Salmon, the Director of the Professional Standards Office NSW, would be the appropriate choice of a Facilitator for Mrs Ingham. Ms Fenby had worked with him previously and found him to be very experienced and pastoral.<sup>397</sup>

For these reasons, Ms Fenby supported the appointment of Mr Salmon as the Facilitator. She said that she never would have suggested Mr Salmon if she ‘thought that he would in any way disadvantage Jennifer’.<sup>398</sup> Ms Rogers said that in her time as Director, Mrs Ingham’s process was the only time where CCI were involved in the consideration as to who would be the Facilitator.<sup>399</sup> Ms Fenby wrote in her email:

I confirm that we are awaiting on the report from her treating psychologist. In the interim, could I suggest considering Michael Salmon (Director of the NSW Professional Standards Office) as the Facilitator. Michael is very experienced and has done some recent facilitation work in Victoria.<sup>400</sup>

Ms Rogers received Professor Dooley’s report in early May 2013.<sup>401</sup> Mrs Ingham said that it was around this time that the *Towards Healing* process ‘got murky’. She found the two weeks that followed ‘very stressful’.<sup>402</sup>

On 9 May 2013, Ms Rogers wrote to Mrs Ingham telling her that Mr Mullins was no longer the Queensland Director of Professional Standards and that she was now in the role. She said that she would like to speak to Mrs Ingham ‘to talk about the next stages and identify what support [she] will need’ and explained that the next step in the process would be a facilitation meeting with a representative from the Diocese of Lismore.

She also wrote:

Michael Salmon, my counterpart in Sydney and an extremely experienced Facilitator has agreed to make himself available for this process. He is available either 23 or 24 May with a preference for the 24<sup>th</sup>. These dates might not be convenient for the people you would like to bring with you. If these dates are too soon can you tell me some dates that might work for you in June or July.

I hope to speak with you shortly but wanted to give you information about possible dates as soon as possible.<sup>403</sup>

Ms Rogers said that when she wrote this email to Mrs Ingham she did not mean to give Mrs Ingham the impression that she had appointed Mr Salmon but just that 'he had agreed to make himself available'.<sup>404</sup> Ms Rogers said that her email to Mrs Ingham 'was framed in such a way that if she had have had any issues with Michael Salmon once I explained to her who he was, that he would not have been the Facilitator'.<sup>405</sup>

Ms Rogers agreed that she had not explained to Mrs Ingham before the 9 May 2013 email that Mrs Ingham might be able to suggest her own Facilitator<sup>406</sup> and that she was 'making decisions as to what might be best for [Mrs Ingham], without giving her the option of making a decision herself'.<sup>407</sup>

Counsel Assisting submitted as an available finding that Ms Rogers' email on 9 May 2013 was not framed in a way that invited Mrs Ingham's consultation on the appointment of Mr Salmon. It was submitted that Ms Rogers did not ask Mrs Ingham whether she agreed or disagreed with his appointment or give her the option to suggest an alternative Facilitator from the approved panel or an otherwise qualified mediator, as envisaged by clause 41.4 of *Towards Healing* (2010).<sup>408</sup>

The Church parties submitted that clause 41.4 of *Towards Healing* does not require that either of these occur.

The Church parties submitted that clause 41.4 requires the Church Authority and the victim 'agree on a Facilitator'. The clause does not impose any particular approach to or process for seeking or obtaining that agreement. They submitted that nothing in clause 41.4 requires a Director to give the complainant a list of people who could be the Facilitator.

The Church parties submitted that the fact that Ms Rogers accepted, in response to questioning, that she should have consulted with Mrs Ingham demonstrates her view in hindsight but does not affect whether her action at the time was inconsistent with the provisions of *Towards Healing*.

While acknowledging that further consultation with victims about the appointment of the Facilitator is undoubtedly preferable, the Church parties submitted that Ms Rogers' engagement with Mrs Ingham about the appointment was not inconsistent with clause 41.4 of *Towards Healing*. Had Mrs Ingham disagreed with the suggestion, it would not have proceeded. The Church parties submitted that although Ms Rogers' email of 9 May 2013 did not explicitly state that Mrs Ingham could choose another Facilitator if she wished, it did not in any way exclude that possibility. Ms Rogers' email proposed the appointment of Mr Salmon, it did not impose it.

The Church parties submitted that there is no evidence to suggest that Mrs Ingham queried the proposed appointment, expressed unhappiness, or asked about appointing someone else, even though she was in communication with Ms Rogers at that time about possible dates for the facilitation.

The Church parties submitted that the evidence demonstrates that:

- Mrs Ingham did not raise a concern about Mr Salmon being the Facilitator

- Mrs Ingham had nothing but praise for Mr Salmon. They set out examples of instances where Mrs Ingham expressed praise and gratitude to Mr Salmon.

The Church parties submitted that, while the Professional Standards Office or the Church Authority will know of a number of people who would be suitable to act as a Facilitator, many victims would have no independent knowledge of or recommendations for a suitable Facilitator.

The Church parties also submitted that the proposition was not put to Mrs Rogers that the email of 9 May 2013 was not framed in a way that would have invited Mrs Ingham to disagree.<sup>409</sup>

We are satisfied that Ms Rogers' email on 9 May 2013 was not framed in such a way that provided an opportunity for Mrs Ingham and the Church Authority to endeavour to agree on a Facilitator. Ms Rogers did not ask Mrs Ingham whether she agreed or disagreed with his appointment or of her option to suggest an alternative Facilitator from the approved panel or an otherwise qualified mediator. Clause 41.4 of *Towards Healing* (2010) clearly contemplates that this will occur.

We are satisfied that, despite a lack of consultation on the matter, Mrs Ingham did not express dissatisfaction with Mr Salmon's appointment. Mrs Ingham said that she found him to be 'both compassionate and professional throughout the facilitation'.<sup>410</sup>

- ▶ **Finding 16:** Ms Rogers' email on 9 May 2013 was not framed in such a way that provided an opportunity for Mrs Ingham and the Church Authority to endeavour to agree on a Facilitator. Ms Rogers did not ask Mrs Ingham whether she agreed or disagreed with his appointment or of her option to suggest an alternative Facilitator from the approved panel or an otherwise qualified mediator, as contemplated by clause 41.4 of *Towards Healing* (2010).
- ▶ **Finding 17:** More could have been done by the Queensland Professional Standards Office to make clearer to Mrs Ingham the fact that she could suggest an alternative Facilitator.

At the time of Mrs Ingham's *Towards Healing* process, Mr Salmon was Director of Professional Standards in New South Wales.

As set out below, we are satisfied that a Director of Professional Standards acting as a Facilitator in a *Towards Healing* facilitation raises a real potential for an actual or perceived conflict of interest given that the Director is employed by the Catholic Church. The relevant finding is also set out below.

Mrs Rogers' email dated 9 May 2014 was the first contact Ms Rogers had had with Mrs Ingham. Ms Rogers said that she 'considered it was preferable in the first instance to send an email rather than telephone Mrs Ingham without notice of my call, and to invite Mrs Ingham in the email to speak to me at a time convenient to her'.<sup>411</sup> Mrs Ingham replied that day indicating a suitable date for the facilitation. She also wrote, 'I am keen to move

forward as this has been a difficult process, however I have appreciated all the support during the process. Bernadette I can be contacted anytime if required'.<sup>412</sup>

Later that day, Ms Rogers and Mrs Ingham had a telephone conversation in which they discussed some of the details of the facilitation.<sup>413</sup>

Mrs Ingham said that Ms Rogers described the facilitation as an 'insurance matter' and that a representative of CCI would be present at the facilitation.<sup>414</sup> Mrs Ingham was 'dumbfounded'.<sup>415</sup> She said that her 'attitude changed when [she] was told so offensively by Bernadette Rogers that the facilitation was an "insurance matter"'.<sup>416</sup> Mrs Ingham said that at the time just before the facilitation she felt very confused and nervous, and really defensive.<sup>417</sup> She said she genuinely felt that the goal posts had changed and that 'the pastoral care element was lost and it was to be about money'.<sup>418</sup>

Mrs Ingham also said that Ms Rogers also told her that 'they are bringing out the big guns' for her facilitation process.<sup>419</sup> She said Ms Rogers referred to the Facilitator, Mr Salmon, and said, 'Michael is brought in on the difficult and complex cases'. Mrs Ingham said she 'could not believe that they were treating [her] abuse as though it was a commercial negotiation'.<sup>420</sup>

Mrs Ingham said that during the conversation Ms Rogers told her 'often the person representing the Church Authority is not as skilled as [Ms Fenby] is in such matters of negotiating compensation'.<sup>421</sup>

Mrs Ingham said that Ms Rogers asked her whether she would be bringing someone to the facilitation. Mrs Ingham told her she would be bringing her husband and sister Margaret. Ms Rogers asked her: 'your husband, but won't he be upset hearing what you've got to say?' Mrs Ingham said the question really shocked her, as her husband had been through so much with her.<sup>422</sup>

Mrs Ingham said that during the conversation Ms Rogers also told her that she had not read Professor Dooley's report.<sup>423</sup> 'Mrs Ingham, couldn't believe that the new director had not even read Professor Roger Dooley's report'.<sup>424</sup>

Mrs Ingham said that Ms Rogers also said to her 'Look, under the table, you need to have a good solicitor there. You need to have legal representation'.<sup>425</sup> When Mrs Ingham asked her why, she was told 'because there will be compensation'. Mrs Ingham said this was the first time that Mrs Ingham said she was told that she needed a lawyer.<sup>426</sup> Mrs Ingham said that being told she needed a lawyer only two weeks before the facilitation 'created a lot of stress and anxiety because I didn't understand I needed it, and it was very difficult to get assistance in that time frame'.<sup>427</sup>

Mrs Ingham said her discussion with Ms Rogers was 'lengthy' and she felt that there was a 'great sense of haste to move forward with the facilitation'. Mrs Ingham said that Ms Rogers told her that 'all parties felt it was important to move to a facilitation as soon as possible. She said the Church wanted it resolved quickly for my benefit so that I could move forward in the healing process'.<sup>428</sup>

Ms Rogers did not recall the terms of that conversation but said that she ‘may have said the words’ attributed to her.<sup>429</sup>

Ms Rogers said that in a preliminary conversation like this one her usual practice was to give information about who will be present and what their roles will be. She said that she would have explained Mr Salmon’s and Ms Fenby’s roles. She would not have used the words, ‘this is an insurance matter’ in describing the context and content of her claim; she was more likely to have used them in the context of describing Ms Fenby’s involvement and the reason for her presence.<sup>430</sup>

Ms Rogers said that the ‘whole process of explaining to a complainant the presence of a person from the insurance company and their role is critical’.<sup>431</sup> She thought it important that Mrs Ingham ‘be told about who would be in the room at the earliest opportunity’ but accepted that she could have handled the issue more sensitively with Mrs Ingham.<sup>432</sup> Ms Rogers agreed that she did not effectively and efficiently explain the various roles of those who would be participating in Mrs Ingham’s facilitation.<sup>433</sup>

Ms Rogers said that it was not her intention to treat Mrs Ingham’s complaint of abuse ‘as though it was a commercial negotiation’. She said she ‘was trying to make sure she had the information she needed, and a proper understanding of the way in which the facilitation would proceed, including the fact that financial reparation would be an issue discussed’.<sup>434</sup>

Ms Rogers said:

When people say to me that they wish to bring their spouse to a facilitation or to any difficult meeting about a sensitive personal issue, I would usually say words to the effect, ‘Is he (or she) OK with that?’ I do that because in my experience, meetings to facilitate sensitive complaints can be very difficult and emotional for those involved, and a spouse can sometimes become distressed, or be confronted with new information.<sup>435</sup>

Ms Rogers said that she had ‘scanned through’ Professor Dooley’s report to understand if Mrs Ingham was in a position to proceed from a health perspective and to see if Professor Dooley made any recommendations about support during the process.<sup>436</sup> Ms Rogers agreed that just ‘scanning’ the report was probably not helpful to Mrs Ingham.<sup>437</sup>

Ms Rogers said that Mrs Ingham did not convey to her during the discussion that the process was moving too quickly, or that she was concerned she might not have adequate time to find a lawyer or prepare for the facilitation.<sup>438</sup> Ms Rogers said that she encourages complainants with serious allegations to consider seeking the assistance of a solicitor, and that her experience is that this can be helpful to the complainant at the time when reparations are discussed. However, she said that she does not generally use the expression, ‘under the table’.<sup>439</sup>

Ms Rogers said she understood that Mrs Ingham wished to proceed quickly with the process.<sup>440</sup> This was consistent with Mrs Ingham’s email to Ms Rogers dated 9 May 2013 in which Mrs Ingham said she was ‘keen to move forward’.

This exchange highlights the importance to survivors of child sexual assault of being dealt with sensitively by the institution.

On 10 May 2013, Mrs Ingham emailed Ms Rogers and confirmed that 24 May 2013 would be a suitable facilitation date. In emails to Ms Rogers on 10 and 13 May 2013, Mrs Ingham made it clear that she wanted Bishop Jarrett in attendance at the facilitation: 'it is important to me that [Bishop Jarrett] is in attendance as he is the head of the Diocese'.<sup>441</sup>

Ms Rogers exchanged a number of emails with Ms Fenby about the possibility of the Bishop attending the facilitation or whether a separate meeting could be arranged with the Bishop.<sup>442</sup> Ms Rogers said she spent 'quite some time' trying to ensure that Bishop Jarrett could attend the facilitation.<sup>443</sup> When it was apparent that he could not, it was arranged that Bishop Jarrett would meet Mrs Ingham separately on 24 June 2013 after the facilitation meeting.<sup>444</sup>

In their telephone conversation on 14 May 2013, Ms Rogers told Mrs Ingham that Bishop Jarrett would not be able to attend the facilitation.<sup>445</sup> She said that he would not be available to attend until the end of June 2013. Instead, the Chancellor, Deacon Christopher Wallace, would be present.<sup>446</sup>

Mrs Ingham said that this angered and confused her. She said she felt she deserved the respect of Bishop Jarrett's attendance at the facilitation, as she 'needed answers from him'.<sup>447</sup> Mrs Ingham said that her primary objective was to meet the Bishop. This was because he was head of the Diocese of Lismore, she wanted respect and she needed to tell the leader so that she felt that she was 'valued and respected and heard'.<sup>448</sup> Mrs Ingham saw Deacon Wallace as only a Deacon and a lay person.<sup>449</sup>

Bishop Jarrett gave evidence that he was not able to attend the facilitation because of specific prearranged commitments, including the celebration of a mass, a meeting and an evening confirmation.<sup>450</sup> Even though Deacon Wallace had suggested that arrangements be made to allow Bishop Jarrett to attend both the facilitation and the other commitments,<sup>451</sup> Bishop Jarrett did not feel that this was feasible.<sup>452</sup> He said:

I wanted to give the facilitation my full attention and all my energies and the time it required and I would not have been able to do that under this suggestion, and also have the necessary energy and alertness for the confirmations in the evening.<sup>453</sup>

Bishop Jarrett said that he was 'determined to meet with Mrs Ingham' and understood that she 'was certainly wanting [him] to be present' so he 'saw to it' that arrangements were made for a meeting at a later date.<sup>454</sup>

Bishop Jarrett said that, on reflection, it would have been preferable if he had been available on the first date. However, he thought that the 24 June 2013 meeting he had with Mrs Ingham 'was sincere and constructive, and [they] were able to focus more on Mrs Ingham's experience with the benefit of the financial reparation discussions having concluded and Mrs Ingham having had an opportunity to reflect on the initial facilitation'.<sup>455</sup>

The Church parties submitted that for many victims the most important part of facilitation for them is the experience of being listened to and acknowledged by the Church,

particularly by someone senior in the Church. By meeting with the victim the Church Authority intends to demonstrate respect for the victim, as well as the importance of his or her individual complaint.<sup>456</sup> We accept this submission.

► **Finding 18:** For many victims the most important part of facilitation for them is the experience of being listened to and acknowledged by the Church, particularly by someone senior in the Church. By meeting with the victim the Church Authority intends to demonstrate respect for the victim, as well as the importance of his or her individual complaint.

‘At some point’ before the facilitation, Bishop Jarrett and Deacon Wallace had a conversation about Mrs Ingham’s complaint that she had told Father Mulcahy about her abuse.<sup>457</sup> Bishop Jarrett said that this was an ‘aspect of Mrs Ingham’s complaint [that] needed some inquiry from me, because I wanted to understand why nothing had happened in response to Mrs Ingham’s complaint at the time it was first made’.<sup>458</sup> Bishop Jarrett agreed to Deacon Wallace’s suggestion that he speak to Father Mulcahy.<sup>459</sup>

Bishop Jarrett telephoned Father Mulcahy and told him he had received a complaint from Mrs Ingham that she had been abused by Father Brown. He told him that she named Father Mulcahy as an attendee at a meeting with clergy in 1990 in which she reported the abuse. Bishop Jarrett said that although Father Mulcahy remembered Mrs Ingham’s parents, he could not remember Mrs Ingham, nor the meeting in 1990.<sup>460</sup>

Bishop Jarrett reported to Deacon Wallace the substance of his conversation with Father Mulcahy.<sup>461</sup>

Although Bishop Jarrett was aware that Mrs Ingham wanted to confront Father Mulcahy about the 1990 meeting,<sup>462</sup> he did not ask Mrs Ingham if she still wished to speak to Father Mulcahy.<sup>463</sup> He said that he did not ask Father Mulcahy to attend the meeting with Mrs Ingham because:

At this stage, when we were already moving to facilitation, I was wondering whether arranging such a meeting, when Father Mulcahy denied that it took place, would serve a good purpose in terms of the outcome for Mrs Ingham at that point in time.<sup>464</sup>

He agreed that he effectively made the decision about whether or not Mrs Ingham could speak to Father Mulcahy and that he did not give her the opportunity to make a decision about that.<sup>465</sup> He said that ‘it may well have been’ better to allow Mrs Ingham to decide whether it was in her interests to meet Father Mulcahy.<sup>466</sup>

Deacon Wallace said that, once he was informed that Father Mulcahy could not recall the meeting in 1990, he became concerned that Father Mulcahy was not going to change his mind on this recollection. He was concerned that ‘if [Father Mulcahy] was put into a position of meeting Mrs Ingham, it would not go well for Mrs Ingham’.<sup>467</sup> He said:

although I held out the possibility of them still meeting, I certainly went on the back-pedal as far as doing anything about bringing that meeting about, because my prime

concern was the welfare of Jennifer Ingham, and to confront her with Father Mulcahy denying that it had even taken place or that he didn't remember it, I felt, would have been detrimental to her health.<sup>468</sup>

## Facilitation

During the conversation on 14 May 2013, Ms Rogers informed Mrs Ingham that CCI was willing to pay for Professor Dooley and her lawyer to attend the facilitation, but Mrs Ingham was satisfied with just her lawyer and support persons attending.<sup>469</sup>

Ms Rogers confirmed with Mrs Ingham's solicitor that Deacon Wallace for the Diocese and a representative from CCI would be at the facilitation.<sup>470</sup>

The facilitation occurred on 24 May 2013 at the Mullins Lawyers offices in Brisbane. Mrs Ingham attended with her husband, Lindsay Ingham, her sister Margaret, her best friend, Ms Reichert, and her lawyer, Mr Kelso. Deacon Wallace represented the Diocese of Lismore. Mr Salmon acted as the Facilitator and Ms Fenby attended the facilitation.<sup>471</sup>

Mrs Ingham said that 'Chris Wallace attended in his civilian clothes and I did not understand why he did not attend wearing his clerical collar to what was a very, very important meeting'.<sup>472</sup> Deacon Wallace called Mr Salmon a few days before the facilitation to discuss what he should wear to the facilitation.<sup>473</sup> He said that, if the same issue were to arise in the future, he would engage with the complainant on their expectation of how the Church Authority would appear.<sup>474</sup>

Before the facilitation started, Mrs Ingham and her support group had a short time with Mr Salmon to discuss the process.<sup>475</sup> Mrs Ingham had not met Mr Salmon beforehand.<sup>476</sup>

The facilitation meeting was in two phases. In the first phase Mrs Ingham would be given an opportunity to tell her story and ask questions of the Church. In the second phase there would be negotiations on compensation.<sup>477</sup> The facilitation went for seven hours. Mrs Ingham described it as 'a very long and emotional day and draining for all parties'.<sup>478</sup>

At the outset of the first phase of the facilitation, Mr Salmon expressed the 'absolute importance of the pastoral care element' of the meeting. Mrs Ingham found Mr Salmon to be 'both compassionate and professional throughout the facilitation'.<sup>479</sup> Similarly, Ms Fenby said that Mr Salmon ran the facilitation well and that he was 'very caring and kind and pastoral and patient' and related well to Mrs Ingham.<sup>480</sup>

Deacon Wallace opened his comments with what Mrs Ingham said was 'a sincere apology on behalf of the Church'.<sup>481</sup> Similarly, Ms Fenby said that Deacon Wallace's apology to Mrs Ingham was genuine and appropriate in the context of the facilitation.<sup>482</sup> Deacon Wallace said that the apology he provided at the facilitation 'was still inadequate for what I wanted to convey, but she accepted it was very gracious in doing so'.<sup>483</sup>

Mrs Ingham said that Deacon Wallace told her that he had met Father Brown. Deacon Wallace said that he felt that Father Brown was 'evil' and made reference to a comment that Bishop Jarrett made, which was 'I thought Father Brown only interfered with

boys'. Mrs Ingham felt this was 'a genuinely insulting reference to make in my presence as a victim of Father Brown'.<sup>484</sup>

Deacon Wallace said that he did not recall using the word 'evil', but it is likely that he did use it because it was consistent with his assessment of Father Brown. Deacon Wallace said that he had no intention of insulting Mrs Ingham but that he was 'trying to help her understand there had been no clear evidence in 1990 that he had abused girls as well as boys and this was still a common understanding'.<sup>485</sup>

During the facilitation, Deacon Wallace informed Mrs Ingham that Father Mulcahy denied the meeting in 1990 and said that he didn't remember it at all. Mrs Ingham said that 'this was really upsetting for [her]'.<sup>486</sup> Deacon Wallace gave evidence that the first time he conveyed Father Mulcahy's denial of the 1990 meeting to Mrs Ingham was at the facilitation.<sup>487</sup> He agreed that he should have addressed Father Mulcahy's denial of 1990 meeting with Mrs Ingham before the facilitation.<sup>488</sup>

In the second phase of the facilitation, Mr Kelso negotiated financial compensation with Ms Fenby and Deacon Wallace. Mrs Ingham said that Mr Kelso's role in representing her was crucial in dealing with the aspect of compensation.<sup>489</sup>

The outcome was that Mrs Ingham received \$276,736.64 inclusive of costs<sup>490</sup>, \$250,000 from CCI, \$15,000 from the Diocese of Lismore and costs and disbursements of \$11,736.64<sup>491</sup> towards her legal fees of \$34,320.<sup>492</sup> The money was paid promptly. Mrs Ingham signed a written document confirming acceptance of the offer that was prepared by Mr Kelso, dated 24 May 2013.<sup>493</sup> Mrs Ingham did not sign a Deed of Release.

On 27 May 2013, Mr Salmon emailed his facilitation report to Deacon Wallace, Ms Fenby and Ms Rogers.<sup>494</sup> In the report, Mr Salmon noted that a follow-up pastoral meeting would be scheduled between Mrs Ingham and Bishop Jarrett on 24 June 2013.<sup>495</sup> He recorded the outcomes of the meeting as follows:

Jennifer Ingham was offered the opportunity to directly address Deacon Wallace. In particular she was able to speak to profound issues of concern for her namely:

- When the church had knowledge of Fr Brown's inappropriate conduct both generally, and in relation to her own circumstances, and
- Her sense of lack of pastoral care from the church with particular reference to a 1990 meeting at the Lismore presbytery which was attended amongst others, by Fr Frank Mulcahy.
- Deacon Wallace was offered the opportunity to respond to Jennifer's specific questions and concerns, and more generally to her complaint. In doing so Deacon Wallace offered a verbal apology which was accepted by the complainant.
- It was agreed that the church authority will work up a written apology which will be provided to Jennifer Ingham at the 24 June pastoral meeting with Bishop Jarrett.

- Deacon Wallace gave an undertaking to personally follow up with Fr Frank Mulcahy as a matter of priority, certain issues of concern, and to report back on this exercise at the 24 June pastoral meeting.
- Deacon Wallace undertook for the immediate future to be the contact point for Jennifer Ingham in terms of providing her with spiritual direction until, and if a Brisbane based person is identified for the task.

On 28 May 2013, Mrs Ingham emailed Mr Salmon and expressed her appreciation for the respect he showed her at the facilitation.<sup>496</sup> She thought he managed the facilitation well.<sup>497</sup> She also wrote:

I got to say what was important. I am disappointed in Father Mulcahy. But I will let that go. To receive the letter from the Bishop is very important. I have over the last days started to feel free of the blackness that has been part of me for so long.<sup>498</sup>

Mr Salmon replied that day and thanked Mrs Ingham for her 'kind thoughts' and referred to her 'outstanding courage and generosity of spirit in the face of great personal adversity'. He also said that he thought the meeting with the Bishop would be a very positive experience for her and that he would do his very best to ensure that was the case.<sup>499</sup>

### Role of Emma Fenby, CCI Representative

At the time of Mrs Ingham's *Towards Healing* process, Ms Fenby was responsible for managing CCI's response to Mrs Ingham's *Towards Healing* complaint. She was the claims officer for more than 200 claim files<sup>500</sup> and reported to CCI National Claims Manager.<sup>501</sup>

Ms Fenby said about her objectives and principal areas of focus in the claim process:

Firstly, assisting the Church Authority and the Professional Standards Office in minimising the impact as much as possible of the claim process on the victim, through offering to fund counselling with a psychologist of the victims choosing etc and secondly undertaking investigations in respect of indemnity.

In undertaking my role, I had the objective of treating all victims in a dignified and respectful way and moving claims forward expeditiously in an attempt to minimise the stress and anxiety caused by the claim process.

CCI's objective was to accommodate the needs and requests of the victim. I was guided by the Professional Standards Office, the Church Authority and/or the appointed Facilitator to determine how to proceed with the claim.<sup>502</sup>

Ms Fenby said:

CCI is, in practice, a captive insurer. It is owned by the church; its insureds are the church. It considers itself part of the church and it assists the church. It is a collaborative process. [The Diocese and CCI] helped each other.<sup>503</sup>

Before the facilitation, Ms Fenby sought legal advice on what Mrs Ingham's claim was worth, as she thought it was 'significant' in light of Professor Dooley's report.<sup>504</sup> Ms Fenby

said that the 'nature and extent of the abuse; the duration; most particularly, the current functioning of the victim' were relevant.<sup>505</sup>

She said that the assessment of quantum in *Towards Healing* claims was dealt with similarly to the conventional damages concept under the common law.<sup>506</sup> Her instructions as a CCI claims officer were to 'settle for a fair, just and reasonable outcome' and there were cases where CCI offered more to a victim than the victim had asked for in order to provide such an outcome.<sup>507</sup>

On 15 May 2013, Ms Fenby received advice from Mr Alex Kohn of Makinson d'Apice lawyers.<sup>508</sup> He said that \$189,992 was the likely common law assessment of the claim:

However, in light of this matter being under *Towards Healing*, it may be possible to achieve a settlement for an amount lower than this assessment. We would recommend a starting offer of approximately \$30,000 inclusive of costs and to go up to about \$75,000 inclusive of costs in order to attempt settlement of the matter under *Towards Healing*.<sup>509</sup>

Ms Fenby agreed there was an 'apparent disconnect' in the relevant figures.<sup>510</sup> She said that she did not agree.<sup>511</sup> She 'didn't think it mattered what forum a victim had chosen. I didn't think they should be punished for the forum they had chosen to bring their claim forward'.<sup>512</sup> She said that when instructing solicitors on providing quantum advice, 'it made no difference' to her whether it was a *Towards Healing* matter or if the claim had come through some other forum.<sup>513</sup>

She told Makinson d'Apice that she thought the recommended first offer in the advice was too low. She said, 'instead in *Towards Healing* I liked to limit it to two offers, the first very close to the final position as I found it a more dignified and respectful way to proceed without detracting from the often lengthy pastoral session'.<sup>514</sup> She further explained her approach:

I didn't think it very dignified or respectful to horse trade in a facilitation. Often I sat through a very powerful and very moving pastoral session where I felt, or I hoped very sincerely, that a victim had received some real healing in being validated, accepted and apologized to, and I thought it was disrespectful, after that process, to then start horse trading and have multiple offers going backwards and forwards, and I tried to avoid that.<sup>515</sup>

On 24 May 2013, Ms Fenby attended Mrs Ingham's facilitation. Ms Fenby said that she had decided not to bring a lawyer with her because she did not see it as necessary and 'thought the process already very intimidating for a victim and I thought the less people the better'.<sup>516</sup> When it came to negotiating a monetary offer, Ms Fenby did not negotiate with Mrs Ingham directly but with her lawyer, Mr Kelso. Mr Salmon was present for the majority of these discussions.<sup>517</sup> Ms Fenby said she had moved from offering the figure of \$190,000, as advised by the external solicitors, to \$250,000 because of her observation from sitting in 'the open session with Jennifer and gaining a real understanding of the impact'.<sup>518</sup>

We are satisfied that Ms Fenby responded to Mrs Ingham's needs in relation to compensation with justice and compassion.

► **Finding 19:** In Mrs Ingham's *Towards Healing* process Ms Emma Fenby acted consistently with the principles and procedures of *Towards Healing* (2010) and responded to Mrs Ingham's needs with justice and compassion.

## After the facilitation

After the facilitation, Deacon Wallace followed up on his undertaking to personally make inquiries about the 1990 meeting.<sup>519</sup> Bishop Jarrett telephoned Father Mulcahy and requested that he arrange a meeting with Deacon Wallace.<sup>520</sup> Before his meeting with Father Mulcahy, Deacon Wallace made attempts to identify the 'senior Catholic Church clergy' that Mrs Ingham met with in 1990. His attempts were unsuccessful – none of the clergy he contacted said that they had any knowledge of the meeting.<sup>521</sup>

On 13 June 2013, Deacon Wallace visited Father Mulcahy at his home in Brisbane. He showed him the contact report in the hope that it might 'jog his memory or to open the matter up' about the 1990 meeting.<sup>522</sup> Father Mulcahy denied the 1990 meeting and said that he could not recall Mrs Ingham.<sup>523</sup> Deacon Wallace said that he told Father Mulcahy that Mrs Ingham had asked for a meeting with him.<sup>524</sup> He said he 'put a bit of pressure' on Father Mulcahy and, after some discussion, Father Mulcahy agreed to meet with Mrs Ingham if she wished to do so.<sup>525</sup>

Before the meeting on 24 June 2013, Deacon Wallace prepared a draft apology on behalf of Bishop Jarrett. Before sending the draft to the Bishop he sought Mr Salmon's comments.<sup>526</sup> Although Mr Salmon had agreed at the earlier facilitation that the Bishop would give Mrs Ingham a letter of apology at their meeting,<sup>527</sup> the Bishop did not draft or finalise a written apology at this time because he wanted to meet Mrs Ingham before preparing it.<sup>528</sup>

The Bishop said that he considered it was important that the written apology be a 'genuine and personal' apology from him that reflected the abuse and the effects as described by Mrs Ingham, so he did not draft the apology until after the meeting.<sup>529</sup> The apology that was ultimately sent to Bishop Jarrett was drafted personally by Bishop Jarrett<sup>530</sup> and was in different terms to Deacon Wallace's draft.

## Meeting with Bishop Jarrett

On 24 June 2013, Mrs Ingham met with Bishop Jarrett. Mr Salmon acted as Facilitator and Deacon Wallace and Mrs Ingham's brother were also present.

Mrs Ingham said that she was disappointed that Bishop Jarrett did not attend the initial facilitation. However, she said that the second meeting was of real benefit, as the financial matters had settled and her meeting with the Bishop was about:

Talking to the Bishop, telling my story and getting an apology. So separating the two for me was effective and I believe a recommendation is a strategy on how – separating pastoral from financial in such an intense time.<sup>531</sup>

Bishop Jarrett expressed a similar view about the meeting. He said:

I believe that for Mrs Ingham, and certainly for myself, it was a much happier outcome and meeting than – the lawyers and the insurance assessors had done their work, and our facilitation, our meeting, was not to do with that. It was to do with what *Towards Healing* was primarily set up to do, which was to assist a person who had been abused by a church person to move beyond and get some sense of their life settling in a new way and the past having been dealt with properly.<sup>532</sup>

During the meeting, Deacon Wallace informed Mrs Ingham that he had contacted Father Mulcahy after the facilitation and that he still denied that the 1990 meeting had occurred.<sup>533</sup> Bishop Jarrett informed Mrs Ingham that there were no records of the 1990 meeting and ‘the lack of them support the truth more’.<sup>534</sup> He assured Mrs Ingham that he believed that the 1990 meeting occurred.<sup>535</sup>

Deacon Wallace said that he told Mrs Ingham that Father Mulcahy was willing to meet with her if she wanted to. Deacon Wallace said that Mrs Ingham ‘said there was no point to this if Father Mulcahy denied ever having met her’.<sup>536</sup> Mrs Ingham said that she did not recall Deacon Wallace telling her this or making the response that Deacon Wallace said she did.<sup>537</sup>

At the end of the meeting Bishop Jarrett committed to sending Mrs Ingham a personal letter of apology. Mrs Ingham found this to be ‘respectful’.<sup>538</sup>

On 2 July 2013, Mrs Ingham thanked Mr Salmon for attending the meeting with the Bishop. She told him that she had ‘much trust’ in what he said and sensed his ‘conviction to support people like [her]’.<sup>539</sup> She said that she found the Bishop to be ‘genuine’ but also ‘found him naïve, or perhaps more so really struggling with the truth of the depraved within the church’s history’.<sup>540</sup>

Mr Salmon responded that he was confident that her recent experiences with the Church and the Bishop’s letter of apology would be helpful in her healing process. Mr Salmon also offered his assistance over the longer term and encouraged her not to hesitate to contact him at any time.<sup>541</sup>

On 10 July 2013, Mrs Ingham received a letter of apology from Bishop Jarrett. She understood that it had been drafted personally.<sup>542</sup>

Bishop Jarrett apologised ‘unreservedly’ for the ‘unconscionable and disgraceful conduct of a priest who betrayed every standard of decency and of the spiritual and moral trust expected of him’, and ‘of the singular failure of concern and pastoral care when you most needed to be believed and helped’. He said ‘we can’t undo the past but the church must make drastic change. Those responsible must be accountable’.<sup>543</sup> He said that Mrs Ingham was ‘completely deserving of any apology from the Church and the Diocese of Lismore, for what had been done to her by a Priest of the Diocese’.<sup>544</sup>

Mrs Ingham has not come to terms with the compensation payout and she ‘simply doesn’t like it’.<sup>545</sup> She said:

no amount of money could make up for what I experienced and the ensuing years of struggle for myself and my family. On all accounts I should not be medically alive and any money I received has already historically been spent to get me being alive today.<sup>546</sup>

Mrs Ingham also spoke about the disparity between amounts paid under *Towards Healing*:

It is beyond unfair. My story of abuse is no greater or less or measurable against others. Such disparity has caused me psychological distress. This must change. This is why I need to tell people about my payment. It can’t just be kept within the realms of the Church authorities. I believe the *Towards Healing* approach to determining compensation should be reviewed.<sup>547</sup>

### 3.4 The 1990 Meeting

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There is an issue as to whether there was a meeting in 1990 between Mrs Ingham and senior clerics from the Diocese of Lismore, and if there was, what Mrs Ingham disclosed at that meeting about her sexual abuse as a child by Father Brown. There is also a question of whether Father Mulcahy attended the meeting. The meeting will be referred to as ‘the 1990 meeting’.

Mrs Ingham said that the 1990 meeting did occur and that Father Mulcahy attended.<sup>548</sup> Father Mulcahy said that he had ‘absolutely no recollection of any meeting with Mrs Ingham’<sup>549</sup> and that he believed such a meeting never occurred.<sup>550</sup> Counsel Assisting and counsel for Father Mulcahy made competing submissions about this issue and the Church parties made no submissions.

At the time, there were no Chancery records maintained which recorded such meetings and appointments.<sup>551</sup> In the absence of any record of the meeting and where Mrs Ingham and Father Mulcahy gave conflicting evidence, it is necessary to consider their evidence in light of surrounding circumstances and the evidence of other relevant witnesses.

#### Circumstances in which the 1990 meeting was arranged

Mrs Ingham has received treatment from clinical psychologist, Professor Roger Dooley, periodically since 2 November 1989.<sup>552</sup> The contact report dated 4 September 2012 recorded that during her treatment she and her husband Mr Riches:

attended a meeting with Senior Leaders of the Catholic Church in 1990 (A date to be confirmed) in Lismore at the Catholic Presbytery. This meeting was scheduled as an important part of my treatment plan for recovery to tell the church leaders of my abuse.<sup>553</sup>

This was consistent with Professor Dooley’s evidence to the Royal Commission that, during the course of a group therapy program, Mrs Ingham:

went to the church authorities and reported the history of sexual abuse ... This action was done as a therapeutic exercise to affirm her innocence and to reduce the self blame she carried for the abuse. Each member of the therapy group would identify a task of self challenge to meet between sessions. Jennifer's action was one such challenge for her.<sup>554</sup>

Professor Dooley qualified that he was duty bound to say that he could not be absolutely certain that his recall of the information about the 1990 meeting was valid. This was because of:

the amount of time that has elapsed since and the fact that this information has been discussed with Jennifer at other times, particularly in regard to her dealings with *Towards Healing*. My memory could be confounded by the recent discussions.<sup>555</sup>

He said that he:

put that qualification in [his statement] not to say that it had perhaps been confused but to indicate the possibility that it could be confused because of the normal vulnerabilities that exist with memory and to detail what had taken place. I put that in, as a cautious person that I am, to say that a psychologist would always make a recognition that there are factors which could confuse the accuracy of a memory.<sup>556</sup>

Despite making that qualification, Professor Dooley said that he had 'always understood in [his] therapy with Jennifer over the years that she did report the matter of her sexual abuse by Father Brown to church authorities'.<sup>557</sup> His report dated 30 April 2013 showed that in the course of preparation of his report to *Towards Healing* Mrs Ingham 'informed [him] of her recall of a meeting with church authorities involving several priests including Father Mulcahy in 1990'.<sup>558</sup>

Professor Dooley and Mrs Ingham gave evidence that the 1990 meeting was arranged in the context of her treatment program. Professor Dooley did not 'have a record directly reporting such a meeting in 1990 between Jennifer and church leaders including Father Mulcahy'.<sup>559</sup> However, he did produce a record of a consultation with Mrs Ingham and Mr Riches dated 30 March 1990 that included the following notations:

Feels she has now cut the ties which were holding her to her past.

E.g ... sexual misuse by men (e.g. priest) ...

– Held up at moment in throwing off cloak or identity

– (Will do so now that Fa (Father) Brown issue is laid to rest).<sup>560</sup>

On the first line set out above, Professor Dooley gave evidence that 'one of the important actions that she took, that contributed to her cutting the ties would have been her going to the church authorities about what had happened to her'.<sup>561</sup>

Professor Dooley said that 'particularly the latter notation' (referring to the last two lines set out above) recorded what he interpreted as a reference by Mrs Ingham 'to the

psychological benefit she felt having confronted the issue of Father Brown's abuse of her through meeting with clerical leaders of the church in early 1990'.<sup>562</sup> Professor Dooley accepted the possibility that the reference to 'laid to rest' could refer to Mrs Ingham's disclosure of abuse to her then husband and to the group session but made the following qualification:

It could be a reference to that, were it not for the context in which I understood that note that I have written to be, which was in the context that other matters had taken place, to my recall, that had also made a significant difference and which would have also led to the conclusion of saying that the Father Brown issue was laid to rest.<sup>563</sup>

These notes dated 30 March 1990 do not help to determine whether Father Mulcahy attended the 1990 meeting.

Professor Dooley did not produce notes from *all* of the consultations with Mrs Ingham in early 1990. Professor Dooley explained that there were two sets of clinical notes that were taken at the time. One of them reflected the group therapy sessions conducted between November 1989 and April 1990. The other set were the treatment notes from individual sessions with Mrs Ingham.<sup>564</sup> He said that he had all of the individual notes but no longer had the notes on the last four group sessions, which occurred between 12 February 1990 and 2 April 1990.<sup>565</sup> He said that 'there certainly was a possibility that a note was taken about the group sessions, which would have existed'.<sup>566</sup>

Whether or not there may have been other notes, they were not in evidence before us. We do not infer from Professor Dooley's evidence that these notes, if they existed, contained reference to the 1990 meeting.

We accept the submissions of Father Mulcahy that he was only, relevantly, in Lismore from the end of January 1990 to 30 March 1990. So if Father Mulcahy had been at the 1990 meeting, it must have occurred during the period from the beginning of February to 29 March 1990.<sup>567</sup>

► **Finding 20:** We are satisfied that Mrs Ingham attended a meeting in 1990 with senior members of the church.

## What was said at the 1990 meeting?

Mrs Ingham said:

At the meeting, when I told the clerics about my abuse, Fr Mulcahy cried and told me that he knew that I was being sexually abused at the time, had been unwell with Bulimia and spent time in a psychiatric hospital for it. Fr Mulcahy also told me of the names of two other girls who he knew were abused by Fr Brown. This was consistent with my experience because on the last occasion Fr Brown sexually abused me he told me that my breasts tasted like the breast of one of the girls whom Fr Mulcahy referred to in the meeting.<sup>568</sup>

Mrs Ingham said that this was a summary or paraphrase of a much larger conversation that occurred at the 1990 meeting.<sup>569</sup> In relation to her statement that 'he knew that I was being sexually abused at the time' Mrs Ingham clarified that 'my intention was not to say that while I was being abused for that period of time, that Father Mulcahy was aware, no'.<sup>570</sup> She said that she could not recall any contact with Father Mulcahy in the years she was being abused.<sup>571</sup>

Before the 1990 meeting, Mrs Ingham did not know of any way that Father Mulcahy could have indirectly obtained the knowledge from her that she was being sexually abused.<sup>572</sup> Her evidence was therefore that Father Mulcahy learnt of her allegation of abuse at the 1990 meeting.

Mrs Ingham said she left the meeting thinking 'Oh, my God, it's not just me. It wasn't my fault'.<sup>573</sup> This is consistent with her evidence that Father Mulcahy also told her 'the names of two other girls who he knew were abused by Fr Brown'.<sup>574</sup> Mrs Ingham was not willing to disclose the names of the two other girls. She only explained that they were 'a similar age' to her, and attended school with her.<sup>575</sup>

Father Mulcahy said in relation to Mrs Ingham's evidence about the 1990 meeting:

If the subject of abuse by another Catholic Priest had been brought to my attention, I would have remembered such a meeting. If I had been so affected as to have been reduced to tears, I am sure I would recollect such a meeting. I have no such recollections ...

I note that Mrs Ingham alleges that, in the alleged meeting, I broke down and cried and said that I knew of the alleged abuse and I knew two other girls that Father Rex Brown had abused. At the time of that alleged meeting, I had no knowledge of any person, male or female, who had been abused by Father Rex Brown.<sup>576</sup>

Furthermore, Father Mulcahy said that he was not 'a man capable of tears when upset' and that he could not 'recall having tears in my eyes since I was a child, even when my mother and father died'.<sup>577</sup> He said that if someone had come to him with a complaint that a priest or religious had abused them, he would have 'gone straight to the bishop'. He said that he has never received a complaint of that kind by anybody.<sup>578</sup>

Mrs Ingham's email to Mr Mullins dated 30 August 2012 was the first time she disclosed in writing that the 1990 meeting had occurred.<sup>579</sup> She wrote:

[Mrs Ingham's former husband, Mr Riches] attended at the meeting in the early nineties when we met with the then Bishop and another priest to tell them of my abuse. Fr Mulcahy cried ... no sobbed ... and said he already knew. After this meeting there was no further communication ...<sup>580</sup>

The contact report dated 4 September 2012 does not refer to the attendance of the 'then Bishop' but states that 'Senior Leaders of the Catholic Church', including Father Mulcahy, attended. Mrs Ingham said that by the time of the interview with Mr Scanlan for the contact report in October 2012, she could only confirm that 'Father Mulcahy was there, for absolute

definite'. She could not confirm the attendance of any other cleric but has 'always assumed' that one of the other clerics at the meeting was the 'then Bishop'.<sup>581</sup>

The evidence of Bishop Satterthwaite (who was Bishop of Lismore in 1990) is that he did not attend a meeting in 1990 or at any other time with Father Mulcahy or any other person in which Mrs Ingham made a complaint of child sexual abuse against Father Brown.<sup>582</sup>

Bishop Satterthwaite said that, given he removed Father Brown as parish priest in 1986, a meeting about another complaint of sexual abuse against Father Brown would have been significant to him and 'I do not believe I would forget such a meeting'.<sup>583</sup> Deacon Wallace's inquiries on the 1990 meeting confirmed that Bishop Satterthwaite did not attend.<sup>584</sup>

Mrs Ingham could not provide any contextual information about how the 1990 meeting was arranged and only recalled some details about it. She said that it took place in the presbytery<sup>585</sup> in a large office<sup>586</sup> and that alcohol was served.<sup>587</sup> She recalled that scotch was served but could not remember how it was served or whether a decanter was used.<sup>588</sup> Mrs Ingham could not recall how the meeting was set up<sup>589</sup> or how many people were present.<sup>590</sup>

### Connection between Mrs Ingham and Father Mulcahy

Mrs Ingham did not accept that it was equally as possible that Father Mulcahy did attend the 1990 meeting as he did not attend at all.<sup>591</sup> Mrs Ingham said that the reason she remembered Father Mulcahy being at the meeting was 'because I believed him to be a good man, a familiar man, and I was to do something really important, so it was just safe'.<sup>592</sup> She said, 'The best that I believe personally is that Father Mulcahy was aware of exactly – my name was Jenni Williams and that I was the daughter of Noeline and Kevin Williams'.<sup>593</sup> She could not identify any specific occasion when this information passed between her and Father Mulcahy but said that she 'genuinely believe[d] that Father Mulcahy was aware that I was my father's daughter'.<sup>594</sup>

Father Mulcahy was shown a photograph of Mrs Ingham when she was 19 years of age. He said that he did not recognize her.<sup>595</sup> Father Mulcahy accepted that as an Administrator of the Lismore Cathedral from 1981 (that is, St Carthage's Cathedral Parish, Lismore), while he did not know Mrs Ingham, she would have known him.<sup>596</sup>

Mrs Ingham said that she knew Father Mulcahy 'because he had attended a private boarding school with [her] father and they remained friends for many years following their schooling'.<sup>597</sup> Mrs Ingham was unable to date when she became aware of the school connection between the two men.<sup>598</sup> She said:

Father Mulcahy was a parish priest of the parish where I went to school, and I just can't specifically say was it during that time was I aware that he went to school with my dad. My dad used to talk about that he and another gentleman and Father Mulcahy went to school together; he talked about that often. And that's why I can't pinpoint was it in my early schooling was I aware.

Mrs Ingham attended school from 1967 to 1980.<sup>599</sup> Mrs Ingham's early school years coincided with one of the periods that Father Mulcahy was a priest in the Diocese of Lismore (namely, from 1958<sup>600</sup> to 1969<sup>601</sup>).

Father Mulcahy said it was true that he was in the same class as Mrs Ingham's father – they attended Woodlawn College, Lismore.<sup>602</sup> He said that they were both boarders at the school in the same year for the last three years of his school (1949–1951).<sup>603</sup> However, Father Mulcahy did not feel that he and Mr Kevin Williams could be described as 'friends'.<sup>604</sup>

Between 2005 and 2008, Father Mulcahy had regular contact with Mrs Ingham's parents, Mr and Mrs Williams. They had moved from Lismore to Alstonville and, because Mr Williams had had a stroke, Father Mulcahy would visit their house on a monthly basis and give communion to them.<sup>605</sup> After Mr Williams died, Father Mulcahy met Mrs Williams each Saturday night after she attended mass.<sup>606</sup>

Despite giving evidence that part of his role as a priest involved getting to know the families that he was a priest for, he said that Mr and Mrs Williams never discussed their children or family with him.<sup>607</sup> He said that their children were never present and Mr and Mrs Williams 'led the conversation and it would have been about something else'.<sup>608</sup>

Mrs Ingham's aunt, Sister Clare Williams, was a Presentation nun who was a missionary nun in New Guinea. Mrs Ingham said that she would often come home and there would be celebratory gatherings at her home. She would attend, as would priests and bishops.<sup>609</sup> Mrs Ingham was unable to pinpoint any specific connection between her family and Father Mulcahy and it was only 'possible' that Father Mulcahy attended these gatherings.<sup>610</sup> Father Mulcahy said he 'knew of' Sister Clare Williams but did not recall that she was a missionary nun or that she was a relative of the Williams' and only 'might have' had a discussion with them about her.<sup>611</sup>

To the best of her recollection, Mrs Ingham first met Father Mulcahy just before her 21st birthday, in October 1983, when she began work at Paupiette's – a restaurant in Lismore.<sup>612</sup> Mrs Ingham worked at the restaurant for about 12 months.<sup>613</sup> She recalled that Father Mulcahy was a regular visitor and would dine there as often as weekly.<sup>614</sup> She said that she felt 'very familiar' with him and called him 'Frank'.<sup>615</sup>

Mrs Ingham said that Father Mulcahy dined with Father Brown on an occasion when Father Brown was visiting from Tweed Heads. She knew Father Brown well at the time and he recognised her. She said that the two men appeared familiar with one another.<sup>616</sup>

Father Mulcahy confirmed that he regularly dined at Paupiette's most Friday nights. However, he said he had no recollection of Mrs Ingham working there 'or otherwise, having made herself known to me either by her name or by reference to her being her father's daughter'. He said the fact that he regularly dined at Paupiette's was 'well known in Lismore'.<sup>617</sup> Father Mulcahy said that Father Brown was an alcoholic and that he 'wouldn't dine with him in a restaurant in a fit'.<sup>618</sup> He said that he 'never dined in a restaurant with Brown'.<sup>619</sup>

In November 2008, Mrs Ingham's name was on the prayers for the sick at Alstonville Church<sup>620</sup> where Father Mulcahy was the parish priest from December 1991 to August 2012.<sup>621</sup> A contemporary search of the prayer list for the Alstonville Parish was tendered and noted that, as at 16 November 2008, Mrs Ingham was named in the parish newsletter with a reference to 'in your compassion'.<sup>622</sup>

Father Mulcahy said that he did not say prayers for the sick at the parish but that their names would be placed on a list of about 40 people in the weekly parish magazine. He said that 'the secretary would receive that somebody was sick and put them on the list'.<sup>623</sup> Although Father Mulcahy accepted that he visited those who were on the list of names of the sick,<sup>624</sup> he denied knowing Mrs Ingham<sup>625</sup> or visiting her.<sup>626</sup> Father Mulcahy gave evidence that the list of the sick and those he visited who were sick were on separate lists.<sup>627</sup>

### Bishop Jarrett's telephone call with Father Mulcahy prior to the facilitation

At the time of Mrs Ingham's *Towards Healing* process, Bishop Jarrett said that, although he had no corroborative evidence about the meeting, he was willing to accept that it happened on Mrs Ingham's testimony.<sup>628</sup> He said this was because he did not believe Mrs Ingham 'had confected a story'. He was willing to accept that a meeting took place although the precise details were not known, other than that Father Mulcahy was present.<sup>629</sup> He said that, at the time, Chancery records of meetings and appointments were not maintained.<sup>630</sup>

Bishop Jarrett considered that he needed to inquire into Mrs Ingham's complaint that she had informed a number of people within the Church of the abuse, including Father Mulcahy, and that there had been no response to her complaints.<sup>631</sup> He said he 'wanted to understand why nothing had happened in response to Mrs Ingham's complaint at the time it was first made'.<sup>632</sup> Bishop Jarrett telephoned Father Mulcahy before the facilitation and said in relation to this conversation:

I recall that I told Father Mulcahy that a complaint had been received from Jennifer Ingham that she had been abused by Father Brown, but also that she had reported the matter in a meeting with clergy, among whom she named Father Mulcahy as being present, in 1990. I remember that Father Mulcahy said that he could not recall the meeting with Mrs Ingham. My impression from this discussion was that Father Mulcahy did not remember Mrs Ingham, but I cannot recall that he said this. Father Mulcahy could remember Mrs Ingham's father and mother. He told me that Mrs Ingham's father had died, but that her mother was still living in the Parish of Alstonville. I recall being puzzled at the time as to why Father Mulcahy could remember Mrs Ingham's parents but not remember Mrs Ingham nor the meeting with her.<sup>633</sup>

He said that he was 'puzzled' about why Father Mulcahy could remember Mrs Ingham's parents but not her or the meeting because:

I knew that Father Mulcahy had been to school with Mrs Ingham's father, and while it wouldn't have been – it could have been likely that they had kept up knowledge of each other across all the years, there was a later connection in that both of

Mrs Ingham's parents were resident in Father Mulcahy's parish, and it puzzled me that they there had been the connections earlier and later, that they didn't come together in a knowledge on the relationship.<sup>634</sup>

Father Mulcahy gave the following evidence about the telephone call:

After I moved to live in Brisbane, I recall being telephoned by Bishop Jarrett. He told me that a woman whom I think he identified as Jennifer Ingham, previously Williams, had a complaint that she spoke to me and two other senior Priests in the Presbytery in Lismore in 1990.

He said that the conversation was about her complaint of being sexually abused by Father Rex Brown. He said that the complaint was that I did nothing about the matters raised with me. I replied to Bishop Jarrett that I had no recollection of any such meeting and I thought that I had left Lismore in early March 1990.

As a result of that conversation, I contacted the Secretary of Alstonville Parish, Tanya Pagotto. I asked her what our census records showed as to the children of Kevin and Noelene Williams. She told me they had a son, David and a daughter, Jennifer. It is on this basis that I formed the definite view that the complainant of whom Bishop Jarrett had been talking was the daughter of Kevin and Noelene. I had an inkling that that might be the case which is why I asked Ms Pagotto to do the check for me.<sup>635</sup>

Father Mulcahy said that, at the time of this telephone call, he did not know Mrs Ingham and 'wouldn't have known her name'. He said that he told Bishop Jarrett that he didn't know Mrs Ingham and that it 'didn't mean anything to me'.<sup>636</sup>

Father Mulcahy's statement and oral evidence about whether Bishop Jarrett identified Mrs Ingham by her maiden or married name during the telephone conversation is inconsistent. Father Mulcahy gave evidence in his statement that Bishop Jarrett 'identified as Jennifer Ingham, previously Jennifer Williams'.<sup>637</sup> In his oral evidence, when Father Mulcahy was asked whether he knew Mrs Ingham's parents, he said, 'I don't remember, because he called her "Ingham", and I didn't know who Ingham was. I didn't realise that she was Williams'.<sup>638</sup> He later said that Bishop Jarrett 'may have' mentioned the name 'Williams' to him and then said 'that's the only way I'd get it [in order to make inquiries about the Williams children]'.<sup>639</sup>

Bishop Jarrett said that it was 'most likely that I mentioned her married name of Ingham rather than her maiden name'. When Counsel Assisting referred to Father Mulcahy's evidence that he thought that the Bishop had identified her as Jennifer Ingham, previously Jennifer Williams, he said he 'might have known her maiden name at the time but I can't be sure'.<sup>640</sup>

In his statement, Father Mulcahy said that, after his discussion with Bishop Jarrett, he had an 'inkling' that the complainant about whom the Bishop was talking was the daughter of Kevin and Noelene Williams, which is why he took steps to investigate.<sup>641</sup> He said that, after

checking with the Parish and asking whether they had children, it was confirmed that they had a daughter Jennifer and it 'clicked that Jennifer was a Williams'.<sup>642</sup>

### Deacon Wallace's inquiries and meeting with Father Mulcahy

Deacon Wallace said that before and during the facilitation he and the Bishop were willing to accept Mrs Ingham's word on the 1990 meeting.<sup>643</sup> There were a number of reasons for this:

we felt her complaint was a truthful one; we had no evidence that it did not take place given that Fr Mulcahy did not recall it; to challenge her over it would have been cruel and counterproductive with regard to any healing we hoped might take place for her.<sup>644</sup>

Although he 'couldn't say one way or the other whether the meeting had taken place', Deacon Wallace said, 'I believed [Mrs Ingham] believed the meeting had taken place and that [Father Mulcahy] was present'.<sup>645</sup> It was on the basis of Mrs Ingham's belief that he made the apology at the facilitation.<sup>646</sup>

After the facilitation and before the meeting between Mrs Ingham and Bishop Jarrett on 24 June 2013, Deacon Wallace did some research and made inquiries about the 1990 meeting. He collated a list of the clerics of the Diocese and possible senior clergy at the time who may have attended the meeting.<sup>647</sup> He then attempted to contact all of them and there was a 'negative response in all cases'.<sup>648</sup>

Deacon Wallace arranged a meeting with Father Mulcahy on 13 June 2013 to see if there was some 'objective, corroborative evidence of the circumstances'.<sup>649</sup> At the meeting, he showed Father Mulcahy Mrs Ingham's contact report because of the impact he thought the report might have on him.<sup>650</sup> He gave evidence that he hoped it would jog his memory but 'in fact it went the other way and he said that it didn't take place'.<sup>651</sup>

At the meeting, Father Mulcahy denied meeting Mrs Ingham and said he could not recall her. He said he did remember her mother and father. He said that he did not frequent Mrs Ingham's family home when he was in Lismore and that he did not recall Mrs Ingham at the restaurant.<sup>652</sup>

Deacon Wallace gave evidence that what Father Mulcahy said at the meeting had resonated with him because over the years he had been told through hearsay from various priests that around 1990 Father Mulcahy was under severe stress.<sup>653</sup> He had resigned from a number of diocesan committees and took leave for almost two years. Deacon Wallace said that he left the meeting 'feeling that perhaps he didn't recall it because he had been so stressed and virtually on the verge of a breakdown'.<sup>654</sup>

After being excused from giving evidence, Father Mulcahy gave an additional statement to the Royal Commission that annexed letters outlining reasons for his resignation to various positions that were not related to stress.<sup>655</sup> He said:

I have never, at any time, suffered from any stress related condition or had cause to consult any general medical practitioner or medical consultant in relation to any

stress related condition. I was not suffering from stress or any stress related conditions at any time during 1990, having been on holidays for the whole of January 1990 and then having resigned and retired on my return from holidays.<sup>656</sup>

Deacon Wallace took a contemporaneous note just after speaking with Father Mulcahy which stated, 'Denies meeting her says he can't recall her. Remembers mother after he went to Alstoneville remembers her father'.<sup>657</sup> He said:

I walked away with a view that the meeting may have taken place, but I had no evidence to say that it did take place, and using police terms, I was left with conflicting statements.<sup>658</sup>

However, he said that Mrs Ingham's account was not made less believable because Father Mulcahy had denied being at the meeting.<sup>659</sup>

Father Mulcahy was the Administrator of St Carthage's Cathedral until the end of March 1990.<sup>660</sup> Deacon Wallace said that, if there had been a meeting in 1990, given Father Mulcahy's position he would have expected him to attend.<sup>661</sup> Father Mulcahy accepted that he was the senior ordained person of the St Carthage's Cathedral Parish and meetings in the presbytery would have been arranged through his office. He accepted that, if someone was asking for a meeting with church leaders to deal with the very sensitive subject of sexual abuse, this would have been brought to his attention.<sup>662</sup>

Father Mulcahy accepted that, given he was in charge of the parish where this person claimed to have been sexually abused and this person was seeking to reveal what happened to her then, if the meeting occurred, it was very likely that he would be present. He said that the Bishop would also have been present.<sup>663</sup>

## Evidence of Mr Colin Riches

Colin Riches is Mrs Ingham's former husband. Mr Riches gave evidence that he used an email that Mrs Ingham sent to him, dated 6 December 2013, as a drafting tool for preparing his statement.<sup>664</sup> In the email, Mrs Ingham set out matters that Mr Riches should include in his statement.<sup>665</sup>

In these circumstances, we cannot give any weight to Mr Riches' evidence.

► **Finding 21:** We have no doubt that Mrs Ingham now believes that Father Francis Mulcahy was present at the 1990 meeting.

There are some difficulties in finding that Father Mulcahy was present at the 1990 meeting.

In light of Father Mulcahy's denial, the absence of any contemporaneous record, the inquiries made by Deacon Wallace, Mrs Ingham's changed recollection about the presence of the Bishop and the effects of the passage of time on memories, we cannot be satisfied to the relevant standard that a finding that Father Mulcahy was present should be made.

However, Mrs Ingham impressed us as an honest witness who gave evidence to the best of her recollection. It would be consistent with Father Mulcahy's role in the Diocese that he was present.

## 4 DG's Towards Healing experience

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### 4.1 Child sexual abuse of DG

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DG was sexually abused by Brother Raymond Foster, also known as Brother Celestine, while he was a student at a Marist Brothers college in the early 1970s.<sup>666</sup> Brother Foster was a teacher at the college at the time.<sup>667</sup> Brother Foster first sexually abused DG at DG's family home in 1970,<sup>668</sup> and subsequently on the school grounds.<sup>669</sup> DG gave evidence that '[t]here were a lot of other incidents' and that the sexual abuse continued until he left the college at the end of 1973.<sup>670</sup>

DG gave evidence that the sexual abuse has had a 'profound impact' on his life and family.<sup>671</sup> He said that the abuse has:

made me feel alienated and isolated and these feelings have, in turn, had a negative impact on my personal and professional relationships. Particularly, I have to an extent experienced alienation from my parents and siblings since raising the abuse. The abuse has also been a significant factor in my abuse of illegal and legal substances, the destruction of my religious beliefs and trust in religious institutions, and the sense of underachievement I feel in both my personal and professional life.<sup>672</sup>

### 4.2 Other complaints against Brother Foster

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The Royal Commission received evidence that three complaints were made about Brother Foster's behaviour to the Marist Brothers before DG came forward.

The first record of a complaint against Brother Foster that was received by the Marist Brothers is a file note dated 30 August 1993. The file note records the name and contact number of the complainant but does not record who received the complaint or who wrote it.

The file note records a complaint by a man – given the pseudonym 'DR' by the Royal Commission – that he was sexually abused while he was a student at St Augustine's College Cairns during the 1950s.<sup>673</sup> The complaint related primarily to a Brother Sebastian; however, the file note also records:

Less frequently a Brother Celestine subsequently R.F., ran the tuckshop and said he enjoyed watching people abuse themselves and masturbate. Not as serious as Sebastian.<sup>674</sup>

The file note states that the complainant '[w]ants no publicity, wants no action, just wanted to tell someone so as to free his own mind of the situation' and that 'I spoke to him for quite some time and he seemed very genuine'.<sup>675</sup>

At this time Brother Turton was Provincial of the Sydney Province of the Marist Brothers. He held that position between 1989 and 1995. In that position he had overall responsibility for responding to cases involving allegations of sexual abuse.<sup>676</sup> Brother Hill was the Vice Provincial of the Sydney Province between 1993 and July 1995.<sup>677</sup> As Vice Provincial, Brother Hill shared responsibility with the Provincial for responding to complaints of child sexual abuse.<sup>678</sup> In July 1995, Brother Hill became the Sydney Provincial.

At the time this first complaint was made, Brother Turton was travelling to Rome for a conference. He did not return to Sydney until November 1993.<sup>679</sup> Brother Turton agreed that whoever had made the note would have taken it as a serious matter. He said that it was likely that it would have been brought to his attention as Provincial either while he was in Rome or when he returned to Australia.<sup>680</sup>

There is no evidence that anyone in the Marist Brothers took any action on this complaint.

When this complaint was received, Brother Foster was working as a teacher at St Joseph's College Hunters Hill.<sup>681</sup> He was a teacher there between 23 November 1991 and 31 August 1994. Brother Foster continued to teach in an unrestricted capacity at St Joseph's.

The second complaint is outlined in a letter from Father John O'Connor, a semi-retired priest in Tully Heads, which was forwarded to the Marist Brothers on 25 May 1994.<sup>682</sup> It describes a visit to a man with a name similar to that of DR, the complainant named in the file note of 30 August 1993.<sup>683</sup> It reads:

In the course of conversation he said that he had been sexually molested by two Marist Brothers whilst a boarder at St Augustine's Cairns. It happened over a period of two years. He was 12 and 13 years old at the time. He is now 53 so this would have happened 40 years ago about the year 1954 and 1953. I don't think he is going to lay any legal charges.<sup>684</sup>

Neither of the Brothers is named in the letter. The letter forwarding this complaint stated, 'The usual Special Issues Incident Report, with this information, is being sent to CCI on behalf of the Cairns Diocese.'<sup>685</sup>

Brother Turton said that he has no actual recollection of receiving this letter, but he has no doubt that he received it shortly after 25 May 1994.<sup>686</sup> He said that he took no further action as a result of the letter.<sup>687</sup>

The complainant named in this letter and the complainant named in the file note of 30 August 1993:

- have similar names<sup>688</sup>
- both live in Tully Heads
- both complained of sexual abuse by two Marist Brothers at St Augustine's College in Cairns over a period of two years in the early 1950s.

We accept that it is probable, if not likely, that these two complaints were made by the same person and that the second complaint is therefore also about Brother Foster.<sup>689</sup>

The third document, *Allegations Regarding AB24*, records two complaints against Brother Foster. AB24 was a code used by the Marist Brothers to refer to Brother Foster.<sup>690</sup>

Brother Turton said that this document is a summary of the allegations that had been received by the Marist Brothers against Brother Foster. He created it sometime between November 1993 and 29 June 1994.<sup>691</sup> The document records:

- a phone call from a man with a name similar to that given the pseudonym DR alleging that, when he was a student in the 1950s, Brother Foster had exposed himself and encouraged the then student to stimulate himself, and that this had happened on a few occasions.<sup>692</sup>
- ‘About 1991 an anonymous caller rang the Brothers’ house – not very coherent – alleging certain things against AB24 of a sexual nature. No further information was available ... The anonymous caller could not be followed up.’<sup>693</sup>
- ‘Discussions by Provincial with AB24 gained an acknowledgement that there had been two incidents in the Fifties which were inappropriate. No further action taken.’<sup>694</sup>

In relation to the final point, Brother Turton recalled that Brother Foster had admitted to two incidents of ‘inappropriate conduct’, but he could not recall any other details about the conversation.<sup>695</sup>

He also had no recollection of the factors he took into account in deciding he would not take any further action after this conversation.<sup>696</sup> He said:

I can’t remember my thought process at that time, but I didn’t consider that it was necessary, what the meaning, the severity of ‘inappropriate’ – I don’t know. Given the learnings that we have made, the severe learnings over the years, I am quite sure that I would have taken action today.<sup>697</sup>

Brother Turton assumed he would have obtained an assurance from Brother Foster ‘that what was referred to 40 years ago was not an issue now’. However, he said, ‘but I cannot state that for sure, since I don’t recall that’.<sup>698</sup>

In April 1992, the Australian Catholic Bishops’ Conference Special Issues Sub-Committee adopted the *Protocol for Dealing with Allegations of Criminal Behaviour* (the 1992 protocol).<sup>699</sup> The 1992 protocol includes the following provisions:

- ‘Criminal behaviour’ is defined to include ‘sexual assault relating to children’<sup>700</sup>
- clause 5.2, which provides that the Provincial Council should establish a Special Issues Resource Group consisting of personnel who are skilled in dealing with allegations of criminal behaviour
- clause 6.1, which provides that ‘Whenever the competent ecclesial authority receives information of alleged criminal behaviour the matter shall immediately be

referred, except in circumstances of a most serious and extraordinary nature, to the relevant Special Issues Resource Group’.

The 1992 protocol applied to the Marist Brothers between April 1992 and the commencement of the first *Towards Healing* protocol in 1996.<sup>701</sup> Brother Turton agreed that the 1992 protocol applied to the Marist Brothers at the time and that he was the ‘competent ecclesial authority’.<sup>702</sup>

Brother Turton said that he did not refer the complaints against Brother Foster to the relevant Special Issues Resource Group as required by the 1992 protocol. We are satisfied that, in not doing so, Brother Turton did not comply with the 1992 protocol.

- ▶ **Finding 22:** Brother Alexis Turton was Provincial of the Marist Brothers when:
  - an anonymous caller rang the Marist Brothers in 1991 alleging certain things of a sexual nature against Brother Foster
  - on or before 30 August 1993, the Marist Brothers received a complaint of child sexual abuse by Brother Foster at St Augustine’s College in the 1950s
  - shortly after 5 May 1994, the Marist Brothers received a complaint of child sexual abuse against two Brothers, one of whom was possibly Brother Foster, at St Augustine’s College in 1954–1955. Brother Turton received the complaint
  - sometime between November 1993 and 29 June 1994, Brother Turton held discussions with Brother Foster, who acknowledged that there had been two incidents in the 1950s that were inappropriate.
- ▶ **Finding 23:** Brother Turton did not take any further action in relation to these complaints, and did not take any action in relation to Brother Foster’s acknowledgement.
- ▶ **Finding 24:** Brother Turton did not comply with the 1992 Protocol for Dealing with Allegations of Criminal Behaviour from the Australian Catholic Bishops’ Conference. He did not refer complaints against Brother Foster to the relevant Special Issues Resource Group.

### 4.3 DG goes to the police

DG first revealed his abuse by Brother Foster in 1990 while attending marriage counselling. In early 1994, DG reported the abuse to the Queensland Police Service and made a police statement. DG said:

I know it took me a long time to make the complaint but, until that time, I don’t think I was stable or strong enough and in a strong enough relationship to be able to put myself forward to do it. My parents didn’t even know that Br Foster had sexually abused me until I made a statement to the Police. I think the hardest thing I had to do was walk through the door of a police station and stand at a desk with people around and say why I was there.<sup>703</sup>

The Queensland police interviewed Brother Foster on 24 August 1994.<sup>704</sup> On 25 August 1994, Brother Turton spoke to Brother Foster. In his statement, Brother Turton recalled:

Br Foster came to speak to me and said that he had been accused of offences when he was in [redacted]. Although I do not remember his exact words, or whether he specifically mentioned the police, he gave me the strong impression that it was serious and that he needed legal advice. I referred him immediately to our legal advisers so that they could put him in touch with a criminal lawyer if necessary.

I also told him that I was standing him down until further notice. I transferred him from his current teaching position [at St Joseph's College] to the Marist Community residence in Eastwood.<sup>705</sup>

Brother Turton was asked what he knew about the allegations against Brother Foster at the time he decided to stand him down from his teaching position. He said:

My recollection is it was a fairly brief interview. He did not want to give me any detail except to say that there was police; he declined to make comment. And I think I asked him was it a serious matter, and he said it could be, and he particularly came to see me to request legal advice and he didn't want to say any more about it. So the only thing I knew about it was that it was ... a police investigation, could be a serious matter, and the location where it was, and on that basis I withdrew him from ministry.<sup>706</sup>

Brother Turton gave evidence that after transferring Brother Foster to Eastwood, he directed him not to be associated with minors. Brother Turton said that he may have also told the person in charge of Eastwood about the charges Brother Foster was facing, but that he could not be sure.<sup>707</sup> He said that 'there was no other plan made out at that stage'.<sup>708</sup>

The police believed that Brother Foster was continuing to work as a teacher at St Joseph's College in Hunters Hill in February and March 1995.<sup>709</sup> An internal memorandum of the Criminal Investigation Branch of the Queensland Police Service records that belief.

We accept Brother Turton's evidence that he removed Brother Foster from St Joseph's on or shortly after 25 August 1994, because:

- there is a letter dated 30 September 1994 from Brother Foster at the Eastwood Marist Community centre to Brother Turton about the projects he was working on there<sup>710</sup>
- this is recorded on Brother Foster's ministry record.

► **Finding 25:** Brother Turton withdrew Brother Foster from ministry on or about 25 August 1994 immediately after becoming aware that the police had contacted Brother Foster, and that the matter was, or could be, serious.

The Queensland police did not proceed with DG's case until 1999, when arrangements were made to extradite Brother Foster from New South Wales to face the charges in Queensland. On the morning he was to be extradited – 23 March 1999 – Brother Foster committed suicide.<sup>711</sup>

## 4.4 The Marist Brothers' response to Brother Foster's suicide

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Brother Foster left a suicide letter for Brother Hill,<sup>712</sup> which stated:

I bear no ill will against the person who had me charged as he had every right to do so and I ask his forgiveness if he would be so kind. May God forgive me for my actions then and now.<sup>713</sup>

Brother Hill found this letter after viewing the body of Brother Foster. He did not give a copy of the letter to the police.<sup>714</sup>

DG said:

I was really angry with Br Foster for choosing suicide over facing me or the Queensland Courts about the abuse he inflicted on me. I felt like he had chosen a path designed to free him from prosecution and inflict guilt upon me.<sup>715</sup>

On 24 March 1999, after Brother Foster's suicide, Brother Hill wrote a letter to the Marist Brothers. He wrote that he had spoken with Brother Foster 'several times' over the weekend after his arrest and before the date of his extradition.<sup>716</sup> He also wrote that someone who had been a student in the early 1970s had brought charges against Brother Foster and that Brother Foster had 'indicated that he intended to plead guilty to the charges'.<sup>717</sup> The letter stated:

At a time like this I can only resonate with what many of you would be feeling ... devastation, anguish, deep sadness and puzzlement. Our faith is sorely tested by such an action. Our sense of hope can be exposed as something quite fragile. Yet it is in faith, hope and love that we must support each other more than ever. We ask the Lord to receive Ray into his presence so that he may experience the peace which clearly eluded him in the final days of his life. We pray particularly for the Brothers of the Marist Centre community. Their loss is deep and painful. Knowing that they have our unconditional fraternal support will be of great consolation to them.<sup>718</sup>

Brother Hill agreed that the fact he did not mention the need to assist or pray for the complainant in this letter was a serious omission.<sup>719</sup> We accept that Brother Hill did not know the complainant's identity when he wrote this document and that it was a circular to the Marist Brothers after the suicide of one of their Brothers.

► **Finding 26:** The fact that Brother Hill did not mention the need to assist or pray for the complainant in the letter to the Marist Brothers on 24 March 1999, was a serious omission.

Brother Hill said that after Brother Foster's suicide, 'I was certainly quite concerned for the, at that stage, unknown, person, [DG] but I did not see any way of being able to determine his identity'.<sup>720</sup> Brother Hill did not ask the police about the complainant's identity and did not try to find out whether the complainant was one of the people who had complained directly to the Marist Brothers previously.<sup>721</sup>

After Brother Foster's suicide, some Marist Brothers were quoted in local newspapers saying 'Br Foster hadn't committed suicide, but had died of natural causes and was a wonderful man'.<sup>722</sup>

DG said 'this really upset me at the time', and 'these things really stuck with me; they made me feel like I was harassing a sick old man, rather than seeking justice for the actions of a devious, slothful and drunkenly indulgent child molester'.<sup>723</sup>

Brother Hill said:

I became aware on or about 24 March 1999 that one of the Brothers from the Marist Centre in Mittagong had been contacted by a journalist, and had made comments to that journalist ... I did see statements in one or more newspapers, and heard one or more broadcasts, to the effect referred to by DG. The Brother who made the comments to that journalist had no experience in the type of allegations made against Br Foster. I did not authorise the statements made by that Brother, I was not aware of them until they were published, and was appalled by them when I did see them.

After becoming aware of these reports, I telephoned the Brother who had made the comments and said 'The Provincial and the Vice Provincial alone are to be the spokesmen for the Marist Brothers. If any journalist contacts Mittagong, refer the journalist to Drummoyne.'

At around that time, I also contacted those media outlets which had published or broadcast reports that Br Foster had not committed suicide, in order to correct those reports.<sup>724</sup>

Brother Hill did not put out a public statement on behalf of the Marist Brothers publicly correcting and apologising for the false information.<sup>725</sup>

It was put to Brother Hill that some may be left with the impression that at the time he was more concerned with protecting the reputation of the Marist Brothers than ensuring that victims got support and that the truth was made public. Brother Hill responded, 'I can see it being interpreted that way. At the time I wouldn't have seen myself as actually doing that'.<sup>726</sup>

## 4.5 DG contacts the Marist Brothers

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In early 2000, DG wrote to the Marist Brothers about Brother Foster's abuse.<sup>727</sup> DG attached the statement he had made to the Queensland Police setting out his account of what happened to him. He wrote:<sup>728</sup>

These events have engendered in me a cynical disrespect of authority and a sense of underachievement in my personal and professional life [...]

Foster's actions destroyed my trust and beliefs in religion be it Catholic or other. This is reflected in my utter distrust of clergy and many of the lay people associating themselves with religious schools and groups, particularly males.<sup>729</sup>

Brother Hill received DG's letter and sent it on to Mr Howard Harrison of Carroll & O'Dea, the Marist Brothers' solicitors.<sup>730</sup> Mr Harrison then forwarded the letter to CCI.<sup>731</sup>

Brother Hill referred every complaint he received to the Marist Brothers' solicitors.<sup>732</sup> He said that 'it had become our standard practice',<sup>733</sup> and 'I wanted advice from the solicitors to make sure I was following correct procedures from a legal perspective'.<sup>734</sup>

Brother Hill said he sought advice from his solicitors on how to set up mediations, including advice on '[p]lace, a suitable mediator, matters such as those',<sup>735</sup> but he did not seek advice from his solicitors about the proper interpretation of *Towards Healing*.<sup>736</sup>

On 15 March 2000, Mr Harrison sent an email to a CCI employee about DG's complaint. He wrote, 'Br Hill suspects that some form of legal dialogue would be the best way to handle the matter and that the *Towards Healing* system is unlikely to produce a resolution'.<sup>737</sup> He attached a draft letter from Brother Hill to DG and asked for CCI's comments on whether it 'presents any difficulty'.<sup>738</sup>

On 16 March 2000 Brother Hill replied to DG's letter, amending the draft proposed by Mr Harrison but adopting the following paragraphs:<sup>739</sup>

The *Towards Healing* Resource Group in Brisbane do provide a mediation facility which we could look at. Alternatively, you may have a solicitor acting for you.

Perhaps you could contact me to discuss how we might best go forward to look at some form of revolution [sic] of these painful issues from the past.<sup>740</sup>

Brother Hill agreed that the letter reads as though DG had two choices: he could either follow *Towards Healing* or be represented a solicitor, but not both.<sup>741</sup> Brother Hill said that his expectation was that DG would choose between these two options after receiving this letter.<sup>742</sup> Brother Hill also agreed that the *Towards Healing* procedures do not prevent a complainant being represented by a solicitor.<sup>743</sup>

Brother Hill said that he did not give DG information about *Towards Healing* in this letter because 'I intended to do that when I met with him'.<sup>744</sup>

This letter was also sent to Mr Harrison, who forwarded it to CCI.<sup>745</sup>

On 6 April 2000, DG replied to Brother Hill, writing:

I have been open in my submission and now require the same from you ...

These issues are not new to you or your organisation. If you are the person empowered to liaise, on behalf of the Marist Brothers, then we must meet as soon as can be arranged.

I will continue to consider the avenue of legal representation, but would prefer to deal with this as I see fit and with the help of my loved ones.<sup>746</sup>

Brother Hill said that, at the time, he interpreted this letter as ‘perhaps he [DG] does not want to go into a church-sponsored process’.<sup>747</sup> However, he also agreed with the proposition that DG’s letter was entirely consistent with *Towards Healing*.<sup>748</sup>

Brother Hill said, ‘at that stage – I’m not saying it was against *Towards Healing*, but at that stage I hadn’t sat down with him to discuss the procedures of *Towards Healing*’.<sup>749</sup> Brother Hill then explained that his understanding that DG did not want to proceed with *Towards Healing* came later.<sup>750</sup>

Brother Hill responded to DG and proposed that they meet in DG’s home town.<sup>751</sup> This letter was sent to Mr Harrison, who forwarded a copy to CCI.<sup>752</sup>

DG then wrote to Brother Hill requesting that he ‘ask the N.S.W. police, or your solicitor, for the transcripts of the police interview/s with Brother Raymond [Foster], pertaining to my complaint’.<sup>753</sup>

Mr Harrison met with Ms Lisa Clarke and Mr Paul Gamble of CCI in 8 May 2000.<sup>754</sup> The file note of this meeting reads:

It was a case where there was knowledge of a propensity on the part of the brother and that may knock us out from a special issues viewpoint.

I informed CCI as to where we are up to in terms of speaking with the Plaintiff.

It was agreed that this matter would go somewhere at some stage but it’s up to the Plaintiff to initiate matters in all probability.<sup>755</sup>

Brother Hill met DG and his wife in DG’s home town on 11 May 2000 during a trip to Queensland.<sup>756</sup>

Brother Hill said that in the initial meeting DG had said, ‘I am suspicious of Church processes and reluctant to engage in *Towards Healing* because I do not trust anyone in a position of authority’.<sup>757</sup> DG agreed that at this initial meeting he had said that he was not attracted by the *Towards Healing* approach.<sup>758</sup>

Brother Hill’s record of this initial meeting reads:

I repeated to him options which I had outlined in a previous letter. He [DG] is not attracted by the prospect of a *Towards Healing* line of action, but agreed with my strong suggestion that a settlement be negotiated through two sets of solicitors.<sup>759</sup>

When asked why he made this strong suggestion, Brother Hill gave the following evidence:

Having chosen not to go down the line of *Towards Healing*, I wanted to find some form of moving towards a satisfactory resolution ...<sup>760</sup>

He had indicated to me that he was, first of all, not interested in church-sponsored procedures, so that left me with limited options as to what to suggest to him.<sup>761</sup>

Brother Hill said that he did not tell DG about the benefits of *Towards Healing* during this meeting because of DG’s unwillingness to use *Towards Healing*.<sup>762</sup>

Brother Hill did not offer DG information about *Towards Healing* after the initial meeting because DG had rejected that line of action.<sup>763</sup> He rejected the proposition that he should have given DG information about *Towards Healing* before, during or after the initial meeting. He said, 'I still believe it was too soon to do that'.<sup>764</sup>

DG said, 'I really didn't understand where *Towards Healing* was coming from and whether I was in or out of that process' following the initial meeting.<sup>765</sup>

Although the introduction of *Towards Healing* (1996) states that it is 'a public document that establishes public criteria according to which the community may judge the resolve of Church leaders to address sexual abuse within the Church', it does not require that a copy of the *Towards Healing* protocol be given to victims who come forward to the Church about their abuse.

However, *Towards Healing* (2010) includes the following procedure: 'The Contact Person shall explain the procedures for addressing the complaint and ensure that the complainant gives his or her consent to proceeding on the basis laid down in this document.' This implies that the *Towards Healing* protocol should be given to victims who come forward to the Church about their abuse.

DG was only given a copy of the *Towards Healing* protocol and an explanation of how it worked in 2001, when he spoke to Mr Michael Byrne, a barrister with knowledge of *Towards Healing* because he was a member of a Professional Standards Resource Group.

► **Finding 27:** Victims of child sexual abuse should be provided with sufficient information by the Church Authority on the options available to them in order to make an informed choice about how to proceed, and which must include the provision of the *Towards Healing* protocol.

DG said of his meeting with Brother Hill in 2000:

[The initial meeting] was not great; it felt really empty because no further information was given about my case. Br Hill said he didn't know Br Foster and was not really able to tell me anything about the case that I didn't know already. There was still this void around the suicide of Br Foster.<sup>766</sup>

DG said he was never given any information about Brother Foster's whereabouts, whether he was still working when DG went to the police, whether there had been any other complaints against him and whether he had made any admissions of guilt.<sup>767</sup>

Brother Hill said, 'I did not say that I "didn't know Br Foster". Such a statement would have been untrue, as I certainly had known Br Foster'.<sup>768</sup> However he also said that he talked about Brother Foster only briefly and that 'the only detail about Foster that I mentioned to [DG] was to confirm the suicide and also to clear up the matter of the way it was reported in local media, and I apologised to him for that'.<sup>769</sup> Brother Hill said:

I agree that I did not tell DG anything about 'the case'. On that day, I saw that first meeting as mainly an opportunity for DG to speak rather than for me to do so ... I

had anticipated that I would have further meetings with DG at a later time, and, if appropriate, had in mind that I would say more at that time or those times.<sup>770</sup>

In his letter of 28 April, DG asked for a copy of the transcript of the police interview with Brother Foster about his complaint. Brother Hill did not attempt to get the transcript.<sup>771</sup> Brother Hill knew Brother Foster's solicitor and could have asked him or the police for the transcript.<sup>772</sup> However, Brother Hill said 'I could not work out what that information might be that he [DG] wanted'.<sup>773</sup>

► **Finding 28:** At the time of his meeting with DG, Brother Hill knew the following information about Brother Foster but did not convey it to DG:<sup>774</sup>

- Brother Foster had been withdrawn from ministry following DG's complaint to the police.
- Brother Foster intended to plead guilty to the charges relating to DG.
- Brother Foster had left a suicide note in which he had asked for DG's forgiveness.
- There had been other allegations against Brother Foster before DG's complaint.
- Brother Foster had admitted to two incidents of inappropriate conduct in the 1950s.

► **Finding 29:** In a letter to the Marist Brothers dated 28 April 2000, DG asked for a copy of the transcripts of the police interview with Brother Foster about DG's complaint. The Marist Brothers did not attempt to obtain those transcripts.

Brother Hill did not agree with the suggestion that 'a compassionate response, in accordance with *Towards Healing* protocols, would have been to engage in a discussion which would include imparting crucial information to Mr [DG]'.<sup>775</sup> He responded, 'Not in that first meeting. I don't agree, no'.<sup>776</sup>

At the end of this initial meeting, Brother Hill expressed his willingness to meet with DG again. However, he did not attempt to contact DG after this.<sup>777</sup> Brother Hill said:

I had not initiated any further contact in that period [after the initial meeting] because DG had said that he wanted to deal with the matter in his own way and because I did not want to seem to be harassing him. However, if I were given the opportunity to revisit this complaint, I would send DG a letter summarising the outcomes of our meeting held on 11 May 2000. Such a letter would have confirmed that I was very willing to meet with DG again, if he wished to do so.<sup>778</sup>

Brother Hill's evidence was that if he were given the opportunity to revisit this complaint, he would send DG a letter summarising the outcomes of their meeting held on 11 May 2000. This letter would have confirmed that he was very willing to meet with DG again if DG wished to do so.<sup>779</sup>

► **Finding 30:** The Marist Brothers did not attempt to contact DG after the initial meeting on 11 May 2000.

## 4.6 DG's barrister contacts the Marist Brothers

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Over a year after the initial meeting, DG retained the assistance of Mr Byrne, a barrister and a member of the Queensland Professional Standards Resource Group. Mr Byrne gave DG advice about *Towards Healing* and gave him a copy of the *Towards Healing* document.<sup>780</sup>

On 20 September 2001, Mr Byrne wrote to Brother Peter Rodney, a Marist Brother, on behalf of DG.<sup>781</sup> The letter set out some background to DG's complaint, and continued:

Mr DG is of course seeking some financial compensation to reimburse him for the cost of counselling incurred over many years and necessitated by the abuse, which eventually lead to the failure of his first marriage. He would like some form of apology process that could embrace his parents and family, since his raising of these issues has resulted in some degree of alienation between him, his parents and his siblings. He would like some form of public recognition of the misdeeds of his abuser in the [redacted] area, as he perceives he was identified, or at least identifiable, as the person who made the allegations in various news reports at the time of Brother Foster's death.

My client has expressed an openness to engage in a mediation process along the lines identified in *Towards Healing* (the Dec 2000 version). ...

As I see it this is a pastoral matter. ... it would be appropriate, within the conciliatory spirit of '*Towards Healing*', for this matter to now proceed to some resolution which recognises the destructive outcome of the abuse he suffered, and sets in place some rehabilitative outcomes.<sup>782</sup>

Brother Hill stated that this letter 'represented – or it didn't 'represent'; it was a change of [DG]'s position from a rejection of the *Towards Healing* process to an openness to engage in the final part of the *Towards Healing* protocol, the mediation'.<sup>783</sup> Brother Hill agreed that everything in the letter was consistent with *Towards Healing*.<sup>784</sup> He gave evidence that at the time he understood the letter to be a request for, or an election to proceed with, the final part of the *Towards Healing* process.<sup>785</sup>

From this time, all correspondence with the Marist Brothers about DG's complaint was handled by Mr Byrne or solicitors Bill Cooper & Associates, who were retained by DG sometime between September and November 2001.

On 24 October 2001, Brother Hill replied to Mr Byrne's letter.<sup>786</sup> He wrote:

As indicated in the notes I made I did express to him my willingness to meet further with him should he wish to do so. I have not heard from him since then, and have felt it best to leave it up to DG to initiate the next step. This he has clearly done.

Interestingly he has rethought his position concerning the *Towards Healing* process. If this means meeting with DG again in [redacted] then I will certainly do so.<sup>787</sup>

On the same day, Brother Hill forwarded this correspondence to Mr Harrison. He wrote: 'Inevitably the question of financial compensation will arise and I will indicate that such an arrangement should be done through appropriate channels ... generally involving two sets of solicitors.'<sup>788</sup> Brother Hill gave evidence that:

By 'appropriate channels', I simply meant the best process by which a settlement could be achieved. DG had initially stipulated that he did not want to use *Towards Healing*, and Mr Byrne had referred to a mediation 'along the lines' identified in *Towards Healing*. In those circumstances some other appropriate approach, not being *Towards Healing*, was needed.<sup>789</sup>

Mr Byrne responded to Brother Hill's query about whether he was DG's independent legal adviser or whether he was acting 'in concert with' the Queensland Professional Standards Resource Group.<sup>790</sup> Mr Byrne wrote:

A good example of my role is evidenced in the change you note in Mr DG in respect of the *Towards Healing* process. I was able to advise him of the process and provide a copy of the document and make pertinent comments on the appropriateness of the process in his case.<sup>791</sup>

On 30 October 2001, Brother Hill wrote to the principal of the school DG attended and asked for the dates that DG was enrolled at the school so that he could forward them to CCI.<sup>792</sup> He also wrote:

I hope that we can proceed with this matter discreetly and appropriately. However I cannot guarantee that because one of the plaintiff's initial demands is for a 'public apology' to be circulated in the [redacted] area. Such a demand is not unusual at the beginning of these proceedings. However I will instruct our solicitors to negotiate as best they can to keep it all out of the public eye.<sup>793</sup>

Brother Hill agreed that his objective was to keep DG's matter out of the public eye. He gave evidence that this was 'for the sake of the personnel at the college'.<sup>794</sup> He also said, 'The dilemma I was in was to respond as best I could to [DG] and to somehow reduce whatever impact a public apology would have on the innocents, the innocent people currently at that college'.<sup>795</sup>

Brother Hill said that the reason he endeavoured to avoid a public apology 'wasn't to protect the reputation of the Brothers so much as to protect the people at the school at the time'.<sup>796</sup>

► **Finding 31:** Brother Hill tried to keep DG's matter out of the public eye. Brother Hill gave evidence that this was for the sake of the personnel currently at St Joseph's school.

## Application of *Towards Healing* procedures to DG's complaint

Under *Towards Healing* (2000), Church personnel who receive a complaint of abuse shall forward it on to a Contact Person. The Contact Person shall in turn promptly forward it to the Director of Professional Standards.<sup>797</sup>

The role of the Director of Professional Standards was introduced following Professor Parkinson's review of *Towards Healing* in 2000. Professor Parkinson recommended that the Director be given an explicit case management role because:

- 'one of the major problems which has been experienced in the last three years is that no-one has had overall responsibility for the process of dealing with the complaints, and
- there have been many instances where Church authorities have not followed the procedures laid down in *Towards Healing* as fully as is desirable'.<sup>798</sup>

After Brother Hill received Mr Byrne's letter, he did not refer DG's complaint to the Director of the relevant Professional Standards Office as required under *Towards Healing* (2000).<sup>799</sup>

Brother Hill agreed that normally the Director would manage a matter and organise the facilitation.<sup>800</sup> When Brother Hill was asked whether the Director should have managed DG's complaint, he replied:

I can only assume that Mr Byrne, who was on the Professional Standards Resource Group in Queensland, would have informed the then Queensland Director of Professional Standards. I can't confirm one way or the other whether that actually happened. I assumed it at the time.<sup>801</sup>

Mr Byrne informed Brother Hill on 26 October 2001 that he was a barrister acting on instructions from DG's solicitors. Mr Byrne was not obliged to refer DG's complaint to the Director.

We are satisfied that there was no basis for Brother Hill's assumption that Mr Byrne would have referred DG's complaint to the Director. We also consider that there would have been a benefit in DG's complaint being referred to the Director of Professional Standards, if only for statistical purposes.

Under *Towards Healing* (2000), if a complainant wishes to proceed with *Towards Healing* then their matter *shall* be referred to a Contact Person as soon as possible.<sup>802</sup> DG's complaint was not referred to a Contact Person.

Brother Hill said that there was no need to refer DG's complaint to a Contact Person because 'there was no debate as to the facts of the matter. The Contact Person makes the initial contact in order to prepare for an assessment in the *Towards Healing* process'.<sup>803</sup> He also said that Mr Byrne, DG's barrister, had achieved what the role of the Contact Person is supposed to achieve, and that his letter combined with the police process substituted the contact report.<sup>804</sup>

Brother Hill gave evidence that DG's matter was 'not a normal *Towards Healing* case'. He said:

There are so many differences. First of all, it started off as a police matter. And the suicide. There's very little resemblance between this particular case and what is envisaged in the *Towards Healing* protocol.<sup>805</sup>

Brother Hill said that DG had only accepted the final part of the *Towards Healing* process, namely the mediation.<sup>806</sup> He said:

all the initial stages, in a sense, were irrelevant in this particular case – the Contact Person, the assessment. I mean, there was no doubt as to the facts of the complaint. There was no – it would have been illogical to go through a Contact Person, followed by an assessment stage. That, in effect, had been done by the police.<sup>807</sup>

This approach was supported to some extent by the evidence of Brother Turton, who said:

I think the term 'contact report' is used in different senses by different people. Some people refer to the contact report as 'the story of what happened to me', and that's what the Contact Person goes to get, or they receive its equivalent. Others will see the contact report as 'the story of what happened to me, plus a statement of what I expect, plus a statement that I am not currently involved with the police and do not want to go to the police'. But given that, I would think [the initial complaint] would be sufficient for a contact report, given that somewhere there is some expectation of what's looked for.<sup>808</sup>

► **Finding 32:** The appointment of a Contact Person was not necessary in DG's case because there was an admission by Brother Foster, and DG had already made a police statement.

## The solicitors arrange a settlement conference

On 25 October 2001, Mr Harrison wrote to Mr Byrne, 'We act on behalf of the Marist Brothers and presently have instructions in relation to this matter'.<sup>809</sup> The letter also stated:

We write to confirm that Brother Michael Hill has issued instructions that some form of mediation process should now be put together to assist the parties to bring these issues to closure.<sup>810</sup>

Five days later, Ms Karen Mole of CCI wrote separately to Brother Hill and Mr Harrison confirming that CCI had instructed Mr Patrick Monahan of Ebsworth & Ebsworth lawyers to take over conduct and control of DG's complaint.<sup>811</sup>

On 6 November 2001, Bill Cooper & Associates responded to Mr Harrison's letter of 25 October 2001, confirming that they acted on behalf of DG. They wrote, '[DG] is willing to attend a mediation conference in order to resolve this matter at the earliest opportunity'.<sup>812</sup> They enclosed a copy of the report of Dr Louis Salzman, a psychologist who examined DG at

the request of DG's solicitors, and wrote, 'Our client has indicated that he is willing to attend an independent assessment by a further psychologist if necessary.'<sup>813</sup>

Mr Monahan responded 'we need to arrange an independent psychiatric examination of your client, and obtain a report from our independent psychiatrist'.<sup>814</sup>

CCI proposed that DG be examined by psychiatrist Dr Chalk.<sup>815</sup> On 11 January 2002, Mr Monahan told Ms Mole of CCI that DG's lawyers agreed to the examination but only if they were given the referral letter and Dr Chalk's report.<sup>816</sup> Mr Monahan said, 'I see no reason why we should agree with this, although they have provided us (actually Carroll & O'Dea) with the report of Louis Salzman'.<sup>817</sup>

Ms Mole responded in somewhat colourful language on the same day:

I do not intend to proffer any reports to the plaintiff's lawyer particularly without seeing them first or providing any referral letter. If they insist they can go and jump and try and get an extension and have no hope of a red cent coming their way. Should they get 'shirty' you might want to point out the virtually impossible task they will have of getting over this one. Besides the connection between cause and effect knowledge being earlier to 1994 when in marital therapy, the alleged offender is deceased.<sup>818</sup>

DG gave evidence that Dr Chalk examined him in early February 2002.<sup>819</sup> He said:

The thing that really galled me was that after the appointment, which lasted a couple of hours, Dr Chalk called me back because he had been advised to ask more questions of me. He told me that he had been advised to ask me further questions. The call was at a very inconvenient time for me – my family was visiting and we had a bit of a family reunion going on and the call came during dinner time. That really stuck with me. I remember thinking: what right does a solicitor have to tell a psychiatrist to go back and ask more questions? You might be able to do that of a policeman, or something like that, but I was with Dr Chalk long enough for him to get all the information he needed. I remember he even said to me: 'It's a waste of time; I'm not going to change anything, but I have to ask you a few more things anyway'.<sup>820</sup>

In his statement Mr Monahan said:

On reviewing the report of Dr Chalk with my instructor from CCI, we noted that there were a number of matters which we had asked Dr Chalk to address, which he had not addressed in his report. I therefore wrote to Dr Chalk asking him to give further consideration to those particular matters and to let us have a further letter providing his comments on those issues, and other particular matters. I did not instruct or request Dr Chalk to require Mr DG to attend at his rooms again for a further consultation. It would appear, though, that Dr Chalk made that decision. I am sorry that Mr DG was inconvenienced in this way.<sup>821</sup>

DG's lawyers told Ebsworth & Ebsworth:

With respect to Dr Chalk's report, we would consider it necessary that we be provided with a copy of the report prior to any such conference so that all the relevant information is available to both parties to facilitate the exploration of settlement options.<sup>822</sup>

This letter also noted that, under the Queensland Uniform Civil Procedure Rules, both parties to the proceedings were required to disclose all expert reports.<sup>823</sup>

Mr Monahan advised Bill Cooper & Associates that his instructions were to not release a copy of Dr Chalk's report to DG's solicitors. He also wrote that the Queensland Uniform Civil Procedure Rules 'are not directly relevant to this (unlitigated) matter'.<sup>824</sup>

In the same letter, Mr Monahan wrote that 'we consider it appropriate to meet you and your client in [redacted] and to proceed by way of an informal settlement conference'.<sup>825</sup>

On 29 April 2002, Mr Monahan wrote to Bill Cooper & Associates noting that Brother Hill had retired from his position as Provincial and asking 'whether your client would like his successor to this role, Br Alexis Turton, to attend the settlement conference'.<sup>826</sup>

Brother Turton was asked by no later than 10 May 2002 to attend DG's settlement conference.<sup>827</sup> He was asked to represent the Marist Brothers, to respond to DG and to convey an apology on behalf of the Marist Brothers.<sup>828</sup>

DG said:

I was initially happy that Br Turton was involved as he was a principal at a Marist Brothers school where I completed my high school and he was my physics teacher and football coach. He was recognised as an intelligent and good man.<sup>829</sup>

## 4.7 DG's settlement conference

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DG explained that he wanted the following from the settlement conference:

I wanted some closure. I wanted acknowledgment of the truth of the claim and I wanted reassurance that my actions had had a positive effect in removing the person who was a threat to other people – removing the person who had abused me, removing that threat from other people and other children. I didn't receive those assurances.<sup>830</sup>

DG said that his understanding at the time was that 'we were going along the lines of the *Towards Healing* process'.<sup>831</sup> He understood that he was to attend a meeting, but he did not know that a mediation was different from a settlement conference.<sup>832</sup> DG was not aware that the Marist Brothers regarded the settlement conference as not part of the *Towards Healing* process.<sup>833</sup>

When asked whether he had instructed his solicitors that he was willing to participate in an informal settlement conference or a mediation, DG said:

The difference at the time was probably not apparent to me. The difference to this day is still not grossly evident to me, in that the process was for mediation along the lines of the things that I had requested be provided.<sup>834</sup>

The settlement conference took place on 18 June 2002.<sup>835</sup> DG's solicitor, Ms Sara Loughlin, and barrister, Mr Byrne, were present along with Brother Turton, Ms Mole from CCI and Mr Monahan,<sup>836</sup> who was representing CCI and the Marist Brothers.<sup>837</sup>

The meeting commenced with a discussion between Brother Turton and DG.<sup>838</sup> After about 10 minutes, it was decided that DG and Brother Turton be excused from the room and that the financial aspect of his claim be negotiated between lawyers.<sup>839</sup> During these negotiations, Brother Turton remained in a separate room by himself.<sup>840</sup>

In relation to the first part of the meeting, DG said:

During the meeting Br Turton said he had interviewed Br Foster about the abuse, but had no notes on or recollection of that conversation. That just stopped me in my tracks. I was disgusted. I thought: 'you are the one person that I put my faith in. You came across to me as a good man. That's a blatant lie, that you could go and interview a brother of yours over a sexual abuse case and then say you can't remember a word that was spoken'.<sup>841</sup>

Brother Turton gave the following evidence in his statement:

I did not cut off Mr DG, and I did my best to answer any questions that he had. I did not say that I had no recollection or records of Br Foster's employment or of when he stopped teaching. Such records would have been available, and if I was not able to recall such information at the time, I would have offered to find out the information ...<sup>842</sup>

I did not say that I had 'interviewed' Br Foster about the abuse of Mr DG. Nor had I done so. When I had spoken briefly to Br Foster in 1994 about the accusation against him relating to conduct at [redacted], I had no idea that it was Mr DG who had made that accusation. I never had a conversation with Br Foster about any abuse where Mr DG was named. Mr DG may have asked whether I had spoken to Br Foster, and I may have said that I had spoken to him about an accusation relating to [redacted], as I had.<sup>843</sup>

At the time that Brother Turton attended DG's settlement conference, he knew basic information about Brother Foster, including that he had suspended Brother Foster from teaching after he was contacted by the police.<sup>844</sup> Brother Turton also had access to the Provincial's records at the time, which included the records of complaints made about Brother Foster.<sup>845</sup> Brother Turton did not recall seeing the suicide note until some years after the settlement conference.<sup>846</sup>

The handwritten record of the settlement conference reads: 'Br Alexis Provincial 1989–95; vaguely recalls a "murmur" of Br Foster having problems'.<sup>847</sup> Brother Turton agreed that in the settlement conference he 'acknowledged that Brother Foster had had problems',<sup>848</sup> and that he did not give any substantive information about Brother Foster to DG at the conference.<sup>849</sup>

► **Finding 33:** At the time of DG’s settlement conference, the Marist Brothers’ representative knew basic details about Brother Foster, including that he had been suspended from teaching after the Police contacted him, and had access to the Provincial’s records which contained records of complaints against Brother Foster, but did not inform DG of these matters.

The Marist Brothers offered DG \$36,500 in exchange for a deed of release, a written apology and a copy of Dr Chalk’s report.

The written apology was based on the draft provided by DG’s lawyers at the settlement conference. It was approved by DG’s lawyers before it was given to DG.<sup>850</sup>

In his initial letter to the Marist Brothers, Mr Byrne had written that DG ‘would like some form of public recognition of the misdeeds of his abuser in the [redacted] area, as he perceives he was identified, or at least identifiable, as the person who made the allegations in various news reports at the time of Brother Foster’s death’.<sup>851</sup>

At the settlement conference, Mr Byrne requested a ‘public apology in general terms’. DG’s lawyers provided a draft public apology to the settlement conference.<sup>852</sup>

According to Ms Mole’s handwritten note of this settlement conference, Mr Monahan (‘PJM’) raised some concerns at the prospect of a public apology.<sup>853</sup> Brother Turton (‘Br A’) is recorded as saying, ‘Would prefer to address the family rather than write a letter. Reported his experience of newspaper/media articles from other past victims and Brothers’.<sup>854</sup> The following exchange is then recorded:

PJM	‘Family apology’ can be done with some tweaking
	‘Public Apology’ can’t be done for various reasons.
MB	Wants it to readdress his hurt following the glowing Eulogy
PJM	[illegible]
MB	Still wants the public injury re addressed via the draft statement.
PJM	We can’t see the benefit of such a general statement and will ` do more harm than good, but we will not close our minds.
KM	Apologise for Eulogy in family apology??
PJM/MB	Possible alternative. <sup>855</sup>

Mr Monahan could not recall specifically why he had raised concerns about a public apology during DG’s settlement conference, but he thought it would have been done on the basis of instructions from Ms Mole and Brother Turton.<sup>856</sup> He said that his concerns at the time might have been:

Concerns about broad publicity; concerns about whether this would ultimately really be helpful to the healing of the victim and his family; possibly concerns that other

claims would arise. All of these sorts of matters, I would imagine, would have cropped up in discussion.<sup>857</sup>

In relation to his evidence that one of the concerns may have been the possibility of other claims arising as a result of the public apology, Mr Monahan was asked whether claims should be brought if they can rightly be brought.<sup>858</sup> Mr Monahan replied, 'Well, that's a matter of opinion, I suppose, but representing the party that I was representing at that settlement conference, I don't think one would regard it as desirable', or in the interests of the Marist Brothers.<sup>859</sup>

Mr Monahan agreed that one of his concerns would have been the potential for damage to the Marist Brothers' reputation. However, he said, 'That was never a major focus of what motivated us, but it would certainly be one factor'.<sup>860</sup> Mr Monahan explained, 'we wouldn't put the reputation of the church authority in question ahead of other interests ... So you wouldn't deny that it was a factor, because it would have to be in people's minds, but it could not be the primary factor'.<sup>861</sup> Mr Monahan also said:

I suspect – and I'm really not certain about this because I can't remember the facts, so I am speculating a bit, but I suspect that we would have had a much broader discussion than what is written down on these three lines on this document about whether it really was a good idea and whether it was to his benefit, and it was obviously our impression or our view at the time that it wasn't to the benefit of our clients.<sup>862</sup>

Brother Turton did not recall the ongoing discussion about the public and private apology and was unable to comment on Mr Monahan's statement that there were problems with the public statement. He said, 'I don't quite know what that was about'.<sup>863</sup>

In relation to Ms Mole's handwritten notes of what Brother Turton said during DG's settlement conference, Brother Turton gave evidence that:

My reading of that – and I don't have a detailed memory now of that – is that if an apology was to be effective for the family, it was better done personally and face to face. As to how the media would handle it, I couldn't really make any other comment.<sup>864</sup>

Brother Turton said that it was not his understanding that the Marist Brothers refused to provide DG with a public apology. He understood that it may have been opposed because it would draw adverse publicity to the Marist Brothers.<sup>865</sup> He said that he was not opposed to a public apology; he 'was simply expressing a preference'.<sup>866</sup> He also said, 'If at the end of that discussion the victim, Mr [DG], still wanted a public apology, I think that should be considered'.<sup>867</sup>

Similarly, Brother Hill gave evidence that a person who has been abused 'certainly should' have the benefit of a public apology if that is what they wanted.<sup>868</sup>

In addition to financial compensation, DG initially asked for some form of apology process that could embrace his parents and family as well as some form of public recognition of the misdeeds of the abuser.<sup>869</sup> DG's barrister had also told the Marist Brothers:

As I see it this is a pastoral matter. My client has been walking and living through an interminable 'dark night' it would be appropriate, within the conciliatory spirit of '*Towards Healing*', for this matter to now proceed to some resolution which recognises the destructive outcome of the abuse he suffered, and sets in place some rehabilitative outcomes.<sup>870</sup>

However, DG's facilitation was little more than negotiations between his lawyers and CCI. DG said:

When I look back now at the *Towards Healing* process, I can say 'Oh, so that's what *Towards Healing* was' and basically that I was given some money to pay for counselling and that was it. But I really did not understand at the time where *Towards Healing* was coming from or what I could achieve through the process – or even if I was formally part of that process. The process felt to me like it consisted of two psychological assessments, a short meeting with my barrister, and a brief meeting with all the parties before I was asked to leave the room. I was told to sign a bit of paper and to go home and not come back. I was not offered or provided with any support or counselling during the process. I found the whole thing pretty disgusting and I could never quite work out where the healing part came into it, because I certainly didn't feel healed by that process.<sup>871</sup>

In his 2009 review of *Towards Healing*, Professor Parkinson observed that many cases that ostensibly come under *Towards Healing* are essentially a process of negotiations between lawyers or a mediation to attempt to settle the victim's claim, and are indistinguishable from the settlement process for other civil claims.<sup>872</sup>

Professor Parkinson noted that, if the case is run by lawyers and the complainant is only seeking compensation, *Towards Healing* really only provides procedures for the investigation and assessment of a complaint.<sup>873</sup> This was clearly right, as this case study demonstrates.

The Truth Justice and Healing Council has also submitted that the facilitation process, where it involves lawyers, 'can amount to little more than negotiations between the lawyer for the victim and the lawyer for the Church Authority (or the insurer if the claim is insured) or both'.<sup>874</sup>

*Towards Healing* was amended in 2010 to clarify that, if a complainant chooses to be represented by a lawyer and is only seeking compensation, the complaint should not proceed through *Towards Healing*.<sup>875</sup>

► **Finding 34:** DG's *Towards Healing* experience was little more than negotiations between his lawyers and CCI about money.

## 5 DK's *Towards Healing* experience

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### 5.1 Child sexual abuse of DK

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DK was sexually abused while he was a boarder at the Marist Brothers St Augustine's College, Cairns, between 1976 and 1981.<sup>876</sup>

In 1976, when DK was 11, his dormitory master Brother Leonidas watched DK and other male students while they showered.<sup>877</sup> Also in 1976, one of the Brothers sexually abused DK in the infirmary at St Augustine's College after he had cut his foot.<sup>878</sup> This Brother made him take his pants off, fondled his genitals and tried to masturbate him.<sup>879</sup> In late 1980 or early 1981 DK was sexually abused by Brother Ross Murrin in Brother Murrin's dormitory.<sup>880</sup>

At the time of DK's abuse, Brother Burns was the principal of St Augustine's and Brother Moraghan was a teacher at the college. DK gave the following evidence:

My grade 10 dorm master, Br Andrew Moraghan, often found me in Br Murrin's dormitory. I remember him getting very angry on these occasions. He would order me to leave Br Murrin's dormitory, but Ross Murrin would always invite me back. I believe now that Br Moraghan was put in charge of Ross Murrin to keep an eye on him. I also believe that Br Gerald (Gerry) Burns, the Principal of St Augustine's College, knew about Br Murrin.<sup>881</sup>

Brother Burns gave evidence that he was not aware of Brother Murrin's behavior towards DK and that he did not condone it.<sup>882</sup>

Brother Moraghan said, 'I can honestly say that I do not remember at any time going into Ross's dormitory and finding Ross and [DK] in that dormitory'.<sup>883</sup> He also said:

I was not put in charge of Br Murrin, either to 'keep an eye on him' or for any other reason. At no time while I was at St Augustine's College was it suggested to me by anyone that Br Murrin was or may have been acting inappropriately towards the students, and I did not suspect that this might have been occurring.<sup>884</sup>

DK gave evidence that his academic performance suffered after Brother Murrin abused him.<sup>885</sup> He said:

The abuse I experienced at St Augustine's College has affected me profoundly. I have lived my whole life scared. I have difficulties trusting people and I am a very anxious person. I have terrible insomnia and have felt depressed and suicidal ... I have difficulty concentrating and have struggled to work effectively over the years. Basically, I have never been able to string the consistency of life together. I have also felt a lot of anger towards my abusers and the Brothers who I feel have failed to act to ensure my safety.<sup>886</sup>

## 5.2 Other complaints against Brother Murrin

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In June or July 1981, while Brother Burns was the Principal of St Augustine's College, he received a telephone call from a man given the pseudonym Mr Smith – the father of a child given the pseudonym Y Smith who was a student at the time.<sup>887</sup>

Brother Burns gave the following evidence about this call:

I recall that Mr Smith told me that his son did not want to come back to the College. I do not recall whether or not Mr Smith told me the reason why Y Smith did not want to return.

I remember calling Y Smith into my office to discuss what his father had told me. I asked Y Smith to tell me in his own words what had happened. Y Smith told me that Br Ross [Murrin] had been touching and rubbing his chest and stomach, and the chest and stomach of another boy. He did not tell me that Br Ross had attempted to put his hands down his pants. I asked Y Smith if he could give me the name of the other boy who had been touched by Br Ross. He responded with the name of another student, DQ.<sup>888</sup>

Brother Burns spoke to 'DQ' shortly after his discussion with Y Smith. During that conversation, DQ told him that Brother Murrin had touched him on the chest and stomach.<sup>889</sup> Brother Burns said that the boy who complained was 'distressed, probably – angry' about what had happened.<sup>890</sup>

Brother Burns gave evidence that he thought Brother Murrin's actions were 'quite inappropriate' because 'it was something – it wasn't normal sort of behaviour. It was inappropriate for a teacher to touch a boy, touch a student, like that'.<sup>891</sup>

Brother Burns said that neither Y Smith nor DQ said anything that suggested that Brother Ross was behaving like this with anyone else; he understood that these incidents were limited to these two boys.<sup>892</sup>

After speaking with the boys, Brother Burns called Brother Murrin into his office to discuss the complaints. Brother Burns said:

I recall that Br Ross appeared shocked when I first told him of the complaints. Notwithstanding that the boys had denied it, I asked Br Ross whether he had touched the genitals of either boy and he claimed very definitely that he had not. Br Ross gave an account of what had happened that was consistent with what the boys had told me, that is, that he had rubbed them on their chests and stomachs.<sup>893</sup>

Y Smith's father later came to the school and spoke to Brother Burns and Brother Murrin. Brother Burns said that by the time Y Smith's father left, he was happy for his sons to stay at the school.<sup>894</sup>

Brother Murrin then met with Brother Geaney, who was the Marist Brothers' Provincial at the time. Brother Burns said that they did not take any protective measures against

Brother Murrin ‘beyond getting an assurance from him that it wasn’t going to happen again, and speaking to him fairly regularly to see how things were going for him, but again taking his word for it’.<sup>895</sup> The two boys were not removed from Brother Murrin’s dormitory.<sup>896</sup> Brother Burns agreed that different protective steps should have been taken against Brother Murrin.<sup>897</sup>

- **Finding 35:** Brother Burns received complaints from two male students in 1981 that Brother Murrin had inappropriately touched them at St Augustine’s College, and:
- Brother Burns spoke to Brother Murrin about these complaints
  - Brother Murrin admitted that he had inappropriately touched the boys
  - Brother Burns informed the Provincial of the Marist Brothers about the complaint
  - Brother Burns did not remove Brother Murrin from his position as dormitory master, and
  - Brother Burns did not remove the complainants from Brother Murrin’s dormitory.
- **Finding 36:** Different protective steps should have been taken when he received two complaints in 1981 about Brother Murrin touching boys inappropriately in his dormitory.
- If different protective steps had been taken by the Marist Brothers, Brother Murrin’s subsequent offending may have been avoided.

Brother Burns said that at the time of this incident a decision had already been made that Brother Murrin would leave St Augustine’s College at the end of the year.<sup>898</sup> Brother Burns did not know whether the principal of the school that Brother Murrin was going to was told about the incidents involving Y Smith and DQ.<sup>899</sup> Brother Burns said that he would not have seen it as his place to inform the principal because he had fully informed the Provincial.<sup>900</sup>

Brother Murrin was convicted in 2008 and again in 2010 after pleading guilty to charges of child sexual abuse at a Marist Brothers Primary School in Daceyville and St Gregory’s College, Campbelltown, Sydney.<sup>901</sup> These convictions were unrelated to DK.

Brother Burns said that he first became aware of other allegations of improper conduct against Brother Murrin when he was convicted in 2008.<sup>902</sup>

## 5.3 DK contacts the Marist Brothers

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### Initial contact

In November 2009, DK rang the Marist Brothers and spoke to Brother Turton about the abuse he suffered at St Augustine’s College.<sup>903</sup> He told Brother Turton about the sexual abuse by Brothers Leonidas and Murrin, but he did not disclose the identity of the Brother who abused him in 1976 in the infirmary.<sup>904</sup>

On 19 November 2009, Brother Turton informed the Marist Brothers Provincial, Brother Geoffrey Crowe, the New South Wales Professional Standards Office and the solicitor used by the Marist Brothers, Mr Harrison, about DK's complaint.<sup>905</sup>

On 25 November 2009, Brother Turton sent an email to Brother Crowe and Mr Harrison. He wrote, 'Regarding this man DK I have a feeling that we need to respond fairly quickly' and noted that he suspected a Canberra lawyer, Mr Jason Parkinson, had been in touch with DK.<sup>906</sup> He also wrote that he thought there would be benefit in DK speaking to Brother Rodney and Brother Burns, who taught at St Augustine's at the same time as Brother Murrin. Brother Turton wrote, 'I think that both acted well in the circumstances of Murrin's earlier offences at Cairns'.<sup>907</sup>

On 15 February 2010, DK called Brother Turton. Brother Turton outlined the main steps in *Towards Healing* and DK said that he was happy to proceed with *Towards Healing*.<sup>908</sup> Brother Turton also told DK that Brother Murrin would probably acknowledge that there had been inappropriate contact and that an assessment would probably not be needed.<sup>909</sup>

During this call, Brother Turton also urged DK to take his matter to the police, but DK did not want to. Brother Turton told DK he would need a signed statement of DK's story and a signed acknowledgement that he had been urged to take his matter to the police.<sup>910</sup>

The next day, Brother Turton sent an email to Mr Joseph Bucci of CCI. He wrote, 'At this stage I have not taken up this matter with *Towards Healing* but my intention would be to do it through Michael Salmon given all the changes taking place in the QPSO office at the moment. I am sure Michael would be happy to run with it'.<sup>911</sup> He also wrote, 'No assessment has been carried out although I have no doubt that the events did occur'.<sup>912</sup>

On 17 February 2010, DK wrote to Brother Turton setting out the outcomes he wanted from the *Towards Healing* process:

- I would like to meet with Brothers Gerald, Peter Rodney and Andrew. I would like to calmly and logically confront them and resolve issues that I have with them. I feel that they were aware of the abuse at the school and covered it up. I also feel that they punished me for Ross Murrin's actions.
- I would like to meet with Brother Michael Green and then be provided with evidence that the school has some policy/mechanism going forward to deal appropriately with child sexual abuse, both historical and contemporary.
- I would like a cash compensation payment for the damage that I have suffered as a result of abuse at St Augustine's. As you know, I have told my story to a solicitor with experience in this injury. His advice to me in relation to a compensation claim is in the vicinity up to \$200,000.
- I would also like any future psychiatric/psychological treatment in relation to dealing with this matter covered.

- I would like to know how the Marist Brothers and indeed the Church in general is dealing with the issue of child sexual abuse. I hope that this issue is being dealt with correctly.<sup>913</sup>

DK also told Brother Turton that he would like to complete his *Towards Healing* process during March of that year.<sup>914</sup>

Brother Turton wrote to the principal of St Augustine's College and asked what policies and procedures the school had for dealing with child sexual abuse. He wrote, 'I'd appreciate any guidance or policy which you can give me that I can pass on to DK'.<sup>915</sup>

### The Marist Brothers' approach to the *Towards Healing* procedures in DK's case

Brother Turton was appointed as the first Director of Professional Standards for the Marist Brothers in around January 2002.<sup>916</sup> As Director, Brother Turton was directly answerable to the Provincial and was responsible for managing professional standards claims on a day-to-day basis. In this role he was responsible for communicating with the victims, other Professional Standards Offices, lawyers, and CCI about the resolution of claims.<sup>917</sup>

This position is distinct from the State Director of Professional Standards.<sup>918</sup> When asked why the Marist Brothers created their own position of Director of Professional Standards, Brother Turton said, 'My understanding is that many orders have a person in the order who deals with professional standards matters'.<sup>919</sup>

Brother Turton said that, where a victim had already provided a written account of their complaint, he would discuss whether that could be used as the *Towards Healing* 'contact report' with the State PSO.<sup>920</sup> Brother Turton also said that the PSO would usually determine whether an assessor needed to be appointed and would consider possible Facilitators. After this, he would take responsibility for the matter.<sup>921</sup>

In DK's case, Brother Turton considered that DK's written statement and email of 17 February 2010 constituted the contact report for the purposes of *Towards Healing* (2010).<sup>922</sup> Brother Turton said that he was not technically the Contact Person as envisaged by the *Towards Healing* protocol.<sup>923</sup> He said that 'there wasn't a Contact Person, per se' because the contact report was 'already done'.<sup>924</sup>

Brother Turton gave evidence that in the first conversation he had with DK, DK had said to him: 'Oh, so you are going to deflect me to another office again?' During that discussion Brother Turton 'got the impression that he wanted to deal directly with the brothers in processing his claim, and that's the way it followed through'.<sup>925</sup>

Because of this, Brother Turton did not formally refer DK's matter to the State Professional Standards Office for case management after DK expressed a desire to engage in *Towards Healing* in February 2010.<sup>926</sup> He agreed that pursuant to the provisions of *Towards Healing* (2010) he should have done so.<sup>927</sup>

Brother Turton managed DK's complaint with the full acknowledgment and knowledge of Mr Salmon.<sup>928</sup> The only time Mr Salmon performed the role of Director of Professional Standards on DK's complaint was when he referred DK's complaint to the police.<sup>929</sup>

Mr Salmon said he did not insist that Brother Turton refer DK's matter to him in accordance with *Towards Healing* (2010) because he formed the view that Brother Turton was engaging pastorally with DK, and that this was appropriate.<sup>930</sup> Mr Salmon said:

Mr DK had made his complaint directly to the Church Authority, namely Brother Turton. The 2010 edition of *Towards Healing* envisaged that in such circumstances the complaint would be referred to the Director of Professional Standards, who would then appoint a Contact Person. In this case, although I was the NSW Director of Professional Standards, Br Turton asked me to act as Facilitator. He had already had considerable interaction with Mr DK and was, in effect, functioning as the Contact Person envisaged under *Towards Healing*. He was also in practical terms carrying out the tasks which *Towards Healing* envisaged for the Director of Professional Standards, in a more typical case ... In all those circumstances, it was possible to move almost immediately to the facilitation phase of the process envisaged in the *Towards Healing* protocol.<sup>931</sup>

Brother Turton accepted that he did not follow the *Towards Healing* procedure exactly, and gave evidence that 'I acknowledge that I would not be as involved in each of those steps, certainly it's not appropriate'.<sup>932</sup>

### Identity of unnamed Brother at the St Augustine's infirmary

When DK reported his abuse to the Marist Brothers, he told them about an incident of abuse by an unnamed Brother at the infirmary in St Augustine's College.

On 18 February 2010, Brother Turton sent an email to Mr Salmon and CCI. He wrote:

[DK] mentions a totally separate case of specific sexual abuse in the College infirmary. I raised this issue with him after reading his statement and he indicated that this is not an issue for him and he does not want that to be part of the whole mediation process.<sup>933</sup>

On 2 March 2010, Brother Turton wrote to DK:

If I can email you some photos of some of the Brothers who were there at the time would you be happy to see if you can identify the man whom you encountered in the infirmary in 1976? We don't have photos of everyone but I can copy some out of the 1981 magazine.<sup>934</sup>

In this email, Brother Turton listed 14 names of Brothers who were staff in 1976.<sup>935</sup>

On 3 March 2010, DK responded to Brother Turton that there was no need for the photos – he knew exactly who it was from the names. He said he would discuss it with Brother Turton on 30 March 2010.<sup>936</sup>

On the same day, Brother Turton wrote to Mr Bucci of CCI:

DK indicates that he knows from the names that I sent him who the person referred to in his first year of Cairns in the infirmary might be. I am quite sure that it is Br Anthony. Due to some totally internal matters with the Marist Brothers Br Anthony Hunt has acknowledged that there were some difficulties in his career and that did include Cairns. He did not mention the name DK but given that he was the afterhours infirmarian and that DK specifically mentions the infirmary I am sure that is who it is. I am not inclined to push him at this stage to mention the name as he seems to wish to hold it till the 30<sup>th</sup> but if you wish to raise a file then that would be the name.<sup>937</sup>

A handwritten document entitled 'Possible Sources of Complaints re Professional Standards' and signed by Brother Anthony Hunt on 10 October 2009 lists:

- three names under 'Ashgrove (1964–67)'
- five names under 'Mittagong (1968–73)'
- four names and the word 'others?' under 'Cairns (1976–83)'
- one name under 'Lismore (1984–88)'
- five names under 'Lololima (2006–2009)', which have the words 'Application with gauze pad of Whitfield's Ointment to fungal infection in groin area' beside them.

The document ends with the words: 'This is as accurate as I can make it at this point.'<sup>938</sup> DK is not named on this list. Brother Turton said that Brother Hunt posted this list to him. He said that he does not recall discussing it with Brother Hunt but presumes that he did.<sup>939</sup> He would have given this list to the Provincial at the time, but he does not recall giving a copy to the police.<sup>940</sup>

On 18 March 2010, Mr Monahan wrote to Brother Turton, 'In anticipation that the facilitation will also address the claim concerning the person who you have now identified as Br Anthony Hunt, could you please send down to me (and also to Joe) all material which you hold relating to Br Anthony Hunt'.<sup>941</sup> On the same day, Mr Monahan also wrote to Mr Bucci:

DK has also mentioned to Br Alexis Turton some other episode (details still not fully clear) which occurred to him at the hands of the Brother working in the infirmary in 1976. Br Alexis has now satisfied himself that this is a reference to Br Anthony Hunt.<sup>942</sup>

On 24 March 2010, Brother Turton wrote to Mr Bucci, 'Hunt is the man I am sure DK is referring to in the infirmary incident even though at this stage HE HAS NOT NAMED HIM [emphasis in original]'.<sup>943</sup>

On 26 March 2010, Mr Monahan wrote to Mr Bucci, 'I recommend that we attempt to settle this claim below \$100,000 at the TH facilitation, with the settlement sum to be allocated between the two separate claim files which you have opened, one for Br Anthony Hunt and one for Br Ross Murrin'.<sup>944</sup>

After DK's facilitation, Brother Turton wrote to Brother Hunt:

Just a short note to let you know that I met with an ex student of Cairns whom I had mentioned to you on the phone some time ago ... He also had a complaint regarding the infirmary at the College. It seemed to be consistent with other things that we have talked about and we accepted what he said. As a result he was able to sign a Deed of Release and the matter was settled.<sup>945</sup>

Data held by the Marist Brothers and the National Committee for Professional Standards records that DK made a claim against Brother Murrin and Brother Hunt.<sup>946</sup> Similarly, data that CCI gave to the Royal Commission about claims for child sexual abuse records two claims by DK.<sup>947</sup> The data also records that the claim against Brother Hunt was accepted.

Brother Turton gave evidence that he 'accepted that Brother Anthony fitted the description of the brother in the infirmary' and that he communicated this to CCI.<sup>948</sup> Brother Turton said that he specifically asked Brother Hunt about DK's complaint and that Brother Hunt 'never admitted to me that he was the person who was the abuser. He admitted that he was in the infirmary. He told me that he did not recall [DK]'.<sup>949</sup>

Brother Hunt made a statement to the Royal Commission in which he said:

I deny that I ever sexually abused DK. I have never fondled his genitals or tried to masturbate him. I did not take him to my dormitory, in 1976 I did not have charge of a dormitory. I do not ever recall treating DK for any injury. I do not ever recall asking DK to take off his pants on any occasion. I do not recall having any particular association with DK at all.<sup>950</sup>

DK gave evidence that 'I now understand that the Marist Brothers concluded that Brother Anthony Hunt abused me in the infirmary. In 2009, I did not name this person who abused me when I cut my foot'.<sup>951</sup> He also said:

I had thought that it was another one of the brothers, but I may now never know. Nothing was discussed with me during *Towards Healing*. I should have been told.<sup>952</sup>

Brother Turton said he had a 'strong sense' that he did ask DK whether Brother Hunt was the brother who had abused him in the infirmary, but that he 'couldn't swear to it'.<sup>953</sup>

Brother Turton did not mention Brother Hunt at DK's facilitation.<sup>954</sup>

We are satisfied that Brother Turton did not ask DK whether Brother Hunt was the Brother who abused him in the infirmary, because:

- there is no contemporaneous record of Brother Turton asking DK about Brother Hunt
- Brother Turton gave evidence that he could not be certain whether he had asked DK
- the evidence of DK, DL and Brother Turton establishes that Brother Hunt's name was not mentioned during the facilitation.

We accept that, in light of DK's evidence, it was not Brother Hunt who abused DK in the infirmary.

We note that the Marist Brothers informed CCI that they thought Brother Hunt had abused DK in circumstances where Brother Hunt said he did not know DK and DK was not asked whether it was Brother Hunt who had abused him.

► **Finding 37:** It was not Brother Anthony Hunt who abused DK in the infirmary.

## Arrangements for facilitation

On 18 February 2010, Brother Turton spoke at length with DK about a *Towards Healing* facilitation of his complaint.<sup>955</sup> Brother Turton strongly recommended that DK should have a lawyer look at the deed of release. He told DK that the Marist Brothers would pay the moderate costs of a lawyer attending the facilitation.<sup>956</sup> Brother Turton's file note of the conversation records:

We discussed his meeting with Brothers Gerald, Peter Rodney and Andrew. He is aware that Peter Rodney is overseas and is happy to speak to him when he returns. In the meantime he is very keen to meet with Gerald and Andrew in the same conversation with a mediator present as soon as possible.<sup>957</sup>

On the same day Brother Turton emailed DK a copy of the Student Protection Protocol for the Diocese of Cairns, Brother Turton also reiterated his recommendation that DK obtain legal advice on the deed of release.<sup>958</sup>

DK subsequently told Brother Turton that he had asked a barrister, DL, to attend the facilitation. He asked the Marist Brothers to cover DL's costs.<sup>959</sup> Brother Turton responded that he did not see any problems with DL attending. He said it 'May mean we have a legal person there as well in case it gets into serious legal speak. We would cover his fare and fees for the day'.<sup>960</sup>

Brother Turton forwarded this correspondence to Mr Bucci from CCI. He noted that he was not sure that they needed to have a psychiatric assessment of DK but that he had tentatively booked DK with Professor Harvey Whiteford. He asked for Mr Bucci's thoughts on that matter.<sup>961</sup> Professor Whiteford subsequently assessed DK at CCI's request.<sup>962</sup>

Brother Turton and DK corresponded about whether DK could be given a copy of Professor Whiteford's psychiatric report. Brother Turton told DK that he would discuss this request with Professor Whiteford.<sup>963</sup>

On 25 February 2010, Brother Turton visited Brother Murrin in prison. Brother Murrin initially told Brother Turton that he did not remember his relationship with DK being in any way sexual.<sup>964</sup> However, after this visit, Brother Murrin wrote to Brother Turton acknowledging that the incident that DK complained of had occurred.<sup>965</sup>

On 1 March 2010, Mr Bucci wrote to Brother Turton informing him that CCI's public liability policy would cover the sexual assault components of his claim against Brother Leonidis and Brother Murrin. He wrote:

We have referred the matter to Mr Patrick Monahan from Monahan + Rowell Lawyers who will protect the interests of CCI and the Trustees of the Marist Brothers in these matters. Patrick will be in contact with you shortly to discuss management and progression of this matter and will keep us both informed of developments as they arise.<sup>966</sup>

The following day Mr Salmon called DK to introduce himself as Facilitator and spoke to him about the facilitation.<sup>967</sup>

On 18 March 2010, Brother Turton wrote to Brother Rodney, DK's teacher at St Augustine's College, about DK's complaint. Brother Turton noted that DK claimed that many of the students knew about Brother Murrin's behavior. He asked when Brother Rodney came to know or suspect Brother Murrin's behaviour at St Augustine's. He also asked whether Brother Rodney had any comment on the drop in DK's marks while he was in Brother Rodney's class.<sup>968</sup>

Brother Rodney responded to Brother Turton:

As to his belief that Ross' behaviour was 'common knowledge' among the Brothers and boys, I cannot speak for the boys. As I think I said to you, I have a recollection of a conversation with Ross in the staff room/ printing room one evening. But I cannot fix the year. At that time a boy in Ross's dorm (Year 8 – I think) must have made a complaint to Gerry. Then and now I was not aware of the details of the complaint. For whatever reason, Ross felt the need to explain his side of the story. This was that the boy misunderstood/misinterpreted Ross' actions. I must admit that at this distance I cannot remember clearly what those 'actions' were. My vague recollection is that Ross touched the boy and that the boy 'misinterpreted' Ross' intention ...

In summary Alex, at no time in my years in Cairns did I know or suspect Ross of any misbehaviour. It was only after Ross' actions in other places came to public knowledge did the 'penny' drop for me as to what the 'misunderstanding' might really have been.<sup>969</sup>

On 25 March 2010, DK suggested that the Marist Brothers' solicitor and the CCI case manager sit in on the pastoral session of the facilitation so that he did not have to repeat his story.<sup>970</sup> Brother Turton made arrangements accordingly.<sup>971</sup>

## 5.4 A Facilitator is appointed

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Brother Turton spoke with DK on 22 February 2010. Before this call, Brother Turton had drafted an email to DK in which he explained that Mr Salmon was the Director of Professional Standards. After speaking with DK, Brother Turton wrote on the bottom of this

draft email: 'PS This was not sent as a long conversation was held with DK 22<sup>nd</sup> February 2010 and above was explained.'<sup>972</sup>

Brother Turton told Mr Salmon the next day that he had raised the possibility of Mr Salmon acting as Facilitator with DK. Brother Turton said he had clearly pointed out to DK that 'Mr Salmon was employed by the Church to oversee the implementation of *Towards Healing* and was an experienced and qualified mediator. DK saw no trouble with this'.<sup>973</sup>

Brother Turton gave evidence that, because of an earlier experience, he was aware of the possibility of a perception of conflict if Mr Salmon acted as Facilitator. He gave evidence that he therefore deliberately took steps to raise Mr Salmon's position with DK.<sup>974</sup>

On 23 February 2010, Brother Turton asked Mr Salmon to mediate DK's *Towards Healing* facilitation.<sup>975</sup> Mr Salmon agreed.<sup>976</sup> Mr Salmon also agreed to contact the police 'in the conventional notification process that we have regarding this matter mentioning the complaint against Murrin but not mentioning the name of the complainant.'<sup>977</sup> He did this on 24 February 2010.<sup>978</sup>

Mr Salmon gave evidence that he telephoned DK on or about 2 March 2010. He said that he wanted to reassure DK that the mediation process would be independent. He did this because he understood from his discussions with Brother Turton that DK was suspicious of the Church.<sup>979</sup> Mr Salmon said that during this call he told DK:

Even though I am employed by the Church in another capacity, my role is to be an honest broker and to get the best outcome. It is not my role to protect the backside of the Marist Brothers.<sup>980</sup>

Mr Salmon gave evidence that 'Mr DK indicated that he did not have a problem with me mediating the complaint'.<sup>981</sup>

We note that neither Mr Salmon's file note of his telephone conversation with DK on 2 March 2010, nor his file note of his conversation with DK on 28 May 2010, record that he informed DK of his position as Director of Professional Standards.<sup>982</sup>

DK gave evidence that he spoke to Mr Salmon on two or three occasions before the facilitation. He said that Mr Salmon did not tell him that he was employed by the Church, and that he described himself as independent.<sup>983</sup>

On 18 March 2010, Mr Monahan wrote to Mr Bucci:

Mr Salmon has been engaged directly by Br Alexis Turton as the Facilitator. Because of the potential for perceived conflict, Br Alexis says that he has checked this clearly with DK, who is happy to proceed on this basis.<sup>984</sup>

We note that neither Brother Turton nor Mr Salmon wrote to DK about Mr Salmon's position or asked him to consent in writing to Mr Salmon acting as Facilitator.

## The Towards Healing (2010) protocol

*Towards Healing* (2010) provides that ‘The Director of Professional Standards should not normally participate in the facilitation process’.<sup>985</sup> A footnote to this clause states that the Director may participate in the facilitation if approval is given in accordance with clause 39.5. Clause 39.5 provides:

With the written approval of the Executive Officer of the National Committee for Professional Standards, the Director may depart from these processes if to do so would better accord with the principles in the special circumstances of the case.<sup>986</sup>

Mr Salmon agreed that the effect of these provisions is that the Director of Professional Standards should not normally participate in a facilitation. However, if they do, they need to get the written approval of the National Committee.<sup>987</sup> He said:

I did not obtain the written approval of the Executive Officer to mediate this complaint. I did not consider it necessary to do so in circumstances where I believed Mr DK had been informed of my position by Br Turton as the Church Authority and had consented to me acting as the mediator.

In any event, given my experience mediating complaints and my discussions with the current and previous Executive Officers in relation to similar circumstances, I was confident that in circumstances such as these consent would be given by the Executive Officer.<sup>988</sup>

Brother Turton gave evidence that at the time he did not turn his mind to this clause of *Towards Healing* (2010) and that this was an ‘oversight’.<sup>989</sup>

► **Finding 38:** Mr Salmon did not act consistently with *Towards Healing* (2010) in that he acted as Facilitator without having obtained approval in accordance with clause 39.5 of *Towards Healing* (2010).

Mr Salmon agreed that the reason that *Towards Healing* (2010) requires the Director to obtain written approval before participating in a facilitation was that the Director may have a conflict of interest, or there may be a perception that the Director has a conflict and is not independent of the Church.<sup>990</sup>

Mr Salmon understood that there may be a perception of a conflict of interest if the Director acts as the Facilitator.<sup>991</sup>

Brother Turton agreed that a Facilitator must be impartial in order to be effective and that the Facilitator should be seen to be fair and impartial.<sup>992</sup> He agreed that having a Director of Professional Standards act as a Facilitator inherently raises the potential for a perception that there is a conflict of interest.<sup>993</sup> Brother Turton said that, on reflection, he would have recommended a Facilitator who was totally unconnected with the Church.<sup>994</sup>

However, Mr Salmon gave evidence that it is appropriate for a Director of Professional Standards to act as the Facilitator in a *Towards Healing* facilitation if:

- the victim knows the Director's position and makes an informed decision<sup>995</sup>
- the Director obtains written consent from the victim,<sup>996</sup> and
- the Director obtains the written approval of the Executive Officer of the National Professional Standards Committee.<sup>997</sup>

When asked whether he will continue to accept requests that he act as a Facilitator in *Towards Healing* facilitations, Mr Salmon said:

I will certainly consider it deeply and I will look at all the issues, and if I feel that the request in all the interests – in all the circumstances may be beneficial or would be beneficial, prima facie beneficial, to the complainant, then I would take it to the executive officer.<sup>998</sup>

Mr Salmon said that a *Towards Healing* facilitation differs from a traditional mediation. As a result, the principles of neutrality and impartiality do not necessarily apply to *Towards Healing* Facilitators.<sup>999</sup> He said that *Towards Healing* facilitations are aimed at getting the best result for the victim, and the Facilitator can play a proactive role in achieving this.<sup>1000</sup>

We have considered the experiences of four individuals with *Towards Healing* from 1996 to 2010. We have also had the benefit of a submission from the Truth Justice and Healing Council to an issues paper published by the Royal Commission concerning redress.<sup>1001</sup>

From that material, and the evidence in this case study, it seems to us that there can be little difference between a traditional mediation and a *Towards Healing* facilitation. The 2010 version of the Protocol uses the language of 'mediation' as well as 'facilitation'. The Truth Justice and Healing Council's submission described the role of CCI in facilitations as 'negotiating with the solicitors for the plaintiff as to quantum'.<sup>1002</sup> Mr Salmon's evidence was also that the financial part of a facilitation occurs like a mediation of a legal claim.<sup>1003</sup> Finally, DL, an experienced barrister, described DK's facilitation as a mediation.<sup>1004</sup>

Victims may find it difficult to trust those in positions of authority and are often in a vulnerable position during a facilitation.<sup>1005</sup> They may not always choose to have a lawyer present and may be required to sign a deed of release at the end of the facilitation.<sup>1006</sup>

In light of these matters, we accept that it is particularly important that a *Towards Healing* Facilitator is neutral and independent of the Church or at least that the victim has agreed in writing that he or she will accept a Facilitator who is employed by, or otherwise part of, the Church Authority.

We are satisfied that having a Director of Professional Standards act as a Facilitator in a *Towards Healing* facilitation raises a real potential for an actual or perceived conflict of interest given that the Director is employed by the Catholic Church.

- ▶ **Finding 39:** A Director of Professional Standards acting as a Facilitator in a *Towards Healing* facilitation raises a real potential for an actual or perceived conflict of interest given that the Director is employed by the Catholic Church.
- ▶ **Finding 40:** A Director should not act as a Facilitator unless:
  - the victim knows the Director’s position and makes an informed decision
  - the Director obtains written consent from the victim
  - the Director obtains the written approval of the Executive Officer of the National Professional Standards Committee.

## 5.5 The Facilitation

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DK’s facilitation took place on 30 March 2010. Present at the facilitation were DK, his wife, DL (DK’s barrister), Mr Salmon, Brother Turton, Brother Moraghan, Brother Burns, the solicitor Mr Monahan and Mr Bucci of CCI.

There was a pastoral session in the morning with the Brothers. Negotiations on settlement took place in the afternoon. Mr Salmon acted as the Facilitator.

The negotiations on settlement were conducted while DK, his wife and DL were in one room and CCI and the Church Authority were in another. Mr Salmon moved between the two rooms and communicated the offers to DK.<sup>1007</sup>

DK was ultimately offered \$88,000 subject to his signing a deed of release, which he accepted.<sup>1008</sup>

Brother Turton apologised to DK at the facilitation and also undertook to put the apology in writing and send it to DK, which he did.<sup>1009</sup> Brother Turton also read out an apology from Brother Murrin.<sup>1010</sup>

Before sending DK the written apology from the Marist Brothers, Brother Turton sent the draft apology to Mr Monahan, who responded, ‘apology looks fine to me, br alexis, and does not contain any overt “admissions” of particular allegations that could be used against us in future matters if he hands it over to Parkinson or other claimants’.<sup>1011</sup>

DK gave evidence that he felt the facilitation meeting had helped him, and that he felt somewhat better afterwards.<sup>1012</sup>

On 3 May 2010, DK wrote to Brother Turton, thanking him for his letter of apology. He wrote, ‘For some reason now I am just not so angry, I feel that I am able to let it all go. To that extent, the fact that they [Brothers Burns and Moraghan] were able to be present on the day was extremely helpful’.<sup>1013</sup>

## 5.6 DK wanted information from the Marist Brothers about their knowledge of abuse at St Augustine's

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We accept that before DK's facilitation, Brother Turton and Mr Salmon were aware that DK wanted information from the Brothers about whether they were aware of Brother Murrin's behaviour at St Augustine's College at that time. This is based on the following evidence.

Brother Turton's file note of the original call of complaint from DK states:

He [DK] also considered that many people at the school were aware of RM's activity and that there were other victims. He believed that a number of the Brothers were aware of Murrin's activity and protected him sometimes by bullying people who might have been prepared to make complaints.<sup>1014</sup>

Mr Harrison's file note of a meeting with Brother Turton on 26 November 2009 states:

The plan is for [DK] to meet with Brother Gerald and Brother Peter Rodney who can explain what was known and what was not known at the time.<sup>1015</sup>

Brother Turton's file note of a telephone conversation with DK on 15 February 2010 states:

After the discussion about *Towards Healing* [DK] indicated that he had three main objectives:

a) He would like to have a meeting with Peter Rodney, Gerry Burns and Andrew Moraghan as he wanted to clarify for himself how much they knew at the time and whether or not they were trying to protect RM from any allegations.<sup>1016</sup>

An email dated 17 February 2010 from DK to Brother Turton states:

I would like to meet with Brothers Gerald, Peter Rodney and Andrew. I would like to calmly and logically confront them and resolve issues that I have with them. I feel that they were aware of the abuse at the school and covered it up. I also feel that they punished me for Ross Murrin's actions.<sup>1017</sup>

Mr Salmon gave evidence that before the facilitation he was aware that DK wanted to know about Brother Murrin's involvement with other students.<sup>1018</sup>

Brother Burns gave evidence that he was asked to attend DK's facilitation and that he did not see anything in writing before the facilitation. He said:

I had the impression that my being there was to add what I could, because I'd been there and been principal at the time – anything I could contribute, but with the emphasis on what had happened to [DK]. I don't – quite honestly, I don't remember at that time thinking that it had anything to do with Murrin.<sup>1019</sup>

Brother Moraghan gave evidence that he attended DK's facilitation because Brother Turton asked him to. He could not recall being told the reason for his attendance, other than that DK had made allegations against Brother Murrin and that DK was in Brother Morghan's dormitory.<sup>1020</sup>

► **Finding 41:** Brother Turton and Mr Salmon knew that DK wanted the Marist Brothers to respond during his facilitation to his concerns that many people at St Augustine’s knew of Brother Murrin’s behaviour and that there were other victims.

### 1981 incident involving Brother Murrin

Brother Burns did not tell DK about his knowledge of and involvement in the 1981 incident involving Brother Murrin, which is detailed above, during DK’s facilitation.<sup>1021</sup>

During the hearing, an issue arose as to whether the discussion during this pastoral session raised Brother Burns’ knowledge of, and involvement in, the 1981 incident.

DK gave the following evidence in response to questions from Senior Counsel representing the Marist Brothers:

Q. I want to ask you this, Mr [DK], for your comment more generally. Could this be the position: the abuse you suffered as a boy has obviously affected you very deeply?

A. Absolutely.

Q. For many years, you believed that some of the other brothers – not the abusers themselves, but some of the other brothers – either knew about it or should have suspected and investigated?

A. I think they knew of abuse. They may or may not have known about me, but I think they certainly knew about the abuse that was going on at St Augustine’s.

Q. Thirdly, at the facilitation meeting, two of those brothers – Brother Burns and Brother Moraghan – were there to face up to your accusations in that regard?

A. Absolutely, and I appreciated them being there.

Q. They both said that they had not known of the abuse, didn’t they?

A. About any abuse?

Q. Yes.

A. Yes, they both said that.<sup>1022</sup>

DK agreed with Senior Counsel that he went into ‘considerable detail’ in the discussions he had with Brothers Burns and Moraghan during the facilitation.<sup>1023</sup> DK gave evidence that ‘I always believed they knew what was going on at St Augustine’s’, and agreed with the proposition put by Senior Counsel that he said this ‘in very plain terms at the meeting.’<sup>1024</sup>

## Brother Burns' evidence

Brother Burns disputed that DK had asked the Brothers about whether they had known or suspected that Brother Murrin was abusing boys at St Augustine's.

When asked why he did not raise his knowledge of the 1981 incident during DK's facilitation, Brother Burns said, 'I don't remember any question to me from [DK] that would have elicited that response' and 'I wasn't asked about it'.<sup>1025</sup> He also said, 'I don't remember him ever saying directly did I know about that, or even indirectly'.<sup>1026</sup>

Brother Burns also gave the following evidence:

- he does not believe that he evaded this issue at DK's facilitation<sup>1027</sup>
- if DK had asked a question 'about whether I knew about the 1981 thing ... I would have been open about it'<sup>1028</sup>
- 'I can't accept that at that session on the mediation morning, that I denied any knowledge of the other case of Ross Murrin dealing with those other two people'.<sup>1029</sup>

Brother Burns gave evidence that his overall memory of the pastoral session was that it was a frank and open discussion. He said, 'Mr DK seemed to me to have prepared carefully the things that he wanted to talk about and my sense at the end was that he felt satisfied that he had raised his issues'.<sup>1030</sup>

Brother Burns stated that he and Brother Moraghan 'responded at some length to questions and allegations made by Mr DK' and that 'I believed that it was a very honest and open exchange'.<sup>1031</sup>

Brother Burns said that his memory of the session was that it focused on DK and the abuse he had suffered. He believed that DK's main line of questioning was about why he did not take steps to do something about the fact that DK's marks in one subject declined enormously in the last semester.<sup>1032</sup>

Brother Burns said:

I presumed from the way he was talking that he knew what had happened, and I assumed he knew that I knew what had happened, but I don't remember him questioning me in a way that would overtly have wanted me to say, 'Yes, I do remember that at that time I was aware of it', because I had to be aware of it. I talked to the boys.<sup>1033</sup>

He also said:

I was assuming at that session that he knew, and that he knew I knew about Murrin's behaviour. He claims, you know, it was talked about among the boys at school.<sup>1034</sup>

When asked why he thought DK knew of the 1981 incident before the facilitation, Brother Burns said 'One of the main things would be the fact that he says in his statements that the kids all knew'.<sup>1035</sup> Brother Burns then gave evidence that he was 'not sure' what his source of knowledge was.<sup>1036</sup> He said:

It may have been from discussion with Turton. It may – had that been the case, I’m obviously a bit confused about the dates of his first statement that I saw, and this was after the interview with Monahan. I’m finding it a bit hard to put those things together. But I see your point, that when I said before I saw it in his written statement that that may not be accurate. But I was very aware of it, and he wasn’t asking what did happen. I suspect, now that I come to think of it, when he was talking about us not protecting him, and so on – no, look, I’d better not say that because it’s fuzzy.<sup>1037</sup>

However, we note that:

- Brother Burns could not identify the source of this knowledge
- Brother Burns did not address this knowledge in his statement to the Royal Commission
- while DK’s *Towards Healing* statement says he remembered hearing that Brother Murrin had abused a grade 8 boy, the details he provides there are significantly different from Brother Burns’ evidence of the 1981 incident – in particular:
  - the 1981 incident did not occur on camp
  - Brother Murrin was not removed as dormitory master following this incident.

DK’s *Towards Healing* statement that was prepared in or around February 2010, and states:

I remember hearing that Br Ross had sexually abused a Grade 8 boy from his dorm on a school camp, and that the boy’s parents had reported it to the Brothers I remember finding out in front of the refectory before breakfast one morning. The whole school was talking about it. From memory, Brother Ross was removed as the dorm master following this incident.

At the end of 1981, Br Gerald and Br Murrin were transferred. It was generally known amongst the boarders that it was because of the Grade 8 boy’s parents complaining.<sup>1038</sup>

## Mr Salmon’s evidence

Shortly after DK’s facilitation, Mr Salmon wrote a file note, which stated:

The first meeting was attended by all the persons noted above, and it was designed to allow DK the opportunity to air his issues directly with Brs Moraghan and Burns concerning his suspicion that they knew of Murrin’s inappropriate behaviour and did not act to protect DK.

The meeting also allowed the particular Brothers to respond which essentially was that at the time they had no knowledge of Murrin’s unacceptable behaviour and nor did they accept that they should have known.<sup>1039</sup>

In his initial statement to the Royal Commission, Mr Salmon wrote:

During this time, his [DK's] primary concern appeared to be with the behaviour of the two Brothers who were present rather than Br Murrin. Mr DK said 'You must have known about the behaviour of Br Murrin. You did not provide him with enough support. You did not help him and you did not help me.'<sup>1040</sup>

Either Br Burns or Br Moraghan or both said 'I had no idea about the abuse. I regret that it is your view that we knew about Br Murrin's behaviour. I had no idea that he was a risk. If I had known, I would have done something about it. I am shocked. I regret and am mortified that these things happened to you.'<sup>1041</sup>

Mr DK gradually accepted that the Brothers had not actually known about the abuse. However, he indicated that notwithstanding that knowledge of child sexual abuse in the late 1970s was less than it was now, he did not necessarily accept that they should not have been more perceptive about what was happening to him.<sup>1042</sup>

Around 6 pm on 23 January 2014, after Brothers Burns and Moraghan had given evidence before the Royal Commission, counsel for the Truth Justice and Healing Council requested that solicitors of Gilbert + Tobin speak to Mr Salmon about his file note of DK's facilitation.<sup>1043</sup> She stated, 'Depending on his comments, we may wish to prepare a short supplementary statement for him tomorrow morning'.<sup>1044</sup>

Gilbert + Tobin were the solicitors for the Marist Brothers and the New South Wales Professional Standard Office, amongst others. They did not represent Mr Salmon personally.<sup>1045</sup>

Mr Salmon ultimately signed a supplementary statement on DK's facilitation on the morning of 24 January 2014. Mr Salmon gave the following evidence in this statement:

In referring to whether the two Brothers had knowledge of Murrin's 'inappropriate behaviour' and 'unacceptable behaviour' in the Mediation File Note, I was referring to whether they had knowledge of inappropriate or unacceptable behaviour by Ross Murrin towards Mr DK. I was not referring to whether they had knowledge of inappropriate or unacceptable behaviour by Ross Murrin towards any other persons ...

I do not recall Mr DK asking Brs Moraghan or Burns at the mediation about whether they had knowledge of Ross Murrin having engaged in sexually abusive behaviour towards other students. Nor do I recall either Br Burns or Br Moraghan denying that they had any knowledge of Ross Murrin having abused other students.

The references in paragraph 48(c) of my First Statement to 'the abuse' are references to the abuse suffered by Mr DK.<sup>1046</sup>

Mr Salmon was questioned at length about his supplementary statement. During this questioning, the issue of whether DK had expressed concern at the facilitation about the abuse of others at St Augustine's became contested.

Mr Salmon gave the following evidence:

- he wrote the file note dated 30 March 2010 on or about the day of DK's facilitation<sup>1047</sup>
- the file note was a summary of the main parts of the facilitation that he remembered and thought were important<sup>1048</sup>
- when he wrote his first statement, the only record he had of DK's facilitation was his file note
- when he wrote his second statement, the only record he had of DK's facilitation was his file note
- to the extent that his statement includes details that are not in this file note, those details were based on his recollection at the time of drafting his statement<sup>1049</sup>
- paragraphs 48(b) and (c), cited above, of his first statement are a correct and accurate record of his recollection of what was said.<sup>1050</sup>

During questioning about his supplementary statement, the following exchange took place between the Chair of the Royal Commission and Mr Salmon:

Q. Questions were raised about general observations of Brother Murrin's behaviour, what Brother Burns knew had to come to mind, didn't it?

A. Well, that's correct. That's ---

Q. So that a statement, 'I had no idea that he was a risk', in the context as you put it, of a general discussion about observations of Brother Murrin's behaviour is at odds with what Brother Burns knew?

A. Yes, I understand what you are saying.

Q. What you are now telling us is that there was a discussion about the school's failure to observe Brother Murrin and protect children as a consequence of the knowledge they had?

A. Well, I don't recall there being a discussion at the time about the knowledge that they had, but I ---

Q. Perhaps not the knowledge, but the obligation to ---

A. Yes, but I do recall a discussion about the fact that they should have been on alert, in terms of looking after Brother Murrin – it was very much predicated on looking after Murrin as much as looking after the students.

Q. Yes. And indeed, once that is raised, the context of the conversation, as you report it, plainly raised the question of what did they know?

A. Yes, absolutely. I don't disagree with that.

Q. And what did they know beyond [DK]?

A. Yes. Yes.<sup>1051</sup>

The effect of this evidence is that, although DK may not have asked the Brothers specifically about the 1981 incidents, the context of the conversation during the pastoral session plainly raised the question of what the Brothers knew or suspected about Brother Murrin's behaviour at St Augustine's College.

To the extent there is any inconsistency between this evidence and Mr Salmon's supplementary statement, we accept Mr Salmon's oral evidence because:

- it is in response to a question that is not directly addressed in Mr Salmon's supplementary statement – that is, whether the context of the conversation plainly raised the question of the Marist Brothers' knowledge, and
- it is consistent with Mr Salmon's contemporaneous file note of the facilitation and his first statement to the Royal Commission.

### Brother Moraghan's evidence

We consider that the evidence of Brother Moraghan and Brother Turton supports the conclusion that the context of the conversation during the pastoral session of DK's facilitation plainly raised the question of what the Brothers knew or suspected about Brother Murrin's behaviour.

Brother Moraghan gave evidence that the focus of DK's questioning was about why the Brothers did not know about Brother Murrin's behaviour towards DK himself.<sup>1052</sup> However, he also gave the following evidence:

- At DK's facilitation he said, 'at no time while I was at St Augustine's did I know about Br Ross's behaviour. I was not aware of his behaviour until 2008 when charges were laid against him'.<sup>1053</sup>
- At the time of DK's facilitation he was not aware of the allegations that were made against Brother Murrin in 1981.<sup>1054</sup>
- At DK's facilitation, both he and Brother Burns had said words to the effect of 'I had no idea about the abuse', and 'I had no idea that he [Brother Murrin] was a risk'.<sup>1055</sup>
- He agreed with the following sentence in Mr Salmon's file note: 'the meeting also allowed the particular Brothers to respond which essentially was that at the time they had no knowledge of Murrin's unacceptable behaviour and nor did they accept they should have known.'<sup>1056</sup>
- During the facilitation DK said words to the effect of 'You must have known about the behaviour of Br Murrin. You did not provide him with enough support. You did not help him and you did not help me'.<sup>1057</sup>

## Brother Turton's evidence

On 27 April 2010, Brother Turton sent an email to Brother Rodney about DK's facilitation. He wrote that DK's 'concerns about people being aware of abuse at the time and not protecting children, were well and truly reviewed'.<sup>1058</sup>

Brother Turton agreed that during the pastoral session the Brothers told DK that they were not aware of any inappropriate behavior by Brother Murrin.<sup>1059</sup>

Brother Turton gave the following evidence about the 1981 complaints about Brother Murrin:

Q. My question to you is: if *Towards Healing* is about getting to the truth and ensuring victims are told the truth, why was Mr [DK] not informed about these events at his facilitation, when these are the very questions he had sought to have resolved?

A. I don't really have any other comment. The fact that it was – not being 'genital', I assume, was not a sexual matter, that had been accepted, that it was not at the level of the allegations that [DK] was referring to for the facilitation.

Q. It was noted to be not inappropriate conduct to that degree, but it's not noted to be appropriate conduct?

A. Yes, and I can't make any other comment on that, because 'inappropriate' could refer to a number of areas.

Q. But you sought to take no action in correcting what [DK]'s understanding would be from what he was told on that day, that nobody – that's Brother Moraghan, Brother Burns, and you didn't say anything about Brother Rodney – had any knowledge of anything being alleged against Ross Murrin back at his time at St Augustine's.

A. Well, I take your point. If that would have been helpful, then I wish I had noted that, yes.<sup>1060</sup>

Brother Turton was also asked whether he conveyed the contents of Brother Rodney's letter – that is, that Brother Murrin had spoken to Brother Rodney about complaints that had been made about Brother Murrin's behaviour – to DK. He replied:

I can't say for sure one way or the other. I do remember reading this letter, and I noted that Brother Peter said, 'I had no reason to suspect anything untoward', and I suppose that stood out to me in terms of his knowledge.<sup>1061</sup>

In addition to the evidence set out above, DL agreed with Senior Counsel for the Marist Brothers that during the pastoral session DK spoke in detail at some length and that he 'included assertions to the effect that Brother Burns and Brother Moraghan had either known about the abuse by Brother Murrin or should have known'.<sup>1062</sup>

DL also gave evidence that DK may have asserted ‘that Brother Murrin had been protected ... by the Marist Brothers more generally, perhaps’, but that he did not recall.<sup>1063</sup>

Mr Monahan gave evidence that his recollection was that DK’s focus during the facilitation ‘was more on Brother Gerard and Brother Andrew and his criticisms of them, which he ventilated quite thoroughly.’<sup>1064</sup>

Mr Monahan gave evidence that he did not remember DK saying anything in the facilitation ‘to the effect of accusing either Brother Burns or Brother Moraghan of having been aware in 1981 of sexual abuse or misconduct by Murrin in relation to other boys as distinct from in relation to [DK] himself’.<sup>1065</sup>

## Conclusion

Having weighed all the evidence, and the submissions of parties with leave to appear, we are satisfied that Brother Burns’ knowledge of Brother Murrin’s behaviour and the 1981 incident was plainly raised in discussion during the pastoral session.

We are also satisfied that Brother Burns’ responses during this session caused DK to understand that he was not aware that Brother Murrin had acted inappropriately at St Augustine’s while Brother Burns was principal.

We note that *Towards Healing* (2010) includes the following principle:

Concealing the truth is unjust to victims, a disservice to accused people and damaging to the whole Church community.<sup>1066</sup>

- ▶ **Finding 42:** The discussion during DK’s pastoral session plainly raised the question of whether the Marist Brothers present had reason to suspect Brother Murrin’s behaviour at the time and, in particular, whether there had been complaints about Brother Murrin’s behaviour while he was at St Augustine’s.
- ▶ **Finding 43:** During the pastoral session, Brother Burns:
  - did not inform DK about the 1981 complaints against Brother Murrin, of which he had personal knowledge
  - caused DK to understand that the Marist Brothers were not, and had no cause to be, aware of Brother Murrin’s behaviour at St Augustine’s and did not know of any abuse.

## 5.7 DK raises concerns about Mr Salmon’s position

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DK said that after his *Towards Healing* facilitation, he found out that Mr Salmon was the Director of the New South Wales Professional Standards Office, while watching television.<sup>1067</sup> DK said, ‘The failure to disclose Mr Salmon’s position as Director of the New South Wales Professional Standards Office made me really, really angry because I felt that I was lied to’.<sup>1068</sup>

## DK contacts Brother Turton

On 15 September 2010, DK wrote to Brother Turton asking whether Mr Salmon, the Director of Professional Standards for NSW/ACT, was also the independent mediator at his mediation.<sup>1069</sup>

Brother Turton responded to DK confirming that Mr Salmon was employed by the Church to supervise the implementation in New South Wales of the *Towards Healing* protocol. He also stated that Mr Salmon was also involved from time to time as a mediator in *Towards Healing* cases.<sup>1070</sup> Brother Turton wrote, 'Mr Salmon is an experienced and qualified mediator as we did discuss at one juncture prior to the facilitation'.<sup>1071</sup>

Brother Turton later wrote the following to Brother Rodney:

I also attach a copy from my notes regarding the use of Mr Salmon as mediator. I recall I had a draft email ready and before sending DK rang and we had a very long discussion. Certainly my intention was to communicate what was in the draft but from this distance I may not have made it clear.<sup>1072</sup>

DK gave evidence that Brother Turton asked him whether he would be happy for Mr Salmon to act as his Facilitator, but he was not told that Mr Salmon was employed by the Catholic Church.<sup>1073</sup> DK said he knew Mr Salmon would be paid by the Catholic Church for acting as the Facilitator in DK's facilitation.<sup>1074</sup>

We are satisfied that, although Brother Turton may have referred to Mr Salmon's position in his conversation with DK before DK's facilitation, he did not effectively communicate M Salmon's position to DK.<sup>1075</sup>

We are satisfied that Brother Turton should have explained Mr Salmon's position to DK in writing, given the potential for a perception that having a Director act as Facilitator gives rise to a conflict of interest.<sup>1076</sup>

► **Finding 44:** The Marist Brothers did not effectively communicate Mr Salmon's position as Director of New South Wales Professional Standards Office to DK before the facilitation. They should have.

## DK contacts Mr Salmon

On 28 May 2013, DK called Mr Salmon. A file note made by Mr Salmon records that during this conversation he told DK 'that I had assumed at the time that Br Alexis had informed him of my role at the PSO'.<sup>1077</sup> The note also records that Mr Salmon rang Brother Turton to brief him on DK's call and that Brother Turton 'confirmed that prior to the conference he had informed DK of MS' standing and this is reflected on the file'.<sup>1078</sup>

Mr Salmon gave evidence that when he first met with DK and DL on the day of the facilitation he explicitly informed DK that he was responsible for managing *Towards Healing* in New South Wales.<sup>1079</sup> In particular, Mr Salmon gave evidence that he said:

The Church has endeavoured to respond to these issues. One example is the *Towards Healing* process, which in my experience of managing complaints in NSW, has often delivered good outcomes to victims. The Marist Brothers are committed to that process.<sup>1080</sup>

DK gave evidence that Mr Salmon might have said this during the facilitation but that, if he did, 'that did not convey to me at all any role that he had in the Church. And I don't think, if he was intending to do that, that that would be a truthful way of telling me about it'.<sup>1081</sup>

DL, a barrister, also gave evidence that he was not aware of Mr Salmon's employment when he attended DK's facilitation and that this was not revealed or explained during the facilitation.<sup>1082</sup> DL said:

The Mediator said nothing during the course of the mediation that suggested his independence was compromised in any respect. Had he made such a disclosure, I am confident I would now recall it, because it would be another extraordinary feature of an otherwise exceptional proceeding.<sup>1083</sup>

DL also said:

had the mediator said something that suggested to me that he was less than independent, that would have stood out to me. One assumes when one attends a mediation, almost because it goes without saying, that the mediator is independent ... As I have said, the mediator said nothing to suggest to me that he was partial or lacking in independence in any respect.<sup>1084</sup>

We accept the evidence of DK and DL that Mr Salmon did not effectively communicate his position as Director of Professional Standards during DK's facilitation.

We are also satisfied that Mr Salmon did not effectively communicate his position to DK before the facilitation because there are no file notes or other contemporaneous documents recording that Mr Salmon did inform DK of his position. Also, Mr Salmon's file note of 28 May 2013 records that he told DK that he had assumed Brother Turton had told DK of his position as Director.

► **Finding 45:** Mr Salmon did not effectively communicate his position as Director of Professional Standards to DK or his barrister either before or during DK's facilitation. He should have.

## DK contacts Mr Monahan

Several years later, DK wrote to Mr Monahan, 'All that I would like to know from you is were you aware that Alexis Turton and Michael Salmon lied to me and did not disclose that the so called independent mediator was the Director Professional Standards'.<sup>1085</sup>

Mr Monahan forwarded this email on to Ms Fenby of CCI, and wrote, 'Emma: do you wish to instruct me to retrieve my old file and review it and respond to him?'<sup>1086</sup> Ms Fenby responded, 'I note that there is a signed deed of release and solicitors certificate. Therefore, please do not re-open your file'.<sup>1087</sup>

On the same day, before he received a response from Ms Fenby, Mr Monahan wrote to DK, 'I certainly DO remember meeting you at this mediation and am saddened to read about your disappointment with the process – I will now have to recover my old file from archives and review it before I respond properly to your enquiries – I will get back to you shortly – all the best'.<sup>1088</sup>

On 30 May 2013, DK responded to Mr Monahan, 'Patrick I really only have one question for you at my mediation in 2010 were you aware that Michael Salmon was the Director of Professional Standards?'<sup>1089</sup> DK sent another email to Mr Monahan almost a month later, and said 'Patrick, Please see your email below. Are you any closer in responding to my questions?'<sup>1090</sup>

On 3 July 2013, Mr Monahan wrote to DK:

Unfortunately, my secretary has now 'given up' on finding this old file in our archives. It seems to have been misfiled.

Can I therefore suggest that you might direct this enquiry to the Marist Brothers directly ...

You are also correct that Michael Salmon was the mediator.

I am sorry that I am not able to help you any further with these enquiries.<sup>1091</sup>

On 16 August 2013, DK wrote to Mr Monahan:

I am going to ask you a question again ...

In February 2010 you were present at a *Towards Healing* Facilitation involving my case. At the time of the meeting were you aware that the so called Independent Mediator Michael Salmon was in fact the NSW Director of Professional Standards?

I would appreciate a straight answer Patrick.<sup>1092</sup>

On 23 August 2013, Mr Monahan responded to DK:

Could I, though, refer you again to the email which I sent to you on 3 July 2013 confirming that we had ultimately been unable to find this old file in our archives. As I mentioned to you, it seems to have been misfiled ...

I have since had further discussions with the legal representative of the Marist Brothers, who informed me that you had instructed lawyers (Maurice Blackburn Lawyers were mentioned) to act for you in the matter. He was waiting to make direct contact with them to open a process of discussion with you to address all aspects of your concerns.

In those circumstances, it would not be appropriate for me to respond directly to you in any event in regard to any substantive aspect of the matter, as I should rather be dealing directly with your lawyers ...

The final point which I would like to make is that I am also reluctant to make any particular comment on this case, which was resolved about 3½ years ago, without full reference to my files.<sup>1093</sup>

Mr Monahan gave evidence that at the time of DK's facilitation he was aware that Mr Salmon was the New South Wales Director of Professional Standards.<sup>1094</sup>

When asked why he did not answer DK accordingly, he gave the following evidence:

Much to my considerable embarrassment, my file had been misfiled and we couldn't find it ... It would not have been appropriate for me to respond without checking my file, because I couldn't remember the facts.

... I needed to be sure of my facts before I responded to him. And then, before the file was found, it turned out that he now had engaged Maurice Blackburn Cashman as his lawyers and I should deal with them, and they have never approached me to do any such thing.<sup>1095</sup>

He also said, 'I have since found my file, but only after a considerable search by a number of employees at my office. The file was only found on 15 November 2013'.<sup>1096</sup>

Mr Monahan agreed that he did not need to retrieve his file in order to answer DK's question.<sup>1097</sup> Mr Monahan gave evidence that he could have answered DK directly, but that 'I chose not to, for the reasons I have given you'.<sup>1098</sup> Mr Monahan accepted the proposition that a just and compassionate response to DK would have been to respond quickly to DK's question. However, he stated that he took a different view.<sup>1099</sup>

## 5.8 Brother Murrin's position in the Marist Brothers

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Brother Murrin is still a Brother in the Marist Brothers, although he is currently in jail.<sup>1100</sup> Brother Crowe, the current Marist Brothers Provincial, said that there had been no internal process in relation to Brother Murrin, but that the Marist Brothers have had discussions with Brother Murrin about his future.<sup>1101</sup> He said, 'we have put to Brother Murrin that we think that this is the time for a serious conversation on his future, and we want to know what he is anticipating, and we have our own reflections on that, too'.<sup>1102</sup>

Brother Crowe gave evidence that there are three options when a Brother has committed child sexual abuse: the Brother remains a Marist Brother, the Brother seeks to leave or resigns from the Order, or the Brother is dismissed.<sup>1103</sup>

Brother Crowe gave evidence that if a Marist Brother decides they no longer wish to be a Brother, they could move for dispensation from vows.<sup>1104</sup> He said:

That process begins locally, but it does go to the superior general and then on to the Vatican in some cases. That person, in a sense, simply needs to say that he no longer

wishes to live as a brother, and he can give reasons for that. And then that comes – well, he has to write that letter to the superior general.

From my side, I have an obligation to write a bit of a report as to how I've helped the person to discern – that is the word that is used – to discern whether this is an appropriate action to be taking at this particular moment and the assistance that I have given that person to come to this decision, to come to this point.<sup>1105</sup>

Brother Crowe said that the involuntary removal of a Brother is technically called 'dismissal'. He said that involuntary removal is at the initiative of the Provincial and his local council, who would decide whether, according to canon law, that person should no longer be a Brother.<sup>1106</sup> The documentation is then sent to Rome for consideration.<sup>1107</sup> Brother Crowe said, 'For a brother to be dismissed is a process, which would involve quite a bit of paperwork'.<sup>1108</sup>

Brother Crowe also said:

It's within my authority to say to somebody, 'You are no longer to be known in public as a brother. You are no longer able to wear the religious garb or the religious indication of a brother. You are no longer to attend functions of the province', things like that.

And then also in terms of the movement of people, there's whole things around what we call safety plans.<sup>1109</sup>

Brother Crowe said that a decision about Brother Murrin's future would not be made until he has been released from jail.<sup>1110</sup> He said:

It's a question of the responsibility for the future in terms of the risk to children and in terms of the risk of that person also of re-offending.

So in the case of Ross Murrin, or it could be the same for others, that is the question which is there. If you dismiss, the person is on his own. If you find a way of having the person in a supervised situation, then you are reducing the risk, because you can control the person's access to children, and so on – you are reducing the risk to children; so that's the prime concern.

I understand what you're saying in terms of that dismissal seems natural in such a case, but I'm asking you also to think there in terms of what is best for children. Our read of it at the moment ... is to have the person in a supervised situation and that that framework then, in terms of accountabilities, in terms of restrictions of movements, in terms of ongoing supervision, of therapy, and so on, that we have a way of doing our bit for society by controlling the situations of these people.<sup>1111</sup>

► **Finding 46:** Brother Murrin has been convicted and jailed for child sexual abuse. He remains a Marist Brother.

The issue of what should be done about priests and religious who commit child sexual abuse offences will be addressed further during the Royal Commission.

## 6 Systemic Issues

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The following systemic issues arise from this case study and will be the subject of further consideration by the Royal Commission:

- a. the Church Authority's separation of the pastoral response from the payment of reparation and the payment of or for services (that is, counselling)
- b. The separation of the responsible Church Authority from investigation/assessment of a complaint
- c. criteria for determining amount of reparation
- d. the involvement of the responsible Church Authority in decisions about the amount of reparation paid
- e. the role of legal and insurance advisers in negotiations and decisions about the amount of reparation paid
- f. the role of apologies from the responsible Church Authority in healing for survivors
- g. consultation with survivors about Facilitators/mediators in a redress scheme
- h. the independence of decision makers in a redress scheme (that is, their independence from the institution where the abuse is alleged to have occurred)
- i. the independence of Facilitators/mediators in a redress scheme (that is, their independence from the institution where the abuse is alleged to have occurred)
- j. legal representation of complainants in a redress scheme
- k. funding for legal representation of complainants in a redress scheme
- l. disciplinary action against those accused of abuse.

## APPENDIX A: Terms of Reference

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### Letters Patent

ELIZABETH THE SECOND, by the Grace of God Queen of Australia and Her other Realms and Territories, Head of the Commonwealth:

TO

The Honourable Justice Peter David McClellan AM,  
Mr Robert Atkinson,  
The Honourable Justice Jennifer Ann Coate,  
Mr Robert William Fitzgerald AM,  
Dr Helen Mary Milroy, and  
Mr Andrew James Marshall Murray

GREETING

WHEREAS all children deserve a safe and happy childhood.

AND Australia has undertaken international obligations to take all appropriate legislative, administrative, social and educational measures to protect children from sexual abuse and other forms of abuse, including measures for the prevention, identification, reporting, referral, investigation, treatment and follow up of incidents of child abuse.

AND all forms of child sexual abuse are a gross violation of a child's right to this protection and a crime under Australian law and may be accompanied by other unlawful or improper treatment of children, including physical assault, exploitation, deprivation and neglect.

AND child sexual abuse and other related unlawful or improper treatment of children have a long-term cost to individuals, the economy and society.

AND public and private institutions, including child-care, cultural, educational, religious, sporting and other institutions, provide important services and support for children and their families that are beneficial to children's development.

AND it is important that claims of systemic failures by institutions in relation to allegations and incidents of child sexual abuse and any related unlawful or improper treatment of children be fully explored, and that best practice is identified so that it may be followed in the future both to protect against the occurrence of child sexual abuse and to respond appropriately when any allegations and incidents of child sexual abuse occur, including holding perpetrators to account and providing justice to victims.

AND it is important that those sexually abused as a child in an Australian institution can share their experiences to assist with healing and to inform the development of strategies and reforms that your inquiry will seek to identify.

AND noting that, without diminishing its criminality or seriousness, your inquiry will not specifically examine the issue of child sexual abuse and related matters outside institutional contexts, but that any recommendations you make are likely to improve the response to all forms of child sexual abuse in all contexts.

AND all Australian Governments have expressed their support for, and undertaken to cooperate with, your inquiry.

NOW THEREFORE We do, by these Our Letters Patent issued in Our name by Our Governor-General of the Commonwealth of Australia on the advice of the Federal Executive Council and under the Constitution of the Commonwealth of Australia, the *Royal Commissions Act 1902* and every other enabling power, appoint you to be a Commission of inquiry, and require and authorise you, to inquire into institutional responses to allegations and incidents of child sexual abuse and related matters, and in particular, without limiting the scope of your inquiry, the following matters:

- a. what institutions and governments should do to better protect children against child sexual abuse and related matters in institutional contexts in the future;
- b. what institutions and governments should do to achieve best practice in encouraging the reporting of, and responding to reports or information about, allegations, incidents or risks of child sexual abuse and related matters in institutional contexts;
- c. what should be done to eliminate or reduce impediments that currently exist for responding appropriately to child sexual abuse and related matters in institutional contexts, including addressing failures in, and impediments to, reporting, investigating and responding to allegations and incidents of abuse;
- d. what institutions and governments should do to address, or alleviate the impact of, past and future child sexual abuse and related matters in institutional contexts, including, in particular, in ensuring justice for victims through the provision of redress by institutions, processes for referral for investigation and prosecution and support services.

AND We direct you to make any recommendations arising out of your inquiry that you consider appropriate, including recommendations about any policy, legislative, administrative or structural reforms.

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, We direct you, for the purposes of your inquiry and recommendations, to have regard to the following matters:

- e. the experience of people directly or indirectly affected by child sexual abuse and related matters in institutional contexts, and the provision of opportunities for them to share their experiences in appropriate ways while recognising that many of them will be severely traumatised or will have special support needs;

- f. the need to focus your inquiry and recommendations on systemic issues, recognising nevertheless that you will be informed by individual cases and may need to make referrals to appropriate authorities in individual cases;
- g. the adequacy and appropriateness of the responses by institutions, and their officials, to reports and information about allegations, incidents or risks of child sexual abuse and related matters in institutional contexts;
- h. changes to laws, policies, practices and systems that have improved over time the ability of institutions and governments to better protect against and respond to child sexual abuse and related matters in institutional contexts.

AND We further declare that you are not required by these Our Letters Patent to inquire, or to continue to inquire, into a particular matter to the extent that you are satisfied that the matter has been, is being, or will be, sufficiently and appropriately dealt with by another inquiry or investigation or a criminal or civil proceeding.

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, We direct you, for the purposes of your inquiry and recommendations, to consider the following matters, and We authorise you to take (or refrain from taking) any action that you consider appropriate arising out of your consideration:

- i. the need to establish mechanisms to facilitate the timely communication of information, or the furnishing of evidence, documents or things, in accordance with section 6P of the *Royal Commissions Act 1902* or any other relevant law, including, for example, for the purpose of enabling the timely investigation and prosecution of offences;
- j. the need to establish investigation units to support your inquiry;
- k. the need to ensure that evidence that may be received by you that identifies particular individuals as having been involved in child sexual abuse or related matters is dealt with in a way that does not prejudice current or future criminal or civil proceedings or other contemporaneous inquiries;
- l. the need to establish appropriate arrangements in relation to current and previous inquiries, in Australia and elsewhere, for evidence and information to be shared with you in ways consistent with relevant obligations so that the work of those inquiries, including, with any necessary consents, the testimony of witnesses, can be taken into account by you in a way that avoids unnecessary duplication, improves efficiency and avoids unnecessary trauma to witnesses;
- m. the need to ensure that institutions and other parties are given a sufficient opportunity to respond to requests and requirements for information, documents and things, including, for example, having regard to any need to obtain archived material.

AND We appoint you, the Honourable Justice Peter David McClellan AM, to be the Chair of the Commission.

AND We declare that you are a relevant Commission for the purposes of sections 4 and 5 of the *Royal Commissions Act 1902*.

AND We declare that you are authorised to conduct your inquiry into any matter under these Our Letters Patent in combination with any inquiry into the same matter, or a matter related to that matter, that you are directed or authorised to conduct by any Commission, or under any order or appointment, made by any of Our Governors of the States or by the Government of any of Our Territories.

AND We declare that in these Our Letters Patent:

**child** means a child within the meaning of the Convention on the Rights of the Child of 20 November 1989.

**government** means the Government of the Commonwealth or of a State or Territory, and includes any non-government institution that undertakes, or has undertaken, activities on behalf of a government.

**institution** means any public or private body, agency, association, club, institution, organisation or other entity or group of entities of any kind (whether incorporated or unincorporated), and however described, and:

- i. includes, for example, an entity or group of entities (including an entity or group of entities that no longer exists) that provides, or has at any time provided, activities, facilities, programs or services of any kind that provide the means through which adults have contact with children, including through their families; and
- ii. does not include the family.

**institutional context**: child sexual abuse happens in an **institutional context** if, for example:

- i. it happens on premises of an institution, where activities of an institution take place, or in connection with the activities of an institution; or
- ii. it is engaged in by an official of an institution in circumstances (including circumstances involving settings not directly controlled by the institution) where you consider that the institution has, or its activities have, created, facilitated, increased, or in any way contributed to, (whether by act or omission) the risk of child sexual abuse or the circumstances or conditions giving rise to that risk; or
- iii. it happens in any other circumstances where you consider that an institution is, or should be treated as being, responsible for adults having contact with children.

**law** means a law of the Commonwealth or of a State or Territory.

**official**, of an institution, includes:

- i. vi. any representative (however described) of the institution or a related entity; and

- ii. vii. any member, officer, employee, associate, contractor or volunteer (however described) of the institution or a related entity; and
- iii. viii. any person, or any member, officer, employee, associate, contractor or volunteer (however described) of a body or other entity, who provides services to, or for, the institution or a related entity; and
- iv. ix. any other person who you consider is, or should be treated as if the person were, an official of the institution.

**related matters** means any unlawful or improper treatment of children that is, either generally or in any particular instance, connected or associated with child sexual abuse.

AND We:

require you to begin your inquiry as soon as practicable, and

require you to make your inquiry as expeditiously as possible; and

require you to submit to Our Governor-General:

first and as soon as possible, and in any event not later than 30 June 2014 (or such later date as Our Prime Minister may, by notice in the *Gazette*, fix on your recommendation), an initial report of the results of your inquiry, the recommendations for early consideration you may consider appropriate to make in this initial report, and your recommendation for the date, not later than 31 December 2015, to be fixed for the submission of your final report; and

then and as soon as possible, and in any event not later than the date Our Prime Minister may, by notice in the *Gazette*, fix on your recommendation, your final report of the results of your inquiry and your recommendations; and

authorise you to submit to Our Governor-General any additional interim reports that you consider appropriate.

IN WITNESS, We have caused these Our Letters to be made Patent.

WITNESS Quentin Bryce, Governor-General of the Commonwealth of Australia.

Dated 11th January 2013

Governor-General

By Her Excellency's Command

Prime Minister

## APPENDIX B: Public hearing

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<b>The Royal Commission</b>	Justice Peter McClellan AM (Chair) Justice Jennifer Coate Mr Bob Atkinson AO APM Mr Robert Fitzgerald AM Professor Helen Milroy Mr Andrew Murray
<b>Commissioners who presided</b>	Justice Peter McClellan AM Professor Helen Milroy Mr Andrew Murray
<b>Date of hearing</b>	9–19 December 2013; 22–24 January 2014
<b>Legislation</b>	<i>Royal Commissions Act 1902</i> (Cth)
<b>Leave to appear</b>	Mrs Joan Isaacs Mr Joseph Bucci Ms Emma Fenby The Truth, Justice and Healing Council The Catholic Archdiocese of Brisbane The Catholic Diocese of Lismore The Marist Brothers The Professional Standards Office (QLD) The Professional Standards Office (NSW/ACT) The Catholic Church Insurance Limited Mr Barry Shonhan Ms Jennifer Ingham Mr Ronald McKiernan Father Francis Derriman

**Legal representation** Gail Furness SC, Senior Counsel Assisting the Royal Commission and Mr Angus Stewart, Counsel Assisting the Royal Commission

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**Pages of transcript:** 1,373 pages

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**Notices to Produce issued under *Royal Commissions Act 1902 (Cth)* and documents produced:** 40 notices producing 1,900 documents

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**Summons to Attend issued under *Royal Commissions Act 1923 (NSW)* and documents produced:** 22 notices producing 13,000 documents

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**Requirements to Produce issued under *Commissions of Inquiry Act 1950 (Qld)* and documents produced:** 2 requirements producing 300 documents

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**Summonses to Attend issues under *Evidence (Miscellaneous Provisions) Act 1958 (Vic)* and documents produced:** 3 summonses producing 8,500 documents

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**Number of exhibits:** 70 exhibits consisting of a total of 783 documents tendered at the hearing

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**Witnesses**

- 1 **Joan Katherine Isaacs**  
*Towards Healing* participant
- 2 **Dr Kenneth Robertson**  
Former Convenor, QLD Professional Standards Office
- 3 **Mary Bernadette Rogers**  
Facilitator, QLD Professional Standards Office
- 4 **Reverend Dr Adrian Farrelly**  
Chancellor, Archdiocese of Brisbane
- 5 **Laurie Rolls**  
Manager, Special Projects, Catholic Church Insurances
- 6 **Very Reverend Dr James Spence**  
Former Chancellor, Archdiocese of Brisbane

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- 7 **Most Reverend John Joseph Gerry DD**  
Former Auxiliary Bishop, Archdiocese of Brisbane
  - 8 **Most Reverend Mark Coleridge**  
Archbishop, Archdiocese of Brisbane
  - 9 **Jennifer Ingham**  
*Towards Healing* participant
  - 10 **Patrick James Mullins**  
Former Director, QLD Professional Standards Office
  - 11 **Professor Roger Dooley**  
Clinical Psychologist
  - 12 **Colin Desmond Riches**  
Former husband of Jennifer Ingham
  - 13 **Father Francis Michael Mulcahy**  
Retired Catholic priest
  - 14 **Emma Miranda Fenby**  
Former Special Issues Case Manager, Catholic Church Insurance Limited
  - 15 **Michael John Salmon**  
Facilitator, NSW Professional Standards Office
  - 16 **Reverend Deacon Christopher John Wallace**  
Chancellor, Diocese of Lismore
  - 17 **Most Reverend Geoffrey Hylton Jarrett DD**  
Bishop, Diocese of Lismore
  - 18 **DG**  
*Towards Healing* participant
  - 19 **Brother Alexis Turton**  
Former Director for Professional Standards, Marist Brothers
  - 20 **Brother Michael Anthony Hill**  
Former Provincial, Marist Brothers
  - 21 **DK**  
*Towards Healing* participant
  - 22 **Joseph Bucci**  
Former Special Issues Case Manager, Catholic Church Insurance Limited

## Endnotes

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- <sup>1</sup> Exhibit 4-1, Tab E (*Towards Healing* 1996), CTJH.0001.001.0104 at .0117 [4.1].
- <sup>2</sup> Exhibit 4-1, Tab E (*Towards Healing* 1996), CTJH.0001.001.0104 at .0117 - .0118 [4.6].
- <sup>3</sup> Exhibit 4-1, Tab D (*Towards Healing* 2000), CTJH.0001.001.0073; Exhibit 4-1, Tab B (*Towards Healing* 2010), CTJH.0001.001.0005 at .0023 [35.3].
- <sup>4</sup> Exhibit 4-1, Tab B (*Towards Healing* 2010), CTJH.0001.001.0005 at .0025 [36.3].
- <sup>5</sup> Exhibit 4-1, Tab B (*Towards Healing* 2010), CTJH.0001.001.0005 at .0028 [38.4, 38.5].
- <sup>6</sup> Exhibit 4-1, Tab B (*Towards Healing* 2010), CTJH.0001.001.0005 at .0029 [38.9].
- <sup>7</sup> Exhibit 4-1, Tab B (*Towards Healing* 2010), CTJH.0001.001.0005 at .0033 [41.1].
- <sup>8</sup> Exhibit 4-1, Tab B (*Towards Healing* 2010), CTJH.0001.001.0005 at .0033 [41.1].
- <sup>9</sup> Exhibit 4-1, Tab B (*Towards Healing* 2010), CTJH.0001.001.0005 at .0034 [41.3, 41.4].
- <sup>10</sup> Exhibit 4-1, Tab B (*Towards Healing* 2010), CTJH.0001.001.0005 at .0034 [41.4.3].
- <sup>11</sup> Exhibit 4-1, Tab B (*Towards Healing* 2010), CTJH.0001.001.0005 at .0034 [41.4.1].
- <sup>12</sup> Exhibit 4-1, Tab B (*Towards Healing* 2010), CTJH.0001.001.0005 at .0035 [41.4.8].
- <sup>13</sup> Truth Justice and Healing Council, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse in Response to Submissions of Counsel Assisting, *Case Study 4: Towards Healing*, 14 April 2014, pp. 5-6, Section 1.3.
- <sup>14</sup> Truth Justice and Healing Council, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse in Response to Submissions of Counsel Assisting, *Case Study 4: Towards Healing*, 14 April 2014, p. 5 [16].
- <sup>15</sup> Truth Justice and Healing Council, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse in Response to Submissions of Counsel Assisting, *Case Study 4: Towards Healing*, 14 April 2014, pp. 8-11, Section 1.7.
- <sup>16</sup> Truth Justice and Healing Council, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse in Response to Submissions of Counsel Assisting, *Case Study 4: Towards Healing*, 14 April 2014, pp. 6-7, Section 1.4.
- <sup>17</sup> Truth Justice and Healing Council, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse in Response to Submissions of Counsel Assisting, *Case Study 4: Towards Healing*, 14 April 2014, p. 12 [77].
- <sup>18</sup> Truth Justice and Healing Council, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse in Response to Submissions of Counsel Assisting, *Case Study 4: Towards Healing*, 14 April 2014, p. 12 [77].
- <sup>19</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [4]; Exhibit 4-2, Tab 6, CTJH.100.01250.0171\_R.
- <sup>20</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [4]; Exhibit 4-2, Tab 6, CTJH.100.01250.0171\_R.
- <sup>21</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [4]; Exhibit 4-2, Tab 6, CTJH.100.01250.0171\_R.
- <sup>22</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [4].
- <sup>23</sup> Exhibit 4-2, Tab 6, CTJH.100.01250.0171\_R [5].
- <sup>24</sup> Exhibit 4-2, Tab 6, CTJH.100.01250.0171\_R [4].
- <sup>25</sup> Exhibit 4-2 Tab 6 CTJH.100.01250.0171\_R at .0172\_R [6].
- <sup>26</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [4]; Exhibit 4-2, Tab 6 CTJH.100.01250.0171\_R .0172\_R [10].
- <sup>27</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [4].
- <sup>28</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [5].
- <sup>29</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [7].

- <sup>30</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [11].
- <sup>31</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [12].
- <sup>32</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [12].
- <sup>33</sup> Exhibit 4-2, Tab 3, STAT.0077.001.0019\_R; Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [13].
- <sup>34</sup> Exhibit 4-2, Tab 4, STAT.0077.001.0020\_R.
- <sup>35</sup> Exhibit 4-2, Tab 9, CTJH.100.01250.0182.
- <sup>36</sup> Exhibit 4-2 Tab 9, CTJH.100.01250.0182.
- <sup>37</sup> Exhibit 4-2 Tab 9, CTJH.100.01250.0182 at .0183 to .0184.
- <sup>38</sup> Exhibit 4-2 Tab 9, CTJH.100.01250.0182 at .0184.
- <sup>39</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [14].
- <sup>40</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [14].
- <sup>41</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [15].
- <sup>42</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [15]; Exhibit 4-5, Statement of Dr Kenneth Robertson, STAT.0081.001.0001\_M [26].
- <sup>43</sup> Exhibit 4-2, Tab 10, STAT.0077.001.0021\_R.
- <sup>44</sup> Exhibit 4-3 Tab 10, STAT.0077.001.0021\_R.
- <sup>45</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [16]; Exhibit 4-2, Tab 10, STAT.0077.001.0021\_R.
- <sup>46</sup> Exhibit 4-2, Tab 46, STAT.0081.001.0065; Exhibit 4-5, Statement of Dr Kenneth Robertson, STAT.0081.001.0001\_M [30].
- <sup>47</sup> Exhibit 4-2, Tab 46, STAT.0081.001.0065; Statement of Dr Kenneth Robertson, STAT.0081.001.0001\_M [30].
- <sup>48</sup> Exhibit 4-2, Tab 15, STAT.0077.001.0026\_R.
- <sup>49</sup> Exhibit 4-2, Tab 11, STAT.0087.001.0013.
- <sup>50</sup> Exhibit 4-2, Tab 46, STAT.0081.001.0065; Exhibit 4-5, Statement of Dr Kenneth Robertson, STAT.0081.001.0001\_M [31].
- <sup>51</sup> Exhibit 4-2, Tab 12, Exhibit 4-2, Tab 13, STAT.0077.001.0023\_R and Exhibit 4-2, Tab 13A, IND.R-004128.PS.0212.
- <sup>52</sup> Exhibit 4-2, Tab 12, STAT.0077.001.0022\_R; Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [19].
- <sup>53</sup> Exhibit 4-2, Tab 12, STAT.0077.001.0022\_R.
- <sup>54</sup> Exhibit 4-2, Tab 46, STAT.0081.001.0065; Exhibit 4-5, Statement of Dr Kenneth Robertson, STAT.0081.001.0001\_M [36].
- <sup>55</sup> Exhibit 4-5, Statement of Dr Kenneth Robertson, STAT.0081.001.0001\_M [42].
- <sup>56</sup> Exhibit 4-5, Statement of Dr Kenneth Robertson, STAT.0081.001.0001\_M [42].
- <sup>57</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [20]-[21]; Exhibit 4-2 Tab 15, STAT.0077.001.0026\_R.
- <sup>58</sup> Exhibit 4-2, Tab 15, STAT.0077.001.0026\_R.
- <sup>59</sup> Exhibit 4-2, Tab 15, STAT.0077.001.0026\_R.
- <sup>60</sup> Exhibit 4-10, Statement of Father Adrian Farrelly, STAT.0086.001.0003 [14].
- <sup>61</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [21].
- <sup>62</sup> Exhibit 4-2, Tab 15, STAT.0077.001.0026\_R.
- <sup>63</sup> Exhibit 4-2, Tab 46, STAT.0081.001.0065; Exhibit 4-5, Statement of Dr Kenneth Robertson, STAT.0081.001.0001\_M [38].
- <sup>64</sup> Exhibit 4-2, Tab 17, STAT.0077.001.0028.
- <sup>65</sup> Exhibit 4-2, Tab 16, STAT.0086.001.0012.
- <sup>66</sup> Exhibit 4-2, Tab 16, STAT.0086.001.0012 and Exhibit 4-2, Tab 17, STAT.0077.001.0028.
- <sup>67</sup> Exhibit 4-2, Tab 17A, STAT.0091.001.0074\_R.
- <sup>68</sup> Exhibit 4-2, Tab 18, STAT.0087.001.0015.
- <sup>69</sup> Exhibit 4-2, Tab 18, STAT.0087.001.0015.

- <sup>70</sup> Exhibit 4-2, Tab 18, STAT.0087.001.0015.
- <sup>71</sup> Exhibit 4-10, Statement of Father Adrian Farrelly, STAT.0086.001.0003\_E\_M [21].
- <sup>72</sup> Farrelly T2634:13-17 (Day 25); Exhibit 4-10, Statement of Father Adrian Farrelly, STAT.0086.001.0003\_E\_M [22].
- <sup>73</sup> Exhibit 4-10, Statement of Father Adrian Farrelly, STAT.0086.001.0003\_E\_M [23].
- <sup>74</sup> Exhibit 4-2, Tab 19, STAT.0086.001.0021.
- <sup>75</sup> Exhibit 4-2, Tab 19, STAT.0086.001.0021.
- <sup>76</sup> Transcript of Father Adrian Farrelly, T6235:30-40 (Day 25).
- <sup>77</sup> Transcript of Father Adrian Farrelly, T2636:32-45 (Day 25).
- <sup>78</sup> Transcript of Father Adrian Farrelly, T6236:37-39 (Day 25).
- <sup>79</sup> Transcript of Father Adrian Farrelly, T2637:22-25 (Day 25).
- <sup>80</sup> Transcript of Father Adrian Farrelly, T2632: 21-29 (Day 25).
- <sup>81</sup> Transcript of Father Adrian Farrelly, T2644:39-41 (Day 25).
- <sup>82</sup> Transcript of Father Adrian Farrelly, T2644:45-T2645:2 (Day 25).
- <sup>83</sup> Transcript of Father Adrian Farrelly, T2637:40-2638:2 (Day 25).
- <sup>84</sup> Exhibit 4-10, Statement of Father Adrian Farrelly, STAT.0086.001.0003\_E\_M [45](b).
- <sup>85</sup> Transcript of Archbishop Mark Coleridge, T2732:32-43 (Day 26).
- <sup>86</sup> Transcript of Archbishop Mark Coleridge, T2732:32-43 (Day 26).
- <sup>87</sup> Transcript of Archbishop Mark Coleridge, T2732:20-30 (Day 26).
- <sup>88</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [22].
- <sup>89</sup> Transcript of Dr Kenneth Robertson, T2565:2-5 (Day 24).
- <sup>90</sup> Exhibit 4-5, Statement of Dr Kenneth Robertson, STAT.0081.001.0001\_M [43].
- <sup>91</sup> Transcript of Dr Kenneth Robertson, T2564:31-38 (Day 24).
- <sup>92</sup> Transcript of Dr Kenneth Robertson, T2564:31-42 (Day 24).
- <sup>93</sup> Transcript of Joan Isaacs, T2534:21-23 (Day 24).
- <sup>94</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [18].
- <sup>95</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [18].
- <sup>96</sup> Transcript of Joan Isaacs, T2534:24-26 (Day 24).
- <sup>97</sup> Transcript of Dr Kenneth Robertson, T2561:40-43 (Day 24).
- <sup>98</sup> Transcript of Dr Kenneth Robertson, T2561:45-47 (Day 24).
- <sup>99</sup> Exhibit 4-5, Statement of Dr Kenneth Robertson, STAT.0081.001.0001\_M [34].
- <sup>100</sup> Exhibit 4-5, Statement of Dr Kenneth Robertson, STAT.0081.001.0001\_M [34].
- <sup>101</sup> Exhibit 4-5, Statement of Dr Kenneth Robertson, STAT.0081.001.0001\_M [34]; Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [18].
- <sup>102</sup> Exhibit 4-2, Tab 17, STAT.0077.001.0028.
- <sup>103</sup> Transcript of Dr Kenneth Robertson, T2565:43-46, T2566:1-15 (Day 24).
- <sup>104</sup> Transcript of Dr Kenneth Robertson, T2578:14-23 (Day 24).
- <sup>105</sup> Exhibit 4-2, Tab 46, STAT.0081.001.0065.
- <sup>106</sup> Exhibit 4-2, Tab 46, STAT.0081.001.0065.
- <sup>107</sup> Exhibit 4-2, Tab 23, STAT.0077.001.0029.
- <sup>108</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [23].
- <sup>109</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [23].
- <sup>110</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [23].
- <sup>111</sup> Exhibit 4-5, Statement of Dr Kenneth Robertson, STAT.0081.001.0001\_M [44].
- <sup>112</sup> Exhibit 4-5, Statement of Dr Kenneth Robertson, STAT.0081.001.0001 [33]; Exhibit 4-Exhibit 2-2, Tab 11, STAT.0087.001.0013.
- <sup>113</sup> Transcript of Dr Kenneth Robertson, T2563:8-12 (Day 24).
- <sup>114</sup> Transcript of Dr Kenneth Robertson, T2563:14-18 (Day 24).

- <sup>115</sup> Transcript of Dr Kenneth Robertson, T2562:8-12 (Day 24).
- <sup>116</sup> Exhibit 4-1, Tab E (*Towards Healing* 1996), CTJH.0001.001.0104 at .0121 [7.2].
- <sup>117</sup> Exhibit 4-2, Tab 16, STAT.0086.001.0012.
- <sup>118</sup> Transcript of Joan Isaacs, T2535:28-31 (Day 24).
- <sup>119</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [24].
- <sup>120</sup> Transcript of Dr Kenneth Robertson, T2564:3-7 (Day 24).
- <sup>121</sup> Transcript of Dr Kenneth Robertson, T2564:9-11 (Day 24).
- <sup>122</sup> Transcript of Dr Kenneth Robertson, T2563:19-22 (Day 24).
- <sup>123</sup> Transcript of Dr Kenneth Robertson, T2564:26-29 (Day 24).
- <sup>124</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [25].
- <sup>125</sup> Transcript of Bernadette Rogers, T2616:23-28 (Day 25).
- <sup>126</sup> Transcript of Bernadette Rogers, T2617:43–T2618:1 (Day 25).
- <sup>127</sup> Transcript of Bernadette Rogers, T2617:25-27 (Day 25).
- <sup>128</sup> Exhibit 4-8, Statement of Bernadette Rogers, STAT.0082.001.0001 at 0005 [21].
- <sup>129</sup> Exhibit 4-8, Statement of Bernadette Rogers, STAT.0082.001.0001 at 0004 [17].
- <sup>130</sup> Exhibit 4-8, Statement of Bernadette Rogers, STAT.0082.001.0001 at 0004 [18].
- <sup>131</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [29].
- <sup>132</sup> Exhibit 4-2, Tab 20, STAT.0087.001.0022.
- <sup>133</sup> Exhibit 4-2 Tab 20, STAT.0087.001.0022.
- <sup>134</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [29].
- <sup>135</sup> Exhibit 4-2, Tab 20, STAT.0087.001.0022.
- <sup>136</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [31].
- <sup>137</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [31]; Exhibit 4-2, Tab 17, STAT.0077.001.0028.
- <sup>138</sup> Exhibit 4-5, Statement of Dr Kenneth Robertson, STAT.0081.001.0001\_M [46].
- <sup>139</sup> Transcript of Bernadette Rogers, T2619:38 –T2620:1 (Day 25).
- <sup>140</sup> Exhibit 4-7, Statement of Laurie Rolls, STAT.0091.001.0002\_E\_M [32]-[33].
- <sup>141</sup> Transcript of Dr Kenneth Robertson, T2567:9-13 (Day 24).
- <sup>142</sup> Transcript of Dr Kenneth Robertson, T2567:15-17 (Day 24).
- <sup>143</sup> Transcript of Dr Kenneth Robertson, T2567:38-46 (Day 24).
- <sup>144</sup> Transcript of Dr Kenneth Robertson, T2567:29-36; T2568:22-26 (Day 24).
- <sup>145</sup> Exhibit 4-5, Statement of Dr Kenneth Robertson, STAT.0081.001.0001\_M [55].
- <sup>146</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001 [32].
- <sup>147</sup> Exhibit 4-2, Tab 29, STAT.0081.001.0067.
- <sup>148</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001 [37]; Exhibit 4-2, Tab 40, STAT.0077.001.0037\_R.
- <sup>149</sup> Exhibit 4-2, Tab 23, STAT.0077.001.0029; Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [32].
- <sup>150</sup> Exhibit 4-2, Tab 25, STAT.0077.001.0032\_R.
- <sup>151</sup> Exhibit 4-2, Tab 20, STAT.0087.001.0022.
- <sup>152</sup> Exhibit 4-2. Tab 25, STAT.0077.001.0032\_R.
- <sup>153</sup> Transcript of Bernadette Rogers, T2620:21-23 (Day 25).
- <sup>154</sup> Ex 4-5, Statement of Dr Kenneth Robertson, STAT.0081.001.0001\_M [47].
- <sup>155</sup> Ex 4-2, Tab 28, STAT.0077.001.0031.
- <sup>156</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [24].
- <sup>157</sup> Exhibit 4-5, Statement of Dr Kenneth Robertson, STAT.0081.001.0001\_M [45].
- <sup>158</sup> Transcript of Dr Kenneth Robertson, T2569:17-19 (Day 24).
- <sup>159</sup> Transcript of Dr Kenneth Robertson, T2570:18-26 (Day 24).
- <sup>160</sup> Exhibit 4-10, Statement of Father Adrian Farrelly, STAT.0086.001.0003\_E\_M [27].
- <sup>161</sup> Exhibit 4-2, Tab 20, STAT.0087.001.0022.

- <sup>162</sup> Transcript of Father Adrian Farrelly, T2643:7-9 (Day 25).
- <sup>163</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [28].
- <sup>164</sup> Exhibit 4-2, Tab 20, STAT.0087.001.0022.
- <sup>165</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [28].
- <sup>166</sup> Exhibit 4-10, Statement of Father Adrian Farrelly, STAT.0086.001.0003\_E\_M [35]-[36]; Exhibit 4-2, Tab 22, STAT.0087.001.0019 and STAT.0087.001.0020.
- <sup>167</sup> Transcript of Father Adrian Farrelly, T2644:37-T2645:2 (Day 25).
- <sup>168</sup> Exhibit 4-10, Statement of Father Adrian Farrelly, STAT.0086.001.0003\_E\_M [36].
- <sup>169</sup> Exhibit 4-2, Tab 32, STAT.0077.001.0034\_R.
- <sup>170</sup> Exhibit 4-7, Statement of Laurie Rolls, STAT.0091.001.0002\_E\_M [49]; Exhibit 4-2, Tab 36, CCI.0039.00006.0225 and Exhibit 4-2, Tab 37, CCI.0039.00006.0353.
- <sup>171</sup> Exhibit 4-7, Statement of Laurie Rolls, STAT.0091.001.0002\_E\_M [49].
- <sup>172</sup> Transcript of Bishop John Gerry, T2701:3 -10 (Day 26).
- <sup>173</sup> Exhibit 4-0012, Statement of Bishop John Gerry, STAT.0087.001.0003\_E\_M [30].
- <sup>174</sup> Exhibit 4-2, Tab 32, STAT.0077.001.0034\_R.
- <sup>175</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [35].
- <sup>176</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [35].
- <sup>177</sup> Transcript of Bishop John Gerry, T2719:19-31 (Day 26).
- <sup>178</sup> Transcript of Bishop John Gerry, T2719:33-40 (Day 26).
- <sup>179</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [23].
- <sup>180</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [30].
- <sup>181</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [31].
- <sup>182</sup> Exhibit 4-11, Statement of Father James Spence, CTJH.500.01001.0002\_E\_R\_M [60].
- <sup>183</sup> Transcript of Father James Spence, T2659:15-17 (Day 25).
- <sup>184</sup> Transcript of Father James Spence, T2658:47 (Day 25).
- <sup>185</sup> Exhibit 4-11, Statement of Father James Spence, CTJH.500.01001.0002\_E\_R\_M [50].
- <sup>186</sup> Exhibit 4-11, Statement of Father James Spence, CTJH.500.01001.0002\_E\_R\_M [60].
- <sup>187</sup> Exhibit 4-2, Tab 40, STAT.0077.001.0037\_R.
- <sup>188</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [39].
- <sup>189</sup> Exhibit 4-11, Statement of Father James Spence, CTJH.500.01001.0002\_E\_R\_M [59] - [60].
- <sup>190</sup> Exhibit 4-7, Statement of Laurie Rolls, STAT.0091.001.0002\_E\_M [57]-[58].
- <sup>191</sup> Exhibit 4-11, Statement of Father James Spence, CTJH.500.01001.0002\_E\_R\_M [68]-[69].
- <sup>192</sup> Exhibit 4-7, Statement of Laurie Rolls, STAT.0091.001.0002\_E\_M [57].
- <sup>193</sup> Exhibit 4-7, Statement of Laurie Rolls, STAT.0091.001.0002\_E\_M [58].
- <sup>194</sup> Exhibit 4-2, Tab 45, CTJH.100.01250.0129.
- <sup>195</sup> Exhibit 4-2, Tab 56, STAT.0077.001.0045.
- <sup>196</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [39].
- <sup>197</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [40]; Exhibit 4-2, Tab 64, STAT.0077.001.0047\_R.
- <sup>198</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [41].
- <sup>199</sup> Exhibit 4-2, Tab 66, STAT.0077.001.0048\_R
- <sup>200</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [41].
- <sup>201</sup> Exhibit 4-2, Tab 70, STAT.0077.001.0049\_R
- <sup>202</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [42].
- <sup>203</sup> Exhibit 4-2, Tab 71, STAT.0077.001.0050\_R
- <sup>204</sup> Exhibit 4-2, Tab 74, STAT.0077.001.0051.
- <sup>205</sup> Exhibit 4-2, Tab 77, STAT.0077.001.0053.
- <sup>206</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [48].

- <sup>207</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [48].
- <sup>208</sup> Exhibit 4-2, Tab 81, STAT.0077.001.0057.
- <sup>209</sup> Transcript of Bishop John Gerry, T2710:10-11 (Day 26).
- <sup>210</sup> Transcript of Bishop John Gerry, T2710:5-8 (Day 26).
- <sup>211</sup> Transcript of Archbishop Mark Coleridge, T2731:34-T2732:18 and T2736:30-32 (Day 26).
- <sup>212</sup> Exhibit 4-2, Tab 97, STAT.0077.001.0055.
- <sup>213</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [45].
- <sup>214</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [44]; Exhibit 4-2, Tab 91, STAT.0077.001.0054.
- <sup>215</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [45].
- <sup>216</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [45].
- <sup>217</sup> Exhibit 4-2, Tab 98, STAT.0077.001.0056.
- <sup>218</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [46].
- <sup>219</sup> Transcript of Joan Isaacs, T2514:36-40 (Day 24).
- <sup>220</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [54].
- <sup>221</sup> Transcript of Father James Spence, T2675:25-28 (Day 25).
- <sup>222</sup> Transcript of Father James Spence, T2675:33-36 (Day 25).
- <sup>223</sup> Transcript of Father James Spence, T2675:38-T2676:2 (Day 25).
- <sup>224</sup> Transcript of Father James Spence, T2675:33-T2676:2 (Day 25).
- <sup>225</sup> Transcript of Archbishop Mark Coleridge, T2752:15-18 (Day 26).
- <sup>226</sup> Transcript of Bishop John Gerry, T2718:3-7 (Day 26).
- <sup>227</sup> Transcript of Bishop John Gerry, T2716:1– 40 (Day 26).
- <sup>228</sup> Exhibit 4-12, Statement of Bishop John Gerry, STAT.0087.001.0003\_E\_M [39].
- <sup>229</sup> Transcript of Archbishop Mark Coleridge, T2730:40-T2731:15 (Day 26).
- <sup>230</sup> Transcript of Archbishop Mark Coleridge, T2731:17-26 (Day 26).
- <sup>231</sup> Transcript of Archbishop Mark Coleridge, T2731:34-T2732:18 (Day 26).
- <sup>232</sup> Transcript of Archbishop Mark Coleridge, T2749:31-37 (Day 26).
- <sup>233</sup> Exhibit 4-1, Tab A, CTJH.0001.002.0001 at .0062 - .0063 [133] – [136].
- <sup>234</sup> Exhibit 4-2, Tab 103, STAT.0077.001.0059.
- <sup>235</sup> Exhibit 4-2 Tab 103, STAT.0077.001.0061 at .0062-.0063.
- <sup>236</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [53].
- <sup>237</sup> Exhibit 4-2, Tab 105, CTJH.100.01250.0046.
- <sup>238</sup> Exhibit 4-2, Tab 105, CTJH.100.01250.0047 at .0049.
- <sup>239</sup> Exhibit 4-2, Tab 108, CTJH.100.01250.0036.
- <sup>240</sup> Exhibit 4-2, Tab 112, CTJH.100.01250.0028.
- <sup>241</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [50].
- <sup>242</sup> Exhibit 4-2, Tab 113, STAT.0077.001.0072.
- <sup>243</sup> Exhibit 4-2, Tab 113, STAT.0077.001.0072.
- <sup>244</sup> Exhibit 4-2, Tab 115, STAT.0077.001.0074.
- <sup>245</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [51].
- <sup>246</sup> Exhibit 4-2, Tab 121, STAT.0077.001.0076.
- <sup>247</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [52].
- <sup>248</sup> Exhibit 4-3, Statement of Joan Isaacs, STAT.0077.001.0001\_R\_M [52].
- <sup>249</sup> Exhibit 4-2, Tab 114, STAT.0077.001.0073\_R.
- <sup>250</sup> Exhibit 4-2, Tab 116, CTJH.100.01250.0019.
- <sup>251</sup> Exhibit 4-2, Tab 116, CTJH.100.01250.0020\_R.
- <sup>252</sup> Exhibit 4-2, Tab 7A, IND.R-004128.PS.0187.
- <sup>253</sup> Exhibit 4-2, Tab 114, STAT.0077.001.0073\_R.
- <sup>254</sup> Exhibit 4-2, Tab 114, STAT.0077.001.0073\_R.

- <sup>255</sup> Transcript of Father James Spence, T2687:30-40 (Day 25).
- <sup>256</sup> Exhibit 4-2, Tab 122, CTJH.100.01250.0010.
- <sup>257</sup> Transcript of Father James Spence, T2681:10-16 (Day 25).
- <sup>258</sup> Transcript of Father James Spence, T2681:21-23 (Day 25).
- <sup>259</sup> Transcript of Father James Spence, T2681:25-32 (Day 25).
- <sup>260</sup> Transcript of Father James Spence, T2681:25-32 (Day 25).
- <sup>261</sup> Transcript of Father James Spence, T2680:31-37 (Day 25).
- <sup>262</sup> Transcript of Father James Spence, T2682:29-32 (Day 25).
- <sup>263</sup> Transcript of Father James Spence, T2682:34-38 (Day 25).
- <sup>264</sup> Exhibit 4-1, Tab D (*Towards Healing 2000*), CTJH.0001.001.0073 at .0097[41.4].
- <sup>265</sup> Exhibit 4-2, Tab 122, CTJH.100.01250.0010.
- <sup>266</sup> Transcript of Father James Spence, T2686:39-T2687:12 (Day 25).
- <sup>267</sup> Transcript of Father James Spence, T2687:15-28 (Day 25).
- <sup>268</sup> Exhibit 4-4, EXH.004.004.0001.
- <sup>269</sup> Transcript of Joan Isaacs, T2539:1-T2540:17 (Day 24).
- <sup>270</sup> Transcript of Archbishop Mark Coleridge, T2757:16-27 (Day 26).
- <sup>271</sup> Transcript of Archbishop Mark Coleridge, T2754:28-43 (Day 26).
- <sup>272</sup> Transcript of Archbishop Mark Coleridge, T2757:16-27 (Day 26).
- <sup>273</sup> Transcript of Archbishop Mark Coleridge, T2754:28-43 (Day 26).
- <sup>274</sup> Exhibit 4-14, EXH.004.014.0001.
- <sup>275</sup> Exhibit 4-14, EXH.004.014.0001; Transcript of Archbishop Mark Coleridge, T2733:10-11 (Day 26).
- <sup>276</sup> Exhibit 4-14, EXH.004.014.0001.
- <sup>277</sup> Exhibit 4-14, EXH.004.014.0001.
- <sup>278</sup> Exhibit 4-14, EXH.004.014.0001.; Archbishop Coleridge gave the following evidence in relation to the effect of a priest entering into a civil marriage: *'A priest who has abandoned the ministry, abandoned orders, as in the case of Frank Derriman, and who, in the somewhat peculiar language of the church, 'attempts marriage', automatically incurs excommunication from the church. It is called 'excommunication latae sententiae' which just means automatic.'* (Transcript of Archbishop Mark Coleridge, T2755:10-18 (Day 26)).
- <sup>279</sup> Transcript of Archbishop Mark Coleridge, T2755:26-33 (Day 26).
- <sup>280</sup> Exhibit 4-6, CTJH.100.01569.0001.
- <sup>281</sup> Exhibit 4-14, EXH.004.014.0001; Transcript of Archbishop Mark Coleridge, T2733:19 (Day 26).
- <sup>282</sup> Transcript of Archbishop Mark Coleridge, T2733:19-25 (Day 26).
- <sup>283</sup> Exhibit 4-14, EXH.004.014.0001.
- <sup>284</sup> Exhibit 4-14, EXH.004.014.0003.
- <sup>285</sup> Transcript of Archbishop Mark Coleridge, T2756:18-23 (Day 26).
- <sup>286</sup> Transcript of Archbishop Mark Coleridge, T2755:7-8 (Day 26).
- <sup>287</sup> Transcript of Archbishop Mark Coleridge, T2734:1-10 (Day 26).
- <sup>288</sup> Transcript of Archbishop Mark Coleridge, T2733:27-40 (Day 26).
- <sup>289</sup> Transcript of Bishop John Gerry, T2723:17-24 (Day 26).
- <sup>290</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [4].
- <sup>291</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [5].
- <sup>292</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [6].
- <sup>293</sup> Exhibit 4-17, Tab 18, STAT.0074.001.0022\_R.
- <sup>294</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [6].
- <sup>295</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [7].
- <sup>296</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [7].
- <sup>297</sup> Exhibit 4-17, Tab 18, STAT.0074.001.0022\_R.
- <sup>298</sup> Exhibit 4-17, Tab 18, STAT.0074.001.0022\_R.

- <sup>299</sup> Exhibit 4-17, Tab 18, STAT.0074.001.0022\_R.
- <sup>300</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [9].
- <sup>301</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [8].
- <sup>302</sup> Exhibit 4-36, Statement of Bishop Geoffrey Jarrett, STAT.0080.001.0001\_M [96].
- <sup>303</sup> Exhibit 4-17 Tab 5, STAT.0080.001.0068; Exhibit 4-17, Tab 7, STAT.0080.001.0071 and Exhibit 4-17, Tab 9, STAT.0080.001.0246\_Combined.
- <sup>304</sup> Exhibit 4-17, Tab 8, STAT.0080.001.0073.
- <sup>305</sup> Exhibit 4-17, Tab 10, STAT.0080.001.0308 and STAT.0080.001.0309.
- <sup>306</sup> Exhibit 4-17, Tab 12, STAT.0080.001.0312.
- <sup>307</sup> Transcript of Bishop Geoffrey Jarrett, T3047:9 - 39
- <sup>308</sup> Exhibit 4-28, CCI.0026.00001.0314\_R.
- <sup>309</sup> Exhibit 4-17, Tab 3, STAT.0080.001.0066 and Exhibit 4-17, Tab 4, STAT.0080.001.0067.
- <sup>310</sup> Exhibit 4-17, Tab 35, STAT.0080.001.0034; Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [4].
- <sup>311</sup> Exhibit 4-17, Tab 13, STAT.0080.001.0064.
- <sup>312</sup> Transcript of Bishop Geoffrey Jarrett, T3047:2-13 (Day 29).
- <sup>313</sup> Transcript of Bishop Geoffrey Jarrett, T3047:20-28 (Day 29).
- <sup>314</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [12].
- <sup>315</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [14].
- <sup>316</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [14] and Exhibit 4-17, Tab 15, STAT.0074.001.0019\_R.
- <sup>317</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [15].
- <sup>318</sup> Exhibit 4-17, Tab 15, STAT.0074.001.0019\_R.
- <sup>319</sup> Exhibit 4-17 Tab 15, STAT.0074.001.0019\_R.
- <sup>320</sup> Exhibit 4-17 Tab 16, STAT.0074.001.0021\_R.
- <sup>321</sup> Exhibit 4-17 Tab 16, STAT.0074.001.0021\_R; Exhibit 4-17, Tab 19, STAT.0083.001.0058\_R; Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [17] - [18].
- <sup>322</sup> Exhibit 4-17, Tab 23, CTJH.102.05002.0071\_R.
- <sup>323</sup> Exhibit 4-36, Statement of Bishop Geoffrey Jarrett, STAT.0080.001.0001\_M [21].
- <sup>324</sup> Exhibit 4-17 Tab 24, CTJH.102.05002.0107\_R; Exhibit 4-17, Tab 26, STAT.0083.001.0069\_R and Exhibit 4-17, Tab 27, STAT.0088.001.0031.
- <sup>325</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [19].
- <sup>326</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [19].
- <sup>327</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [20].
- <sup>328</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [20].
- <sup>329</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [20].
- <sup>330</sup> Exhibit 4-17, Tab 33, STAT.0080.001.0024\_R.
- <sup>331</sup> Exhibit 4-17, Tab 38, STAT.0083.001.0095.
- <sup>332</sup> Exhibit 4-17, Tab 31, STAT.0074.001.0025\_R.
- <sup>333</sup> Exhibit 4-17, Tab 40, STAT.0083.001.0110\_R.
- <sup>334</sup> Exhibit 4-17, Tab 41, STAT.0083.001.0111\_R; Exhibit 4-17, Tab 42, CTJH.102.05002.0100\_R; Exhibit 4-17, Tab 43, STAT.0083.001.0113; Exhibit 4-17, Tab 44 STAT.0083.001.0115\_R and Exhibit 4-17, Tab 45, STAT.0083.001.0114.
- <sup>335</sup> Exhibit 4-17, Tab 48, STAT.0088.001.0052.
- <sup>336</sup> Exhibit 4-17, Tab 76, STAT.0088.001.0062.
- <sup>337</sup> Exhibit 4-17, Tab 87, STAT.0088.001.0089; Exhibit 4-17, Tab 95, STAT.0082.002.0077 and Exhibit 4-17, Tab 114, STAT.0088.001.0103.
- <sup>338</sup> Exhibit 4-17 Tab 100, STAT.0088.001.0092; Exhibit 4-17, Tab 102, STAT.0082.002.0089; Exhibit 4-17, Tab 105, STAT.0082.002.0091\_R; Exhibit 4-17, Tab 110, STAT.0082.002.0094\_R; Exhibit 4-17, Tab 111, STAT.0082.002.0098\_R and Exhibit 4-17, Tab 112, STAT.0082.002.0100\_R.

- <sup>339</sup> Exhibit 4-17, Tab 54, STAT.0074.001.0031\_R.
- <sup>340</sup> Exhibit 4-17, Tab 58, STAT.0083.001.0121\_E\_R.
- <sup>341</sup> Exhibit 4-17, Tab 56, STAT.0083.001.0120\_E\_R; Exhibit 4-17, Tab 57, STAT.0083.001.0125\_R; Exhibit 4-17, Tab 60, STAT.0083.001.0128, STAT.0083.001.0129; STAT.0083.001.0132\_R; Exhibit 4-17, Tab 61, STAT.0083.001.0132\_R; Exhibit 4-17, Tab 62, CTJH.102.01444.0140\_R, CTJH.102.01444.0155, CTJH.102.01444.0156; Exhibit 4-17, Tab 63, STAT.0083.001.0135\_R; Exhibit 4-17, Tab 65 STAT.0083.001.0136 and Exhibit 4-17, Tab 67, STAT.0074.001.0034.
- <sup>342</sup> Exhibit 4-17, Tab 69, STAT.0083.001.0141\_R.
- <sup>343</sup> Exhibit 4-17, Tab 69, STAT.0083.001.0141\_R.
- <sup>344</sup> Exhibit 4-17, Tab 74, CTJH.102.01444.0035.
- <sup>345</sup> Exhibit 4-26, Statement of Bernadette Rogers, STAT.0082.002.0001\_M [41]-[42].
- <sup>346</sup> Exhibit 4-21, Statement of Patrick Mullins, STAT.0083.001.0001\_M [67]
- <sup>347</sup> Exhibit 4-26, Statement of Bernadette Rogers, STAT.0082.002.0001\_M [39].
- <sup>348</sup> Exhibit 4-17, Tab 72, STAT.0083.001.0144.
- <sup>349</sup> Exhibit 4-17. Tab 72, STAT.0083.001.0144.
- <sup>350</sup> Transcript of Patrick Mullins, T2898:5-7 (Day 27).
- <sup>351</sup> Transcript of Patrick Mullins, T2898:11-12 (Day 27).
- <sup>352</sup> Exhibit 4-26, Statement of Bernadette Rogers, STAT.0082.002.0001\_M [40].
- <sup>353</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [26].
- <sup>354</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [26].
- <sup>355</sup> Transcript of Bernadette Rogers, T2925:12-20 (Day 28).
- <sup>356</sup> Exhibit 4-21, Statement of Patrick Mullins, STAT.0083.001.0001\_M [78]-[79].
- <sup>357</sup> Transcript of Patrick Mullins, T2900:45-47 (Day 27).
- <sup>358</sup> Transcript of Bernadette Rogers, T2925:25-31 (Day 28).
- <sup>359</sup> Transcript of Bernadette Rogers, T2926:12-18 (Day 28).
- <sup>360</sup> Transcript of Bernadette Rogers, T2925:39-43 (Day 28).
- <sup>361</sup> Exhibit 4-17, Tab 75, STAT.0083.001.0147\_R and Exhibit 4-17, Tab 98, STAT.0083.001.0148\_R.
- <sup>362</sup> Exhibit 4-21, Statement of Patrick Mullins, STAT.0083.001.0001\_M [70].
- <sup>363</sup> Exhibit 4-21, Statement of Patrick Mullins, STAT.0083.001.0001\_M [71].
- <sup>364</sup> Transcript of Patrick Mullins, T2900:16-26 (Day 27).
- <sup>365</sup> Transcript of Patrick Mullins, T2900:28-30 (Day 27).
- <sup>366</sup> Exhibit 4-21, Statement of Patrick Mullins, STAT.0083.001.0001\_M [72].
- <sup>367</sup> Exhibit 4-17, Tab 98, STAT.0083.001.0148\_R.
- <sup>368</sup> Exhibit 4-26, Statement of Bernadette Rogers, STAT.0082.002.0001\_M [50].
- <sup>369</sup> Exhibit 4-17, Tab 98, STAT.0083.001.0148\_R.
- <sup>370</sup> Exhibit 4-17, Tab 98, STAT.0083.001.0148\_R.
- <sup>371</sup> Exhibit 4-17, Tab 103, STAT.0074.001.0039\_R.
- <sup>372</sup> Exhibit 4-17, Tab 106, STAT.0074.001.0041\_R.
- <sup>373</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [33].
- <sup>374</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [33].
- <sup>375</sup> Exhibit 4-26, Statement of Bernadette Rogers, STAT.0082.002.0001\_M [52].
- <sup>376</sup> Transcript of Patrick Mullins, T2898:34-40 (Day 27).
- <sup>377</sup> Exhibit 4-26, Statement of Bernadette Rogers, STAT.0082.002.0001\_M [67]
- <sup>378</sup> Exhibit 4-26, Statement of Bernadette Rogers, STAT.0082.002.0001\_M [51]
- <sup>379</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [28] and [33].
- <sup>380</sup> Exhibit 4-17, Tab 93, STAT.0074.001.0038\_R; Exhibit 4-17, Tab 94, STAT.0082.002.0079\_R; Exhibit 4-17, Tab 99, STAT.0082.002.0088\_R; Exhibit 4-17, Tab 103, STAT.0074.001.0039\_R; Exhibit 4-17, Tab 106, STAT.0074.001.0041\_R; Exhibit 4-17, Tab 112 STAT.0082.002.0100\_R and Exhibit 4-17, Tab 113, STAT.0082.002.0103\_R.

- <sup>381</sup> Transcript of Bernadette Rogers, T2924:39–42 (Day 28).
- <sup>382</sup> Truth Justice and Healing Council, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse in Response to Revised Submissions of Counsel Assisting, *Case Study 4: Towards Healing*, 15 September 2014, p. 73 [51].
- <sup>383</sup> Transcript of Bernadette Rogers, T2924: 44-T2925:-2 (Day 28).
- <sup>384</sup> Transcript of Bernadette Rogers, T2930:8–16; T2938:41–2939:4 (Day 28).
- <sup>385</sup> Transcript of Bernadette Rogers, T2938:18–22; T2939:11–12; T2939:24–27 (Day 28).
- <sup>386</sup> Transcript of Bernadette Rogers, T2924:44 - T2925:2 (Day 28).
- <sup>387</sup> Transcript of Bernadette Rogers, T2925:35–43 (Day 28).
- <sup>388</sup> Transcript of Bernadette Rogers, T2928:29–47 (Day 28).
- <sup>389</sup> Transcript of Bernadette Rogers, T2939:5–9 (Day 28) and Exhibit 4-17, Tab 159, STAT.0082.002.0060.
- <sup>390</sup> Transcript of Bernadette Rogers, T2934:38–47 (Day 28).
- <sup>391</sup> Transcript of Bernadette Rogers, T2939:20–24 (Day 28).
- <sup>392</sup> Transcript of Bernadette Rogers, T2929:34-44 (Day 28).
- <sup>393</sup> Transcript of Bernadette Rogers, T2930:5-16 (Day 28).
- <sup>394</sup> Transcript of Bernadette Rogers, T2924:44 - T2925:2 (Day 28).
- <sup>395</sup> Truth Justice and Healing Council, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse in Response to Revised Submissions of Counsel Assisting, *Case Study 4: Towards Healing*, 15 September 2014, p. 74 [53].
- <sup>396</sup> Exhibit 4-1, Tab B (*Towards Healing* 2010), at CTJH.0001.001.0005 .0034 [41.4.1].
- <sup>397</sup> Transcript of Emma Fenby, T2950:30-34 (Day 28).
- <sup>398</sup> Transcript of Emma Fenby, T2982: 15-19 (Day 28).
- <sup>399</sup> Transcript of Bernadette Rogers, T2921:31-34 (Day 28).
- <sup>400</sup> Exhibit 4-17, Tab 76, STAT.0088.001.0062.
- <sup>401</sup> Exhibit 4-26, Statement of Bernadette Rogers, STAT.0082.002.0001\_M [41]-[42].
- <sup>402</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [26].
- <sup>403</sup> Exhibit 4-17, Tab 93, STAT.0074.001.0038\_R.
- <sup>404</sup> Transcript of Bernadette Rogers, T2922:17-24 (Day 28).
- <sup>405</sup> Transcript of Bernadette Rogers, T2923:9-12 (Day 28).
- <sup>406</sup> Transcript of Bernadette Rogers, T2936:6-20 (Day 28).
- <sup>407</sup> Transcript of Bernadette Rogers, T2936:39-46 (Day 28).
- <sup>408</sup> Revised Submissions of Counsel Assisting the Royal Commission in relation to Jennifer Ingham, *Case Study 4: Towards Healing*, 12 August 2014, p. 26 [135].
- <sup>409</sup> Truth Justice and Healing Council, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse in Response to Revised Submissions of Counsel Assisting, *Case Study 4: Towards Healing*, 15 September 2014, Section 6.14, pp. 74-76.
- <sup>410</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [39].
- <sup>411</sup> Exhibit 4-26, Statement of Bernadette Rogers, STAT.0082.002.0001\_M [47].
- <sup>412</sup> Exhibit 4-17, Tab 99, STAT.0082.002.0088\_R.
- <sup>413</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [28]-[30]; Exhibit 4-26, Statement of Bernadette Rogers, STAT.0082.002.0001\_M [55]-[62].
- <sup>414</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [28].
- <sup>415</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [28].
- <sup>416</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [55].
- <sup>417</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [36].
- <sup>418</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [36].
- <sup>419</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [29].
- <sup>420</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [29].
- <sup>421</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [28].
- <sup>422</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [30].

- <sup>423</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [30].
- <sup>424</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [30].
- <sup>425</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [30].
- <sup>426</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [30].
- <sup>427</sup> Transcript of Jennifer Ingham, T2830:7-23 (Day 27).
- <sup>428</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [28].
- <sup>429</sup> Exhibit 4-26, Statement of Bernadette Rogers, STAT.0082.002.0001\_M [54].
- <sup>430</sup> Exhibit 4-26, Statement of Bernadette Rogers, STAT.0082.002.0001\_M [55].
- <sup>431</sup> Transcript of Bernadette Rogers, T2927:6-9 (Day 28).
- <sup>432</sup> Transcript of Bernadette Rogers, T2927:17-19 (Day 28).
- <sup>433</sup> Transcript of Bernadette Rogers, T2928:19-22 (Day 28).
- <sup>434</sup> Exhibit 4-26, Statement of Bernadette Rogers, STAT.0082.002.0001\_M [56].
- <sup>435</sup> Exhibit 4-26, Statement of Bernadette Rogers, STAT.0082.002.0001\_M [58].
- <sup>436</sup> Exhibit 4-26, Statement of Bernadette Rogers, STAT.0082.002.0001\_M [59].
- <sup>437</sup> Transcript of Bernadette Rogers, T2926:35-42 (Day 28).
- <sup>438</sup> Exhibit 4-26, Statement of Bernadette Rogers, STAT.0082.002.0001\_M [62].
- <sup>439</sup> Exhibit 4-26, Statement of Bernadette Rogers, STAT.0082.002.0001\_M [61].
- <sup>440</sup> Exhibit 4-26, Statement of Bernadette Rogers, STAT.0082.002.0001\_M [54]; Transcript of Bernadette Rogers, T2936:25-27 (Day 28).
- <sup>441</sup> Exhibit 4-17, Tab 106, STAT.0074.001.0041\_R.
- <sup>442</sup> Exhibit 4-17, Tab 102, STAT.0082.002.0089 and Exhibit 4-17, Tab 105, STAT.0082.002.0091\_R.
- <sup>443</sup> Transcript of Bernadette Rogers, T2927:23-27 (Day 28).
- <sup>444</sup> Exhibit 4-17 Tab 111, STAT.0082.002.0098\_R and Exhibit 4-17, Tab 112, STAT.0082.002.0100\_R.
- <sup>445</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [34].
- <sup>446</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [34].
- <sup>447</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [34].
- <sup>448</sup> Transcript of Jennifer Ingham, T2787:9-17 (Day 26).
- <sup>449</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [34].
- <sup>450</sup> Exhibit 4-36, Statement of Bishop Geoffrey Jarrett, STAT.0080.001.0001\_M [59].
- <sup>451</sup> Exhibit 4-17, Tab 104, STAT.0080.001.0058.
- <sup>452</sup> Exhibit 4-36, Statement of Bishop Geoffrey Jarrett, STAT.0080.001.0001\_M [60].
- <sup>453</sup> Exhibit 4-36, Statement of Bishop Geoffrey Jarrett, STAT.0080.001.0001\_M [60].
- <sup>454</sup> Transcript of Bishop Geoffrey Jarrett, T3060:18-23 (Day 29).
- <sup>455</sup> Exhibit 4-36, Statement of Bishop Geoffrey Jarrett, STAT.0080.001.0001\_M [89].
- <sup>456</sup> Exhibit 4-1 Tab A, CTJH.0001.002.0001 at .0057 [96].
- <sup>457</sup> Exhibit 4-31, Statement of Deacon Christopher Wallace, STAT.0088.001.0003\_E\_M [31]
- <sup>458</sup> Exhibit 4-36, Statement of Bishop Geoffrey Jarrett, STAT.0080.001.0001\_M [47]
- <sup>459</sup> Exhibit 4-31, Statement of Deacon Christopher Wallace, STAT.0088.001.0003\_E\_M [31]; Exhibit 4-36, Statement of Bishop Geoffrey Jarrett, STAT.0080.001.0001\_M [49].
- <sup>460</sup> Exhibit 4-36, Statement of Bishop Geoffrey Jarrett, STAT.0080.001.0001\_M [51].
- <sup>461</sup> Exhibit 4-31, Statement of Deacon Christopher Wallace, STAT.0088.001.0003\_E\_M [31]; Exhibit 4-36, Statement of Bishop Geoffrey Jarrett, STAT.0080.001.0001\_M [54].
- <sup>462</sup> Transcript of Bishop Geoffrey Jarrett, T3077:8-12 (Day 29).
- <sup>463</sup> Transcript of Bishop Geoffrey Jarrett, T3077:14-17 (Day 29).
- <sup>464</sup> Transcript of Bishop Geoffrey Jarrett, T3054:21-27 (Day 29).
- <sup>465</sup> Transcript of Bishop Geoffrey Jarrett, T3077:19-22 (Day 29).
- <sup>466</sup> Transcript of Bishop Geoffrey Jarrett, T3078:4-7 (Day 29).
- <sup>467</sup> Transcript of Deacon Christopher Wallace, T3005:15-31 (Day 28).

- 468 Transcript of Deacon Christopher Wallace, T3005:15-31 (Day 28).
- 469 Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [33].
- 470 Exhibit 4-17, Tab 113, STAT.0082.002.0103\_R.
- 471 Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [37]; Exhibit 4-59, Statement of Michael Salmon, STAT.0084.002.0001\_M [44]-[48].
- 472 Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [40].
- 473 Exhibit 4-31, Statement of Deacon Christopher Wallace, STAT.0088.001.0003\_E\_M [48].
- 474 Transcript of Deacon Christopher Wallace, T3007:40-43 (Day 28).
- 475 Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [37].
- 476 Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [37].
- 477 Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [38].
- 478 Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [39].
- 479 Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [39].
- 480 Transcript of Emma Fenby, T2990:15-24 (Day 28).
- 481 Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [40].
- 482 Transcript of Emma Fenby, T2989:27-36 (Day 28).
- 483 Transcript of Deacon Christopher Wallace, T3026:34-36 (Day 28).
- 484 Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [40].
- 485 Exhibit 4-31, Statement of Deacon Christopher Wallace, STAT.0088.001.0003\_E\_M [63].
- 486 Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [42].
- 487 Transcript of Deacon Christopher Wallace, T3006:35-44 (Day 28).
- 488 Transcript of Deacon Christopher Wallace, T3006:46-47 –T3007:1 (Day 28).
- 489 Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [44].
- 490 Exhibit 4-27, Statement of Emma Fenby, STAT.0089.001.0001 [118]; Transcript of Emma Fenby, T2975: 36 (Day 28).
- 491 Transcript of Emma Fenby, T2976: 12-21 (Day 28).
- 492 Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [44].
- 493 Exhibit 4-17, Tab 117, STAT.0074.001.0045.
- 494 Exhibit 4-59, Statement of Michael Salmon, STAT.0084.002.0001\_M [88]; Exhibit 4-17, Tab 120, STAT.0084.002.0064.
- 495 Exhibit 4-17, Tab 115, STAT.0080.001.0059.
- 496 Exhibit 4-17, Tab 126, STAT.0074.001.0046\_R.
- 497 Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [48].
- 498 Exhibit 4-17, Tab 126, STAT.0074.001.0046\_R.
- 499 Exhibit 4-17, Tab 127, STAT.0074.001.0047\_R.
- 500 Exhibit 4-27, Statement of Emma Fenby, STAT.0089.001.0001 [12].
- 501 Exhibit 4-27, Statement of Emma Fenby, STAT.0089.001.0001 [14].
- 502 Exhibit 4-27, Statement of Emma Fenby, STAT.0089.001.0001 [35]-[37].
- 503 Transcript of Emma Fenby, T2951:23-31 (Day 28).
- 504 Exhibit 4-27, Statement of Emma Fenby, STAT.0089.001.0001 [78], Transcript of Emma Fenby, T2955:40-T2956:1-12 (Day 28).
- 505 Transcript of Emma Fenby, T2956:28-37 (Day 28).
- 506 Transcript of Emma Fenby, T2957:35-39 (Day 28).
- 507 Transcript of Emma Fenby, T2966:29-42 (Day 28).
- 508 Exhibit 4-17 Tab 108A, CCI.0026.00001.0180, CCI.0026.00001.0181\_R, CCI.0026.00001.0187 and Exhibit 4-27, Statement of Emma Fenby, STAT.0089.001.0001 [100].
- 509 Exhibit 4-17 Tab 108A, CCI.0026.00001.0180, CCI.0026.00001.0181\_R, CCI.0026.00001.0187.
- 510 Transcript of Emma Fenby, T2964:1-5 (Day 28).
- 511 Transcript of Emma Fenby, T2963:9-10 (Day 28).

- <sup>512</sup> Transcript of Emma Fenby, T2963:13-17 (Day 28).
- <sup>513</sup> Transcript of Emma Fenby, T2960:24 -31 (Day 28).
- <sup>514</sup> Exhibit 4-27, Statement of Emma Fenby, STAT.0089.001.0001 [101].
- <sup>515</sup> Transcript of Emma Fenby, T2964:33-45 (Day 28).
- <sup>516</sup> Transcript of Emma Fenby, T2965:28-32 (Day 28).
- <sup>517</sup> Exhibit 4-27, Statement of Emma Fenby, STAT.0089.001.0001[120]
- <sup>518</sup> Transcript of Emma Fenby, T2972:21-24 (Day 28).
- <sup>519</sup> Exhibit 4-31, Statement of Deacon Christopher Wallace, STAT.0088.001.0003\_E\_M [82]-[93].
- <sup>520</sup> Exhibit 4-31, Statement of Deacon Christopher Wallace, STAT.0088.001.0003\_E\_M [82] .
- <sup>521</sup> Exhibit 4-31, Statement of Deacon Christopher Wallace, STAT.0088.001.0003\_E\_M [83]-[88].
- <sup>522</sup> Transcript of Deacon Christopher Wallace, T3013:4-14 (Day 28).
- <sup>523</sup> Exhibit 4-31, Statement of Deacon Christopher Wallace, STAT.0088.001.0003\_E\_M [92].
- <sup>524</sup> Exhibit 4-31, Statement of Deacon Christopher Wallace, STAT.0088.001.0003\_E\_M [90].
- <sup>525</sup> Exhibit 4-31, Statement of Deacon Christopher Wallace, STAT.0088.001.0003\_E\_M [90]; Transcript of Deacon Christopher Wallace, T3014:30-37 (Day 28).
- <sup>526</sup> Exhibit 4-17, Tab 144, STAT.0088.001.0143 and STAT.0088.001.0145.
- <sup>527</sup> Exhibit 4-31, Statement of Deacon Christopher Wallace, STAT.0088.001.0003\_E\_M [97].
- <sup>528</sup> Exhibit 4-36, Statement of Bishop Geoffrey Jarrett, STAT.0080.001.0001\_M [85].
- <sup>529</sup> Exhibit 4-36, Statement of Bishop Geoffrey Jarrett, STAT.0080.001.0001\_M [68] and [85].
- <sup>530</sup> Transcript of Jennifer Ingham, T2835:40-44 (Day 27).
- <sup>531</sup> Transcript of Jennifer Ingham, T2786:4-12 (Day 26).
- <sup>532</sup> Transcript of Bishop Geoffrey Jarrett, T3060:23-31 (Day 29).
- <sup>533</sup> Transcript of Jennifer Ingham, T2789:25-33 (Day 26); Exhibit 4-31, Statement of Deacon Christopher Wallace, STAT.0088.001.0003\_E\_M [100].
- <sup>534</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [51]; Exhibit 4-36, Statement of Bishop Geoffrey Jarrett, STAT.0080.001.0001\_M [83].
- <sup>535</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [51]; Exhibit 4-36, Statement of Bishop Geoffrey Jarrett, STAT.0080.001.0001\_M [83].
- <sup>536</sup> Exhibit 4-31, Statement of Deacon Christopher Wallace, STAT.0088.001.0003\_E\_M [100]
- <sup>537</sup> Transcript of Jennifer Ingham, T2789:35-44 (Day 26).
- <sup>538</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [52].
- <sup>539</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [53]; Exhibit 4-17, Tab 149, STAT.0074.001.0048\_R.
- <sup>540</sup> Exhibit 4-17, Tab 149, STAT.0074.001.0048\_R.
- <sup>541</sup> Exhibit 4-17, Tab 150, STAT.0074.001.0049\_R.
- <sup>542</sup> Transcript of Jennifer Ingham, T2835:40-44 (Day 27).
- <sup>543</sup> Exhibit 4-17, Tab 153, STAT.0080.001.0063\_R.
- <sup>544</sup> Exhibit 4-36, Statement of Bishop Geoffrey Jarrett, STAT.0080.001.0001\_M [86].
- <sup>545</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [55].
- <sup>546</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [55].
- <sup>547</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [56].
- <sup>548</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [10].
- <sup>549</sup> Exhibit 4-25, Statement of Father Francis Mulcahy, STAT.0093.001.0001 [15].
- <sup>550</sup> Transcript of Father Francis Mulcahy, T2876:34-36 (Day 27).
- <sup>551</sup> Exhibit 4-36, Statement of Bishop Geoffrey Jarrett, STAT.0080.001.0001\_M [55].
- <sup>552</sup> Exhibit 4-22, Statement of Professor Roger Dooley, STAT.0095.001.0001\_M [1].
- <sup>553</sup> Transcript of Jennifer Ingham, T2819:9-18 (Day 27) and Exhibit 4-17, Tab 18, STAT.0074.001.0022\_R at .0023\_R.
- <sup>554</sup> Exhibit 4-22, Statement of Professor Roger Dooley, STAT.0095.001.0001\_M [4].

- <sup>555</sup> Exhibit 4-22, Statement of Professor Roger Dooley, STAT.0095.001.0001\_M [8].
- <sup>556</sup> Transcript of Professor Roger Dooley, T2857:13-25 (Day 27).
- <sup>557</sup> Exhibit 4-22, Statement of Professor Roger Dooley, STAT.0095.001.0001\_M [8].
- <sup>558</sup> Exhibit 4-22, Statement of Professor Roger Dooley, STAT.0095.001.0001\_M [9].
- <sup>559</sup> Exhibit 4-22, Statement of Professor Roger Dooley, STAT.0095.001.0001\_M [6].
- <sup>560</sup> Exhibit 4-22, Statement of Professor Roger Dooley, STAT.0095.001.0001\_M [6] and Exhibit 4-17 Tab 13A, STAT.0095.001.0005\_R, STAT.0095.001.0003\_R.
- <sup>561</sup> Transcript of Professor Roger Dooley, T2860:27-36 (Day 27).
- <sup>562</sup> Exhibit 4-22, Statement of Professor Roger Dooley, STAT.0095.001.0001\_M [7] and Exhibit 4-17 Tab 13A, STAT.0095.001.0005\_R, STAT.0095.001.0003\_R.
- <sup>563</sup> Transcript of Professor Roger Dooley, T2858:21-47 and T2859:1-8 (Day 27).
- <sup>564</sup> Transcript of Professor Roger Dooley, T2856:38-43 (Day 27).
- <sup>565</sup> Transcript of Professor Roger Dooley, T2856:42-47 (Day 27).
- <sup>566</sup> Transcript of Professor Roger Dooley, T2856:23-32 (Day 27).
- <sup>567</sup> Father Francis Mulcahy, Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse in Response to Revised Submissions of Counsel Assisting, *Case Study 4: Towards Healing*, p. 4 [3.6].
- <sup>568</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [10].
- <sup>569</sup> Transcript of Jennifer Ingham, T2806:3-7 (Day 27).
- <sup>570</sup> Transcript of Jennifer Ingham, T2806:10-29 (Day 27).
- <sup>571</sup> Transcript of Jennifer Ingham, T2806:37-39 (Day 27).
- <sup>572</sup> Transcript of Jennifer Ingham, T2808:32-38 (Day 27).
- <sup>573</sup> Transcript of Jennifer Ingham, T2825:27-28 (Day 27).
- <sup>574</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [10].
- <sup>575</sup> Transcript of Jennifer Ingham, T2805:10-36 (Day 27).
- <sup>576</sup> Exhibit 4-25, Statement of Father Francis Mulcahy, STAT.0093.001.0001 [15] and [18].
- <sup>577</sup> Transcript of Father Francis Mulcahy, T2884:30-35 (Day 27).
- <sup>578</sup> Transcript of Father Francis Mulcahy, T2891:34-T2892:2 (Day 27).
- <sup>579</sup> Exhibit 4-17, Tab 15, STAT.0074.001.0019\_R and Transcript of Jennifer Ingham, T2814:36-44 (Day 27).
- <sup>580</sup> Exhibit 4-17, Tab 15, STAT.0074.001.0019\_R.
- <sup>581</sup> Transcript of Jennifer Ingham, T2813:33-T2814:9 (Day 27).
- <sup>582</sup> Exhibit 4-35, Statement of Bishop John Satterthwaite, STAT.0096.001.0001 [9].
- <sup>583</sup> Exhibit 4-35, Statement of Bishop John Satterthwaite, STAT.0096.001.0001 [14].
- <sup>584</sup> Exhibit 4-31, Statement of Deacon Christopher Wallace, STAT.0088.001.0003\_E\_M [85].
- <sup>585</sup> Transcript of Jennifer Ingham, T2815:38-40 (Day 27).
- <sup>586</sup> Transcript of Jennifer Ingham, T2815:42-47 and T2816:1-1 (Day 27).
- <sup>587</sup> Transcript of Jennifer Ingham, T2816:15-21 (Day 27).
- <sup>588</sup> Transcript of Jennifer Ingham, T2816:15-21 (Day 27).
- <sup>589</sup> Transcript of Jennifer Ingham, T2815:30-36 (Day 27).
- <sup>590</sup> Transcript of Jennifer Ingham, T2815:18-21 (Day 27).
- <sup>591</sup> Transcript of Jennifer Ingham, T2800:17-22 (Day 26).
- <sup>592</sup> Transcript of Jennifer Ingham, T2816:15-29 (Day 27).
- <sup>593</sup> Transcript of Jennifer Ingham, T2799:42-46 (Day 26).
- <sup>594</sup> Transcript of Jennifer Ingham, T2799:45-47 and T2800:1-3 (Day 27).
- <sup>595</sup> Transcript of Father Francis Mulcahy, T2872:20-27 (Day 27).
- <sup>596</sup> Transcript of Father Francis Mulcahy, T2872:16-18 (Day 27).
- <sup>597</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [10].
- <sup>598</sup> Transcript of Jennifer Ingham, T2810:27-34 (Day 27).
- <sup>599</sup> Exhibit 4-18, Statement of Jennifer Ingham, STAT.0074.001.0001\_R\_M [5].
- <sup>600</sup> Transcript of Father Francis Mulcahy, T2881:10-19 (Day 27).

- <sup>601</sup> Transcript of Father Francis Mulcahy, T2890:31-40 (Day 27).
- <sup>602</sup> Exhibit 4-25, Statement of Father Francis Mulcahy, STAT.0093.001.0001 [20].
- <sup>603</sup> Transcript of Father Francis Mulcahy, T2870:39-47 and T2871:1-13 (Day 27).
- <sup>604</sup> Exhibit 4-25, Statement of Father Francis Mulcahy, STAT.0093.001.0001 [20].
- <sup>605</sup> Exhibit 4-25, Statement of Father Francis Mulcahy, STAT.0093.001.0001 [21]; Transcript of Father Francis Mulcahy, T2877:29-33 (Day 27).
- <sup>606</sup> Exhibit 4-25, Statement of Father Francis Mulcahy, STAT.0093.001.0001 [22]; Transcript of Father Francis Mulcahy, T2877:35-37 (Day 27).
- <sup>607</sup> Transcript of Father Francis Mulcahy, T2877:47-T2878:20 (Day 27).
- <sup>608</sup> Transcript of Father Francis Mulcahy, T2878:15-33 (Day 27).
- <sup>609</sup> Transcript of Jennifer Ingham, T2811:9-36 (Day 27).
- <sup>610</sup> Transcript of Jennifer Ingham, T2812:17-22 (Day 27).
- <sup>611</sup> Transcript of Father Francis Mulcahy, T2881:2-43 (Day 27).
- <sup>612</sup> Transcript of Jennifer Ingham, T2798:1-11 (Day 26).
- <sup>613</sup> Transcript of Jennifer Ingham, T2826:34-44 (Day 27).
- <sup>614</sup> Transcript of Jennifer Ingham, T2826:46 - T2827:1 (Day 27).
- <sup>615</sup> Transcript of Jennifer Ingham, T2827:40-46 (Day 27).
- <sup>616</sup> Transcript of Jennifer Ingham, T2827:2-28 (Day 27).
- <sup>617</sup> Exhibit 4-25, Statement of Father Francis Mulcahy, STAT.0093.001.0001 [19].
- <sup>618</sup> Transcript of Father Francis Mulcahy, T2890:5-7 (Day 27).
- <sup>619</sup> Transcript of Father Francis Mulcahy, T2890:13 (Day 27).
- <sup>620</sup> Transcript of Jennifer Ingham, T2828:34-46 (Day 27).
- <sup>621</sup> Exhibit 4-25, Statement of Father Francis Mulcahy, STAT.0093.001.0001 [11]
- <sup>622</sup> Exhibit 4-20, EXH.004.020.0001.
- <sup>623</sup> Transcript of Father Francis Mulcahy, T2878:35-47 (Day 27).
- <sup>624</sup> Transcript of Father Francis Mulcahy, T2879:3-6 (Day 27).
- <sup>625</sup> Transcript of Father Francis Mulcahy, T2880:44-47 (Day 27).
- <sup>626</sup> Transcript of Father Francis Mulcahy, T2886:45-47 (Day 27).
- <sup>627</sup> Transcript of Father Francis Mulcahy, T2880:28-32 (Day 27).
- <sup>628</sup> Exhibit 4-36, Statement of Bishop Geoffrey Jarrett, STAT.0080.001.0001\_M [56].
- <sup>629</sup> Transcript of Bishop Geoffrey Jarrett, T3055:3-15 (Day 29).
- <sup>630</sup> Exhibit 4-36, Statement of Bishop Geoffrey Jarrett, STAT.0080.001.0001\_M [55].
- <sup>631</sup> Exhibit 4-36, Statement of Bishop Geoffrey Jarrett, STAT.0080.001.0001\_M [46]-[47].
- <sup>632</sup> Exhibit 4-36, Statement of Bishop Geoffrey Jarrett, STAT.0080.001.0001\_M [47].
- <sup>633</sup> Exhibit 4-36, Statement of Bishop Geoffrey Jarrett, STAT.0080.001.0001\_M [51]
- <sup>634</sup> Transcript of Bishop Geoffrey Jarrett, T3053:35 - 47 (Day 29).
- <sup>635</sup> Exhibit 4-25, Statement of Father Francis Mulcahy, STAT.0093.001.0001 [12] - [14].
- <sup>636</sup> Transcript of Bishop Geoffrey Jarrett, T2873:16-26 (Day 29).
- <sup>637</sup> Exhibit 4-25, Statement of Father Francis Mulcahy, STAT.0093.001.0001 [12].
- <sup>638</sup> Transcript of Father Francis Mulcahy, T2873:40-42 (Day 29).
- <sup>639</sup> Transcript of Father Francis Mulcahy, T2874:30-35 (Day 29).
- <sup>640</sup> Transcript of Bishop Geoffrey Jarrett, T3054:2-19 (Day 29).
- <sup>641</sup> Exhibit 4-25, Statement of Father Francis Mulcahy, STAT.0093.001.0001 [14].
- <sup>642</sup> Transcript of Father Francis Mulcahy, T2874:7-18 (Day 27).
- <sup>643</sup> Transcript of Deacon Christopher Wallace, T3011:32-34 (Day 28).
- <sup>644</sup> Exhibit 4-31, Statement of Deacon Christopher Wallace, STAT.0088.001.0003\_E\_M [61].
- <sup>645</sup> Transcript of Deacon Christopher Wallace, T3008:16-20 (Day 28).
- <sup>646</sup> Transcript of Deacon Christopher Wallace, T3008:22-24 (Day 28).

- <sup>647</sup> Exhibit 4-17, Tab 141, STAT.0088.001.0141.
- <sup>648</sup> Transcript of Deacon Christopher Wallace, T3015:8-19 (Day 28).
- <sup>649</sup> Transcript of Deacon Christopher Wallace, T3019:28-30 (Day 28).
- <sup>650</sup> Transcript of Deacon Christopher Wallace, T3013:6-12 (Day 28).
- <sup>651</sup> Transcript of Deacon Christopher Wallace, T3013:11-14 (Day 28) and Exhibit 4-31, Statement of Deacon Christopher Wallace, STAT.0088.001.0003\_E\_M [89].
- <sup>652</sup> Exhibit 4-31, Statement of Deacon Christopher Wallace, STAT.0088.001.0003\_E\_M [89].
- <sup>653</sup> Transcript of Deacon Christopher Wallace, T3022:15-17 (Day 28).
- <sup>654</sup> Transcript of Deacon Christopher Wallace, T3013:38-47 and T3014:1-4 (Day 28).
- <sup>655</sup> Exhibit 4-46, Supplementary Statement of Father Francis Mulcahy, STAT.0093.002.0001\_Combined [10]-[11].
- <sup>656</sup> Exhibit 4-46, Supplementary Statement of Father Francis Mulcahy, STAT.0093.002.0001\_Combined [10]-[11].
- <sup>657</sup> Transcript of Deacon Christopher Wallace, T3020:24-30 (Day 28).
- <sup>658</sup> Transcript of Deacon Christopher Wallace, T3014:15-18 (Day 28).
- <sup>659</sup> Transcript of Deacon Christopher Wallace, T3021:15-26 (Day 28).
- <sup>660</sup> Exhibit 4-25, Statement of Father Francis Mulcahy, STAT.0093.001.0001 [6]
- <sup>661</sup> Transcript of Deacon Christopher Wallace, T3015:24-29 (Day 28).
- <sup>662</sup> Transcript of Father Francis Mulcahy, T2875:42-47 and T2876:1-19 (Day 27).
- <sup>663</sup> Transcript of Father Francis Mulcahy, T2876:15-32 (Day 27).
- <sup>664</sup> Transcript of Colin Riches T2864:14-16 (Day 27).
- <sup>665</sup> Exhibit 4-24 EXH.004.024.0001\_R.
- <sup>666</sup> Exhibit 4-37, Statement of DG, STAT.0064.001.0002\_R [4]; Transcript of DG, T3092:15-18 (Day 29).
- <sup>667</sup> Exhibit 4-37, Statement of DG, STAT.0064.001.0002\_R [4]; Transcript of DG, T3092:15-18 (Day 29).
- <sup>668</sup> Exhibit 4-37, Statement of DG, STAT.0064.001.0002\_R [5]; Transcript of DG, T3092:20-21 (Day 29).
- <sup>669</sup> Exhibit 4-37, Statement of DG, STAT.0064.001.0002\_R [6]-[7]; Transcript of DG, T3092:23-32 (Day 29).
- <sup>670</sup> Exhibit 4-37, Statement of DG, STAT.0064.001.0002\_R [8]; Transcript of DG, T3092:34-36 (Day 29).
- <sup>671</sup> Exhibit 4-37, Statement of DG, STAT.0064.001.0002\_R [9]; Transcript of DG, T3092:38-39 (Day 29).
- <sup>672</sup> Exhibit 4-37, Statement of DG, STAT.0064.001.0002\_R [9]; Transcript of DG, T3092:38-47; T2093:1-5 (Day 29).
- <sup>673</sup> Exhibit 4-38, Tab 1, STAT.0079.001.0011\_R.
- <sup>674</sup> Exhibit 4-38, Tab 1, STAT.0079.001.0011\_R.
- <sup>675</sup> Exhibit 4-38, Tab 1, STAT.0079.001.0011\_R.
- <sup>676</sup> Exhibit 4-40, Statement of Brother Alexis Turton, STAT.0085.001.0001\_R [26].
- <sup>677</sup> Exhibit 4-39, Statement of Brother Michael Andrew Hill, STAT.0079.001.0001\_R [20-21].
- <sup>678</sup> Exhibit 4-39, Statement of Brother Michael Andrew Hill, STAT.0079.001.0001\_R [28].
- <sup>679</sup> Exhibit 4-40, Statement of Brother Alexis Turton, STAT.0085.001.0001\_R [38]; Transcript of Brother Alexis Turton, T3199:40-44 (Day 30).
- <sup>680</sup> Transcript of Brother Alexis Turton, T3199:46-T3200:7 (Day 30).
- <sup>681</sup> Exhibit 4-38, Tab 71, CTJH.0002.001.0001 at .0003.
- <sup>682</sup> Exhibit 4-38, Tab 4, STAT.0079.001.0012; Exhibit 4-38, Tab 9, STAT.0079.001.0013\_R.
- <sup>683</sup> See Exhibit 4-38 Tab 1, STAT.0079.001.0011\_R; Exhibit 4-38, Tab 9, STAT.0079.001.0013\_R. The names are so similar that it is possible that they refer to the same person and that the difference between them is merely an error in one of the records.
- <sup>684</sup> Exhibit 4-38, Tab 9, STAT.0079.001.0013\_R.
- <sup>685</sup> Exhibit 4-38, Tab 4, STAT.0079.001.0012.
- <sup>686</sup> Transcript of Brother Alexis Turton, T3200:38-45 (Day 30).
- <sup>687</sup> Transcript of Brother Alexis Turton, T3201:46-T3202:27; T3203:5-9 (Day 30).
- <sup>688</sup> Transcript of Brother Alexis Turton, T3202:39-47; T3203:1-3; T3232:21-26; T3233:1-36 (Day 30).
- <sup>689</sup> See Transcript of Brother Alexis Turton, T3201:4-6 (Day 30).

- <sup>690</sup> Exhibit 4-38, Tab 5, STAT.0079.001.0014\_R. Exhibit 4-40, Statement of Brother Alexis Turton, STAT.0085.001.0001\_R [40]; Transcript of Brother Alexis Turton, T3203:34-47; T3204:1-33; T3204:45-47; T3205:1-2; T3211:9-15 (Day 30).
- <sup>691</sup> Transcript of Brother Alexis Turton, T3204:40-43; T3206:15-19; T3234:1-3 (Day 30); Exhibit 4-40, Statement of Brother Alexis Turton, STAT.0085.001.0001\_R [40].
- <sup>692</sup> Exhibit 4-38, Tab 5, STAT.0079.001.0014\_R.
- <sup>693</sup> Exhibit 4-38, Tab 5, STAT.0079.001.0014\_R.
- <sup>694</sup> Exhibit 4-38, Tab 5, STAT.0079.001.0014\_R.
- <sup>695</sup> Transcript of Brother Alexis Turton, T3214:1-13; T3206:1-43 (Day 30).
- <sup>696</sup> Exhibit 4-40, Statement of Brother Alexis Turton, STAT.0085.001.0001\_R [40].
- <sup>697</sup> Transcript of Brother Alexis Turton, T3206:21-27 (Day 30).
- <sup>698</sup> Transcript of Brother Alexis Turton, T3206:39-46 (Day 30).
- <sup>699</sup> Exhibit 4-1, Tab P, CTJH.0001.001.0295.
- <sup>700</sup> Exhibit 4-1, Tab P, CTJH.0001.001.0295 [2].
- <sup>701</sup> Transcript of Brother Alexis Turton, T3201:15 - 21; T3208:20-T3209:11 (Day 30).
- <sup>702</sup> Transcript of Brother Alexis Turton, T3208:20-T3210:7 (Day 30).
- <sup>703</sup> Exhibit 4-37, Statement of DG, STAT.0064.001.0002\_R [11].
- <sup>704</sup> Exhibit 4-38, Tab 7, IND.0002.001.0023\_R.
- <sup>705</sup> Exhibit 4-40, Statement of Brother Alexis Turton, STAT.0085.001.0001\_R [41]. See also Transcript of Brother Alexis Turton, T3212:36-38 (Day 30).
- <sup>706</sup> Transcript of Brother Alexis Turton, T3213:1-20 (Day 30).
- <sup>707</sup> Transcript of Brother Alexis Turton, T3215:1-7 (Day 30).
- <sup>708</sup> Transcript of Brother Alexis Turton, T3214: 38-46 (Day 30).
- <sup>709</sup> Exhibit 4-38, Tab 7, IND.0002.001.0023\_R; Exhibit 4-38, Tab 8, IND.0002.001.0026\_R.
- <sup>710</sup> Exhibit 4-38, Tab 6A, CTJH.053.14001.0190.
- <sup>711</sup> See Exhibit 4-39, Statement of Brother Michael Andrew Hill, STAT.0079.001.0001\_R [43]; Transcript of Brother Michael Hill, T3129:31-36 (Day 29).
- <sup>712</sup> Exhibit 4-38, Tab 13, STAT.0079.001.0019.
- <sup>713</sup> Exhibit 4-38, Tab 13, STAT.0079.001.0019.
- <sup>714</sup> Exhibit 4-39, Statement of Brother Michael Andrew Hill, STAT.0079.001.0001\_R [45, 47].
- <sup>715</sup> Exhibit 4-37, Statement of DG, STAT.0064.001.0002\_R [19].
- <sup>716</sup> Exhibit 4-38, Tab 14, STAT.0079.001.0020\_R.
- <sup>717</sup> Exhibit 4-38, Tab 14, STAT.0079.001.0020\_R.
- <sup>718</sup> Exhibit 4-38, Tab 14, STAT.0079.001.0020\_R.
- <sup>719</sup> Transcript of Brother Michael Hill, T3189:34-T3190:8 (Day 30).
- <sup>720</sup> Transcript of Brother Michael Hill, T3131:15-38 (Day 29).
- <sup>721</sup> Transcript of Brother Michael Hill, T3130:8-T3131:43 (Day 29).
- <sup>722</sup> Exhibit 4-37, Statement of DG, STAT.0064.001.0002\_R [20].
- <sup>723</sup> Exhibit 4-37, Statement of DG, STAT.0064.001.0002\_R [20].
- <sup>724</sup> Exhibit 4-39, Statement of Brother Michael Andrew Hill, STAT.0079.001.0001\_R [50-52]; Transcript of Brother Michael Hill, T3133:19-28 (Day 29).
- <sup>725</sup> Transcript of Brother Michael Hill T3133:25-34 (Day 29).
- <sup>726</sup> Transcript of Brother Michael Hill T3135:40-47 (Day 29).
- <sup>727</sup> Exhibit 4-38, Tab 17, STAT.0064.001.0013\_R. The letter is dated 29 January 2000 (on the first page) and 29 February 2000 (on the second page).
- <sup>728</sup> Transcript of Brother Alexis Turton, T3230:35-40 (Day 30).
- <sup>729</sup> Exhibit 4-38, Tab 17, STAT.0064.001.0013\_R.
- <sup>730</sup> Exhibit 4-38, Tab 18, STAT.0079.001.0034\_R.
- <sup>731</sup> Exhibit 4-38, Tab 19, CTJH.053.07008.0091\_R.

- <sup>732</sup> Transcript of Brother Michael Hill, T3146:38-40; T3147:1-16 (Day 30).
- <sup>733</sup> Transcript of Brother Michael Hill, T3148:37-41 (Day 30).
- <sup>734</sup> Transcript of Brother Michael Hill, T3148:30-35 (Day 30).
- <sup>735</sup> Transcript of Brother Michael Hill, T3148:21-28; 43-47 (Day 30).
- <sup>736</sup> Transcript of Brother Michael Hill, T3149:17-31 (Day 30).
- <sup>737</sup> Exhibit 4-38, Tab 20, CTJH.053.07008.0056\_R.
- <sup>738</sup> Exhibit 4-38, Tab 20, CTJH.053.07008.0056\_R.
- <sup>739</sup> Exhibit 4-38, Tab 21, CTJH.053.07008.0087\_R.
- <sup>740</sup> Exhibit 4-38, Tab 22, STAT.0064.001.0016\_R.
- <sup>741</sup> Transcript of Brother Michael Hill, T3154:30-36 (Day 30).
- <sup>742</sup> Transcript of Brother Michael Hill, T3153:43-T3154:5; T3154:42-T3155:1 (Day 30).
- <sup>743</sup> Transcript of Brother Michael Hill, T3154:16-36 (Day 30).
- <sup>744</sup> Transcript of Brother Michael Hill, T3154:38-40 (Day 30).
- <sup>745</sup> Exhibit 4-38, Tab 23, CTJH.053.07008.0083\_R.
- <sup>746</sup> Exhibit 4-38, Tab 25, STAT.0064.001.0018\_R.
- <sup>747</sup> Transcript of Brother Michael Hill, T3155:10-42 (Day 30). See also Exhibit 4-39, Statement of Brother Michael Andrew Hill, STAT.0079.001.0001\_R [60].
- <sup>748</sup> Transcript of Brother Michael Hill, T3155:10-T3156:18 (Day 30).
- <sup>749</sup> Transcript of Brother Michael Hill, T3156:14-18 (Day 30).
- <sup>750</sup> Transcript of Brother Michael Hill, T3155:44-T3156:26 (Day 30).
- <sup>751</sup> Exhibit 4-38, Tab 26, STAT.0079.001.0046\_R.
- <sup>752</sup> Exhibit 4-38, Tab 27, CTJH.053.07008.0079\_R.
- <sup>753</sup> Exhibit 4-38, Tab 28, STAT.0079.001.0047\_R.
- <sup>754</sup> Exhibit 4-38, Tab 30, CTJH.053.07008.0073\_R.
- <sup>755</sup> Exhibit 4-38, Tab 30, CTJH.053.07008.0073\_R.
- <sup>756</sup> Exhibit 4-37, Statement of DG, STAT.0064.001.0002\_R [25]; Exhibit 4-39, Statement of Brother Michael Andrew Hill, STAT.0079.001.0001\_R [64].
- <sup>757</sup> Exhibit 4-39, Statement of Brother Michael Andrew Hill, STAT.0079.001.0001\_R [67].
- <sup>758</sup> Transcript of DG T3107:12-16 (Day 29).
- <sup>759</sup> Exhibit 4-38, Tab 31, STAT.0079.001.0049\_R; Transcript of Brother Michael Hill, T3192:20-24 (Day 30).
- <sup>760</sup> Transcript of Brother Michael Hill, T3159:8-22 (Day 30).
- <sup>761</sup> Transcript of Brother Michael Hill, T3159:24-T3160:34 (Day 30).
- <sup>762</sup> Exhibit 4-39, Statement of Brother Michael Andrew Hill, STAT.0079.001.0001\_R [68].
- <sup>763</sup> Transcript of Brother Michael Hill, T3161:3-5 (Day 30).
- <sup>764</sup> Transcript of Brother Michael Hill, T3179:29-32 (Day 30).
- <sup>765</sup> Exhibit 4-37, Statement of DG, STAT.0064.001.0002\_R [27].
- <sup>766</sup> Exhibit 4-37, Statement of DG, STAT.0064.001.0002\_R [25].
- <sup>767</sup> Transcript of DG T3101:6-14 (Day 29).
- <sup>768</sup> Exhibit 4-39, Statement of Brother Michael Andrew Hill, STAT.0079.001.0001\_R [70(a)].
- <sup>769</sup> Transcript of Brother Michael Hill, T3165:1-1; T3157:22-25 (Day 30).
- <sup>770</sup> Exhibit 4-39, Statement of Brother Michael Andrew Hill, STAT.0079.001.0001\_R [70(b)]; Transcript of Brother Michael Hill, T3157:36-43 (Day 30).
- <sup>771</sup> Transcript of Brother Michael Hill, T3157:45-T3158:8 (Day 30).
- <sup>772</sup> Transcript of Brother Michael Hill, T3158:10-26 (Day 30).
- <sup>773</sup> Transcript of Brother Michael Hill, T3158:28-32 (Day 30).
- <sup>774</sup> Transcript of Brother Michael Hill, T3162:21-T3165:17 (Day 30); Exhibit 4-38, Tab 14, STAT.0079.001.0020\_R.
- <sup>775</sup> Transcript of Brother Michael Hill, T3165:12-16 (Day 30).
- <sup>776</sup> Transcript of Brother Michael Hill, T3165:17 (Day 30).

- <sup>777</sup> Transcript of Brother Michael Hill, T3161-3162; T3167 (Day 30); Exhibit 4-39, Statement of Brother Michael Andrew Hill, STAT.0079.001.0001\_R [72]; Exhibit 4-38, Tab 31, STAT.0079.001.0049\_R at .0050\_R.
- <sup>778</sup> Exhibit 4-39, Statement of Brother Michael Hill, STAT.0079.001.0001\_R [85]. See also Transcript of Brother Michael Hill, T3179:4-27 (Day 30).
- <sup>779</sup> Exhibit 4-39, Statement of Brother Michael Hill, STAT.0079.001.0001\_R [85]. See also Transcript of Brother Michael Hill, T3179:4-27 (Day 30).
- <sup>780</sup> Transcript of DG, T3109:23-26 (Day 29).
- <sup>781</sup> Exhibit 4-38, Tab 36, STAT.0064.001.0020\_R.
- <sup>782</sup> Exhibit 4-38, Tab 36, STAT.0064.001.0020\_R.
- <sup>783</sup> Transcript of Brother Michael Hill, T3168:33-37 (Day 30).
- <sup>784</sup> Transcript of Brother Michael Hill, T3170:16-T3171:11 (Day 30).
- <sup>785</sup> Transcript of Brother Michael Hill, T3171:13-20; T3172:26-29 (Day 30).
- <sup>786</sup> Exhibit 4-38, Tab 38, STAT.0079.001.0059\_R.
- <sup>787</sup> Exhibit 4-38, Tab 38, STAT.0079.001.0059\_R.
- <sup>788</sup> Exhibit 4-38, Tab 37, STAT.0079.001.0061\_R.
- <sup>789</sup> Exhibit 4-39, Statement of Brother Michael Andrew Hill, STAT.0079.001.0001\_R [77].
- <sup>790</sup> Exhibit 4-38, Tab 42, STAT.0079.001.0063\_R.
- <sup>791</sup> Exhibit 4-38, Tab 42, STAT.0079.001.0063\_R.
- <sup>792</sup> Exhibit 4-38, Tab 45, CTJH.053.01084.0033\_R.
- <sup>793</sup> Exhibit 4-38, Tab 45, CTJH.053.01084.0033\_R.
- <sup>794</sup> Transcript of Brother Michael Hill, T3177:40-47 (Day 30).
- <sup>795</sup> Transcript of Brother Michael Hill, T3178:1-7 (Day 30).
- <sup>796</sup> Transcript of Brother Michael Hill, T3178:24-27 (Day 30).
- <sup>797</sup> Exhibit 4-1, Tab D (*Towards Healing* 2000), CTJH.0001.001.0073 [36.1, 38.2].
- <sup>798</sup> Exhibit 4-1, Tab DD (Patrick Parkinson, '*Review of Towards Healing: Report for the National Committee for Professional Standards*' 2000), USYD.9100.01002.0049, page 6.
- <sup>799</sup> See Exhibit 4-1, Tab D (*Towards Healing* 2000), CTJH.0001.001.0073 [38.2, 38.3, 38.4].
- <sup>800</sup> Transcript of Brother Michael Hill, T3175:27-41 (Day 30).
- <sup>801</sup> Transcript of Brother Michael Hill, T3175:21-41 (Day 30).
- <sup>802</sup> Exhibit 4-1, Tab D (*Towards Healing* 2000), CTJH.0001.001.0073 [36.1].
- <sup>803</sup> Transcript of Brother Michael Hill, T3139:12-18 (Day 29).
- <sup>804</sup> Transcript of Brother Michael Hill, T3174:16-37 (Day 30).
- <sup>805</sup> Transcript of Brother Michael Hill, T3169:8-16 (Day 30).
- <sup>806</sup> Transcript of Brother Michael Hill, T3168:33-37; T3170:1-14 (Day 30); Transcript of Brother Michael Hill T3172:14-29; T3174:10-14 (Day 30). See also Transcript of Brother Michael Hill, T3175:43-T3176:1 (Day 30).
- <sup>807</sup> Transcript of Brother Michael Hill, T3168:32-46 (Day 30). See also Transcript of Brother Michael Hill, T3170:2-14; T3174:1-14 (Day 30).
- <sup>808</sup> Transcript of Brother Alexis Turton, T3231:5-21 (Day 30).
- <sup>809</sup> Exhibit 4-38, Tab 40, STAT.0064.001.0023\_R.
- <sup>810</sup> Exhibit 4-38, Tab 40, STAT.0064.001.0023\_R.
- <sup>811</sup> Exhibit 4-38, Tabs 46, STAT.0079.001.0064\_R; Exhibit 4-38, Tab 47, CTJH.053.07008.0037\_R. See also Exhibit 4-63, Statement of Patrick John Monahan, CTJH.500.02001.0002\_E\_R [14].
- <sup>812</sup> Exhibit 4-38, Tab 49, STAT.0064.001.0025\_R at .0026\_R.
- <sup>813</sup> Exhibit 4-38, Tab 49, STAT.0064.001.0025\_R.
- <sup>814</sup> Exhibit 4-38, Tab 57, STAT.0064.001.0034\_R.
- <sup>815</sup> Exhibit 4-38 Tab 57B at CCI.0015.00004.0134\_R-CCI.0015.00004.0135\_R.
- <sup>816</sup> Exhibit 4-38, Tab 57B, CCI.0015.00004.0134\_R-CCI.0015.00004.0135\_R.
- <sup>817</sup> Exhibit 4-38, Tab 57B, CCI.0015.00004.0134\_R-CCI.0015.00004.0135\_R.

- <sup>818</sup> Exhibit 4-38, Tab 57B, CCI.0015.00004.0134\_R.
- <sup>819</sup> Exhibit 4-37, Statement of DG, STAT.0064.001.0002\_R [34].
- <sup>820</sup> Exhibit 4-37, Statement of DG, STAT.0064.001.0002\_R [35].
- <sup>821</sup> Exhibit 4-63, Statement of Patrick John Monahan, CTJH.500.02001.0002\_E\_R [23].
- <sup>822</sup> Exhibit 4-38, Tab 58B, CTJH.500.02001.0016\_E\_R.
- <sup>823</sup> Exhibit 4-38, Tab 58B, CTJH.500.02001.0016\_E\_R.
- <sup>824</sup> Exhibit 4-38, Tab 58B-1, CCI.0015.00004.0108\_R.
- <sup>825</sup> Exhibit 4-38, Tab 58A, CCI.0015.00004.0108\_R.
- <sup>826</sup> Exhibit 4-38, Tab 58C, CTJH.500.02001.0017\_E\_R.
- <sup>827</sup> Exhibit 4-40, Statement of Brother Alexis Turton, STAT.0085.001.0001\_R [47]; Exhibit 4-38, Tab 59, CTJH.500.02001.0017\_E\_R.
- <sup>828</sup> Exhibit 4-40, Statement of Brother Alexis Turton, STAT.0085.001.0001\_R [47].
- <sup>829</sup> Exhibit 4-37, Statement of DG, STAT.0064.001.0002\_R [36].
- <sup>830</sup> Transcript of DG, T3121:24-34 (Day 29).
- <sup>831</sup> Transcript of DG, T3114:3-14 (Day 29).
- <sup>832</sup> Transcript of DG, T3113:20-35; T3114:42-T3115:2 (Day 29).
- <sup>833</sup> Transcript of DG, T3120:42-T3121:22 (Day 29).
- <sup>834</sup> Transcript of DG, T3113:20-35 (Day 29).
- <sup>835</sup> Exhibit 4-37, Statement of DG, STAT.0064.001.0002\_R [36].
- <sup>836</sup> Exhibit 4-37, Statement of DG, STAT.0064.001.0002\_R [36]; Exhibit 4-38, Tab 59C, CCI.0015.00004.00005\_R.
- <sup>837</sup> Transcript of Patrick Monahan, T3712:41-45 (Day 35).
- <sup>838</sup> Exhibit 4-40, Statement of Brother Alexis Turton, STAT.0085.001.0001\_R [51]-[52].
- <sup>839</sup> Exhibit 4-40, Statement of Brother Alexis Turton, STAT.0085.001.0001\_R [53]; Exhibit 4-37, Statement of DG, STAT.0064.001.0002\_R [38]-[39].
- <sup>840</sup> Exhibit 4-40, Statement of Brother Alexis Turton, STAT.0085.001.0001\_R [55].
- <sup>841</sup> Exhibit 4-37, Statement of DG, STAT.0064.001.0002\_R [38]-[39].
- <sup>842</sup> Exhibit 4-40, Statement of Brother Alexis Turton, STAT.0085.001.0001\_R [62].
- <sup>843</sup> Exhibit 4-40, Statement of Brother Alexis Turton, STAT.0085.001.0001\_R [63].
- <sup>844</sup> Transcript of Brother Alexis Turton, T3218:9-36; T3220:24-30 (Day 30).
- <sup>845</sup> Transcript of Brother Alexis Turton, T3218:1-36; T3220:24-44 (Day 30).
- <sup>846</sup> Transcript of Brother Alexis Turton, T3218:30-36 (Day 30).
- <sup>847</sup> Exhibit 4-38, T59C, CCI.0015.00004.0005\_R.
- <sup>848</sup> Transcript of Brother Alexis Turton, T3220:21-22 (Day 30).
- <sup>849</sup> Exhibit 4-40, Statement of Brother Alexis Turton, STAT.0085.001.0001\_R [52], [62]-[63]; Transcript of Brother Alexis Turton, T3220:15-44 (Day 30).
- <sup>850</sup> Exhibit 4-38, Tab 61, STAT.0085.001.0015\_R; Exhibit 4-38, Tab 61A, CTJH.500.02001.0028\_E\_R; Exhibit 4-38, Tab 62, STAT.0085.001.0022\_R.
- <sup>851</sup> Exhibit 4-38, Tab 36, STAT.0064.001.0020\_R.
- <sup>852</sup> Exhibit 4-38, Tab 58C, CCI.0015.00004.0005\_R at .0006\_R.
- <sup>853</sup> Exhibit 4-38, Tab 59C, at CCI.0015.00004.0005\_R; Transcript of Patrick Monahan, T3712:37-39 (Day 35).
- <sup>854</sup> Exhibit 4-38, Tab 59C, CCI.0015.00004.0006\_R; Transcript of Brother Alexis Turton, T3223:38-46 (Day 30).
- <sup>855</sup> Exhibit 4-38, Tab 59C, CCI.0015.00004.0006\_R - CCI.0015.00004.0007\_R.
- <sup>856</sup> Transcript of Patrick Monahan, T3713:9-37 (Day 35).
- <sup>857</sup> Transcript of Patrick Monahan, T3713:36-44 (Day 35). See also Transcript of Patrick Monahan T3714:7-27 (Day 35).
- <sup>858</sup> Transcript of Patrick Monahan, T3715:35-41 (Day 35).
- <sup>859</sup> Transcript of Patrick Monahan, T3715:35-44 (Day 35).
- <sup>860</sup> Transcript of Patrick Monahan, T3714:16-21 (Day 35). See also Transcript of Patrick Monahan, T3715:27-30 (Day 35).

- <sup>861</sup> Transcript of Patrick Monahan, T3714:29-40 (Day 35).
- <sup>862</sup> Transcript of Patrick Monahan, T3715:14-25 (Day 35).
- <sup>863</sup> Transcript of Brother Alexis Turton, T3225:23-31 (Day 30).
- <sup>864</sup> Transcript of Brother Alexis Turton, T3224:9-15 (Day 30).
- <sup>865</sup> Transcript of Brother Alexis Turton, T3227:16-45 (Day 30).
- <sup>866</sup> Transcript of Brother Alexis Turton T3224:17-23 (Day 30).
- <sup>867</sup> Transcript of Brother Alexis Turton T3228:3-6 (Day 30).
- <sup>868</sup> Transcript of Brother Michael Hill, T3178:9-12 (Day 30).
- <sup>869</sup> Exhibit 4-38, Tab 36, STAT.0064.001.0020\_R.
- <sup>870</sup> Exhibit 4-38, Tab 36, STAT.0064.001.0020\_R at .0021\_R.
- <sup>871</sup> Exhibit 4-37, Statement of DG, STAT.0064.001.0002\_R [45].
- <sup>872</sup> Exhibit 4-1, Tab W (Patrick Parkinson, *'Final Report: Towards Healing Review'* 2009), CTJH.0001.001.0357, page 16.
- <sup>873</sup> Exhibit 4-1, Tab W (Patrick Parkinson, *'Final Report: Towards Healing Review'* 2009), CTJH.0001.001.0357, page 17.
- <sup>874</sup> Truth Justice Healing Council, Submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper 2: Towards Healing*, 30 September 2013, page 67 [164].
- <sup>875</sup> Exhibit 4-1, Tab B (*Towards Healing* 2010), CTJH.0001.001.0005 [36.5].
- <sup>876</sup> Exhibit 4-43, Statement of DK, STAT.0075.001.0001\_R [4].
- <sup>877</sup> Exhibit 4-43, Statement of DK, STAT.0075.001.0001\_R [5].
- <sup>878</sup> Exhibit 4-43, Statement of DK, STAT.0075.001.0001\_R [6].
- <sup>879</sup> Exhibit 4-43, Statement of DK, STAT.0075.001.0001\_R [6].
- <sup>880</sup> Exhibit 4-43, Statement of DK, STAT.0075.001.0001\_R [7]; Exhibit 4-42, Tab 24, STAT.0085.002.0029\_R at .0029-.0030.
- <sup>881</sup> Exhibit 4-43, Statement of DK, STAT.0075.001.0001\_R [8].
- <sup>882</sup> Exhibit 4-61, Statement of Brother Gerald Burns, CTJH.500.05001.0002\_E\_R [25].
- <sup>883</sup> Transcript of Brother Andrew Moraghan, T3694:14-19 (Day 35); Exhibit 4-62, Statement of Brother Andrew Moraghan, CTJH.500.06001.0001\_E\_R [23].
- <sup>884</sup> Exhibit 4-62, Statement of Brother Andrew Moraghan, CTJH.500.06001.0001\_E\_R [23].
- <sup>885</sup> Exhibit 4-43, Statement of DK, STAT.0075.001.0001\_R [10].
- <sup>886</sup> Exhibit 4-43, Statement of DK, STAT.0075.001.0001\_R [12].
- <sup>887</sup> Exhibit 4-61, Statement of Brother Gerald Burns, CTJH.500.05001.0002\_E\_R [27].
- <sup>888</sup> Exhibit 4-61, Statement of Brother Gerald Burns, CTJH.500.05001.0002\_E\_R [27-28].
- <sup>889</sup> Exhibit 4-61, Statement of Brother Gerald Burns, CTJH.500.05001.0002\_E\_R [29].
- <sup>890</sup> Transcript of Brother Gerald Burns, T3645:28-31 (Day 34).
- <sup>891</sup> Transcript of Brother Gerald Burns, T3643:6-37 (Day 34).
- <sup>892</sup> Exhibit 4-61, Statement of Brother Gerald Burns, CTJH.500.05001.0002\_E\_R [30].
- <sup>893</sup> Exhibit 4-61, Statement of Brother Gerald Burns, CTJH.500.05001.0002\_E\_R [31].
- <sup>894</sup> Transcript of Brother Gerald Burns, T3641:22-T3643:1 (Day 34).
- <sup>895</sup> Transcript of Brother Gerald Burns, T3650:1-27 (Day 34).
- <sup>896</sup> Transcript of Brother Gerald Burns, T3650:1-27 (Day 34).
- <sup>897</sup> Transcript of Brother Gerald Burns, T3651:27-38 (Day 34).
- <sup>898</sup> Transcript of Brother Gerald Burns, T3650:29-40 (Day 34).
- <sup>899</sup> Transcript of Brother Gerald Burns, T3650:46-T3651:11 (Day 34).
- <sup>900</sup> Transcript of Brother Gerald Burns, T3651:6-11 (Day 34).
- <sup>901</sup> Exhibit 4-43, Statement of DK, STAT.0075.001.0001\_R [11].
- <sup>902</sup> Exhibit 4-61, Statement of Brother Gerald Burns, CTJH.500.05001.0002\_E\_R [35].
- <sup>903</sup> Exhibit 4-43, Statement of DK, STAT.0075.001.0001\_R [19].
- <sup>904</sup> Exhibit 4-43, Statement of DK, STAT.0075.001.0001\_R [21].
- <sup>905</sup> Exhibit 4-42, Tab 15, CTJH.053.01071.0390\_R; Transcript of Brother Alexis Turton, T3333:33-T3334:33; T3338:39-42; T3341:20-24 (Day 31).
- <sup>906</sup> Exhibit 4-42, Tab 15B, CTJH.500.04001.0057\_E\_R.
- <sup>907</sup> Exhibit 4-42, Tab 15, CTJH.053.01071.0390\_R.

- <sup>908</sup> Exhibit 4-42, Tab 19, STAT.0085.002.0021\_R.
- <sup>909</sup> Exhibit 4-42, Tab 19, STAT.0085.002.0022\_R.
- <sup>910</sup> Exhibit 4-42, Tab 19, STAT.0085.002.0021\_R.
- <sup>911</sup> Exhibit 4-42, Tab 20, STAT.0085.002.0024\_E\_R.
- <sup>912</sup> Exhibit 4-42, Tab 20, STAT.0085.002.0024\_E\_R.
- <sup>913</sup> Exhibit 4-42, Tab 23, STAT.0075.001.0017\_R.
- <sup>914</sup> Exhibit 4-42, Tab 23, STAT.0075.001.0017\_R.
- <sup>915</sup> Exhibit 4-42, Tab 20A, STAT.0085.002.0023\_E\_R.
- <sup>916</sup> Exhibit 4-45, Statement of Brother Alexis Turton, STAT.0085.002.0001\_R [29].
- <sup>917</sup> Exhibit 4-45, Statement of Brother Alexis Turton, STAT.0085.002.0001\_R [31].
- <sup>918</sup> Transcript of Brother Alexis Turton, T3332:20-23 (Day 31).
- <sup>919</sup> Transcript of Brother Alexis Turton, T3333:1-8 (Day 31).
- <sup>920</sup> Exhibit 4-45, Statement of Brother Alexis Turton, STAT.0085.002.0001\_R [40].
- <sup>921</sup> Exhibit 4-45, Statement of Brother Alexis Turton, STAT.0085.002.0001\_R [40].
- <sup>922</sup> Transcript of Brother Alexis Turton, T3344:2-18 (Day 31). See also Transcript of Brother Alexis Turton, T3475:1-19 (Day 32).
- <sup>923</sup> Transcript of Brother Alexis Turton, T3475:21-39 (Day 32).
- <sup>924</sup> Transcript of Brother Alexis Turton, T3474:31-46 (Day 32).
- <sup>925</sup> Transcript of Brother Alexis Turton, T3338:36-T3339:5 (Day 31).
- <sup>926</sup> Transcript of Brother Alexis Turton, T3341:34-T3343:1; T3338:24-34 (Day 31); Transcript of Michael Salmon, T3599:13-T3600:26 (Day 34).
- <sup>927</sup> Transcript of Brother Alexis Turton, T3342:30-T3343:1 (Day 31).
- <sup>928</sup> Transcript of Brother Alexis Turton, T3339:14-27 (Day 31). See also Transcript of Brother Alexis Turton, T3341:47-T3342:43 (Day 31).
- <sup>929</sup> Transcript of Michael Salmon, T3601:11-18 (Day 34).
- <sup>930</sup> Transcript of Michael Salmon, T3599:34-T3601:18 (Day 34).
- <sup>931</sup> Exhibit 4-60, Statement of Michael John Salmon, STAT.0084.001.0001\_R [33].
- <sup>932</sup> Transcript of Brother Alexis Turton, T3477:10-28 (Day 32).
- <sup>933</sup> Exhibit 4-42, Tab 26, STAT.0085.002.0014\_R.
- <sup>934</sup> Exhibit 4-42, Tab 44, STAT.0084.001.0081\_R at .0082\_R.
- <sup>935</sup> Exhibit 4-42, Tab 44, STAT.0084.001.0081\_R at .0082\_R.
- <sup>936</sup> Exhibit 4-42, Tab 44, STAT.0084.001.0081\_R at .0082\_R.
- <sup>937</sup> Exhibit 4-42, Tab 44, STAT.0084.001.0081\_R.
- <sup>938</sup> Exhibit 4-42, Tab 7, CTJH.053.09001.0422\_R.
- <sup>939</sup> Transcript of Brother Alexis Turton, T3459:11-T3460:14 (Day 32).
- <sup>940</sup> Transcript of Brother Alexis Turton, T3460:16-37 (Day 32).
- <sup>941</sup> Exhibit 4-42, Tab 49, CTJH.053.07010.0038\_R.
- <sup>942</sup> Exhibit 4-42, Tab 49A, CCI.0076.00009.0188\_E\_R.
- <sup>943</sup> Exhibit 4-42, Tab 54, CTJH.053.07010.0011\_R.
- <sup>944</sup> Exhibit 4-42, Tab 59B, CTJH.053.07010.0009\_R.
- <sup>945</sup> Exhibit 4-42, Tab 69, CTJH.053.09006.0201\_R.
- <sup>946</sup> Exhibit 4-42, Tab 97, CTJH.300.01000.0002\_E1\_R; Exhibit 4-42, Tab 98, CTJH.300.01000.0002\_E2\_R; Exhibit 4-42, Tab 99, CTJH.053.08001.0001\_E3\_R; Exhibit 4-42, Tab 100, CTJH.053.08001.0001\_E4\_R.
- <sup>947</sup> Exhibit 4-42, Tab 101, CTJH.9000.01001.0005\_E1\_R.
- <sup>948</sup> Transcript of Brother Alexis Turton, T3462:30-T3463:20; T3362:19-24 (Day 32).
- <sup>949</sup> Transcript of Brother Alexis Turton, T3463:11-14 (Day 32).
- <sup>950</sup> Exhibit 4-67, Statement of Brother Anthony Henry Hunt, STAT.0097.001.0001\_R [7].
- <sup>951</sup> Transcript of DK, T3261:11-17 (Day 31).
- <sup>952</sup> Transcript of DK, T3261:11-17 (Day 31).
- <sup>953</sup> Transcript of Brother Alexis Turton, T3466:25-T3467:29 (Day 32). See also Transcript of Brother Alexis Turton, T3470:24-33; T3481:40-46 (Day 32).
- <sup>954</sup> Transcript of Brother Alexis Turton, T3481:36-38 (Day 32); Transcript of DL, T3319:17-34 (Day 31).
- <sup>955</sup> Exhibit 4-42, Tab 25, STAT.0085.002.0034\_R.
- <sup>956</sup> Exhibit 4-42, Tab 25, STAT.0085.002.0034\_R.
- <sup>957</sup> Exhibit 4-42, Tab 25, STAT.0085.002.0034\_R.
- <sup>958</sup> Exhibit 4-42, Tab 27, STAT.0075.001.0019\_R.

- <sup>959</sup> Exhibit 4-42, Tab 28, STAT.0075.001.0020\_R.
- <sup>960</sup> Exhibit 4-42, Tab 28, STAT.0075.001.0020\_R.
- <sup>961</sup> Exhibit 4-42, Tab 28B, CTJH.053.07009.0362\_R.
- <sup>962</sup> Exhibit 4-42, Tab 40, CTJH.402.03004.0214\_R; Exhibit 4-42, Tab 47, STAT.0075.001.0025\_R.
- <sup>963</sup> Exhibit 4-42, Tab 47, STAT.0075.001.0025\_R.
- <sup>964</sup> Exhibit 4-42, Tab 36, STAT.0085.002.0175\_R.
- <sup>965</sup> Exhibit 4-42, Tab 41, STAT0075.001.0027\_R.
- <sup>966</sup> Exhibit 4-42, Tab 38, CTJH.053.07009.0349\_R.
- <sup>967</sup> Exhibit 4-42, Tab 42, STAT.0084.001.0080\_R.
- <sup>968</sup> Exhibit 4-42, Tab 46, STAT.0085.002.0180\_R.
- <sup>969</sup> Exhibit 4-42, Tab 51, STAT.0085.002.0181\_R.
- <sup>970</sup> Exhibit 4-42, Tab 56, STAT.0084.001.0087\_R.
- <sup>971</sup> Exhibit 4-42, Tab 59, STAT.0085.002.0189\_R.
- <sup>972</sup> Exhibit 4-42, Tab 31, STAT.0085.002.0128\_R; Transcript of Brother Alexis Turton, T3350:26-9 (Day 31). See also Transcript of Brother Alexis Turton, T3351:26-34 (Day 31).
- <sup>973</sup> Exhibit 4-42, Tab 32, STAT.0085.002.0129\_R.
- <sup>974</sup> Transcript of Brother Alexis Turton, T3485:2-14 (Day 32).
- <sup>975</sup> Exhibit 4-42, Tab 32, STAT.0085.002.0129\_R.
- <sup>976</sup> Exhibit 4-42, Tab 32, STAT.0085.002.0129\_R.
- <sup>977</sup> Exhibit 4-42, Tab 32, STAT.0085.002.0129\_R.
- <sup>978</sup> Exhibit 4-42, Tab 35, STAT.0084.001.0079.
- <sup>979</sup> Exhibit 4-60, Statement of Michael John Salmon, STAT.0084.001.0001\_R [35].
- <sup>980</sup> Exhibit 4-60, Statement of Michael John Salmon, STAT.0084.001.0001\_R [36]. See also Transcript of Michael Salmon, T3580:17-34; T3585:20-34 (Day 34).
- <sup>981</sup> Exhibit 4-60, Statement of Michael John Salmon, STAT.0084.001.0001\_R [36].
- <sup>982</sup> Transcript of Michael Salmon, T3610:3-35 (Day 34); Transcript of Michael Salmon, T3611:13-36 (Day 34).
- <sup>983</sup> Exhibit 4-43, Statement of DK, STAT.0075.001.0001\_R [22]; Transcript of DK, T3296:4-T3297:27 (Day 31).
- <sup>984</sup> Exhibit 4-42, Tab 49A, CCI.0076.00009.0188\_E\_R.
- <sup>985</sup> Exhibit 4-1, Tab B (*Towards Healing 2010*), CTJH.0001.001.0005 [41.4.2].
- <sup>986</sup> Exhibit 4-1, Tab B (*Towards Healing 2010*), CTJH.0001.001.0005 [39.5].
- <sup>987</sup> Transcript of Michael Salmon, T3588:3-27 (Day 34).
- <sup>988</sup> Exhibit 4-60, Statement of Michael John Salmon, STAT.0084.001.0001\_R [32]. See Transcript of Transcript of Michael Salmon, T3588:3-27; T3592:36-T3593:29 (Day 34).
- <sup>989</sup> Transcript of Brother Alexis Turton, T3347:34-41 (Day 31). See also Transcript of Brother Alexis Turton, T3350:1-8 (Day 31).
- <sup>990</sup> Transcript of Michael Salmon, T3586:3-23; T3593:18-22 (Day 34).
- <sup>991</sup> Transcript of Michael Salmon, T3584:11-37; T3626:43-T3627:8 (Day 34). See also Transcript of Michael Salmon, T3572:46-T3574:10 (Day 34).
- <sup>992</sup> Transcript of Brother Alexis Turton, T3348:23-43 (Day 31).
- <sup>993</sup> Transcript of Brother Alexis Turton, T3349:21-46 (Day 31).
- <sup>994</sup> Transcript of Brother Alexis Turton, T3349:5-T3350:8 (Day 31). See also Exhibit 4-42, Tab 78, STAT.0085.002.0201\_R.
- <sup>995</sup> Transcript of Michael Salmon, T3573:46-T3574:10 (Day 34). See also Transcript of Michael Salmon, T3585:20-24 (Day 34).
- <sup>996</sup> Transcript of Michael Salmon, T3579:20-46; T3602:25-29 (Day 34). See also Transcript of Michael Salmon, T3582:22-27 (Day 34).
- <sup>997</sup> Transcript of Michael Salmon, T3602:14-23 (Day 34).
- <sup>998</sup> Transcript of Michael Salmon, T3607:3-T3608:2 (Day 34).
- <sup>999</sup> Transcript of Michael Salmon, T3571:36-40; T3577:41-T3578:15 (Day 34). See also Transcript of Michael Salmon, T3601:36-T3602:3 (Day 34).
- <sup>1000</sup> Transcript of Michael Salmon, T3572:8-44 (Day 34). See also Transcript of Michael Salmon, T3578:5-15; T3583:37-42 (Day 34); T3574:12-46 (Day 34).

- 1001 Truth Justice Healing Council, Submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper 2: Towards Healing*, 30 September 2013.
- 1002 Truth Justice Healing Council, Submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper 2: Towards Healing*, 30 September 2013, page 128 [53]-[55].
- 1003 Exhibit 4-59, Statement of Michael John Salmon, STAT.0084.002.0001 [28].
- 1004 Exhibit 4-44, Statement of DL, STAT.0093.001.0001\_R [21].
- 1005 Exhibit 4-1, Tab B (*Towards Healing* 2010), CTJH.0001.001.0005 [6].
- 1006 Truth Justice Healing Council, Submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse, *Issues Paper 2: Towards Healing*, 30 September 2013, page 57 [108].
- 1007 Exhibit 4-44, Statement of DL, STAT.0093.001.0001\_R [21], [23]-[24].
- 1008 Exhibit 4-42, Tab 60, STAT.0075.002.0029\_R.
- 1009 Exhibit 4-42, Tab 66, STAT.0075.001.0035\_R.
- 1010 Exhibit 4-42, Tab 61, STAT.0084.001.0098\_R.
- 1011 Exhibit 4-42, Tab 65, CTJH.053.07009.0247\_R.
- 1012 Transcript of DK, T3300:5-44; T3309:10-43 (Day 31).
- 1013 Exhibit 4-42, Tab 70, STAT.0085.002.0194\_R.
- 1014 Exhibit 4-42, Tab 10, STAT.0085.002.0018\_R.
- 1015 Exhibit 4-42, Tab 16, CTJH.053.07009.0098\_R.
- 1016 Exhibit 4-42, Tab 19, STAT.0085.002.0021\_R.
- 1017 Exhibit 4-42, Tab 23, STAT.0075.001.0017\_R.
- 1018 Transcript of Michael Salmon, T3800:31-36 (Day 36A).
- 1019 Transcript of Brother Gerald Burns, T3653:46-T3654:12 (Day 35).
- 1020 Transcript of Patrick Monahan, T3695:8-T3696:11 (Day 35).
- 1021 Transcript of Brother Gerald Burns, T3654:38-41 (Day 34).
- 1022 Transcript of DK, T3297:34-T3298:5 (Day 31).
- 1023 Transcript of DK, T3303:8-9 (Day 31).
- 1024 Transcript of DK, T3303:11-18 (Day 31).
- 1025 Transcript of Brother Gerald Burns, T3659:6-24 (Day 35). See also Transcript of Brother Gerald Burns, T3659-3660; T3666:26-36; T3672:13-20; T3679:43-46; T3674:5-22 (Day 35).
- 1026 Transcript of Brother Gerald Burns, T3674:5-22 (Day 35).
- 1027 Transcript of Brother Gerald Burns, T3680:3-18 (Day 35).
- 1028 Transcript of Brother Gerald Burns, T3680:34-T3682:11 (Day 35).
- 1029 Transcript of Brother Gerald Burns, T3663:16-25; T3660:8-23 (Day 35).
- 1030 Exhibit 4-61, Statement of Brother Gerald Burns, CTJH.500.05001.0002\_E\_R [40].
- 1031 Exhibit 4-61, Statement of Brother Gerald Burns, CTJH.500.05001.0002\_E\_R [42].
- 1032 Transcript of Brother Gerald Burns, T3655:13-30 (Day 35). See also Transcript of Brother Gerald Burns, T3664:21-32; T3672:22-44 (Day 35); Exhibit 4-61, Statement of Brother Gerald Burns, CTJH.500.05001.0002\_E\_R [40].
- 1033 Transcript of Brother Gerald Burns, T3659:26-45 (Day 35). See also Transcript of Brother Gerald Burns, T3662:42-T3663:8 (Day 35). See also Transcript of Brother Gerald Burns, T3664:11-19; T3676:35-T3677:7 (Day 35).
- 1034 Transcript of Brother Gerald Burns, T3662:42-T3663:8 (Day 35). See also Transcript of Brother Gerald Burns, T3664:11-19; T3676:35-T3677:7 (Day 35).
- 1035 Transcript of Brother Gerald Burns, T3682:47-T3683:5 (Day 35). See also Transcript of Brother Gerald Burns, T3677:9-T3679:8; T3684:25-T3686:26 (Day 35).
- 1036 Transcript of Brother Gerald Burns, T3682:47-T3683:38 (Day 35).
- 1037 Transcript of Brother Gerald Burns, T3682:47-T3683:38 (Day 35).
- 1038 Exhibit 4-42, Tab 24, STAT.0085.002.0029.
- 1039 Exhibit 4-42, Tab 61, STAT.0084.001.0098\_R; Transcript of Michael Salmon, T3796:29-T3797:24 (Day 36A).
- 1040 Exhibit 4-60, Statement of Michael John Salmon, STAT.0084.001.0001\_R [48].
- 1041 Exhibit 4-60, Statement of Michael John Salmon, STAT.0084.001.0001\_R [48].
- 1042 Exhibit 4-60, Statement of Michael John Salmon, STAT.0084.001.0001\_R [48].
- 1043 Exhibit 4-70, Document 1, at EXH.004.0054.0002\_R.
- 1044 Exhibit 4-70, Document 1, at EXH.004.0054.0002\_R.
- 1045 Transcript of Michael Salmon, T3797:26-45; T3809:46-T3810:1 (Day 36A).

- 1046 Exhibit 4-69, Supplementary Statement of Michael Salmon, STAT.0118.001.0001\_R [6 - 9].
- 1047 Transcript of Michael Salmon, T3796:29-T3797:24 (Day 36A).
- 1048 Transcript of Michael Salmon, T3796:29-T2797:24 (Day 36A).
- 1049 Transcript of Michael Salmon, T3797:47-T3798:44 (Day 36A).
- 1050 Transcript of Michael Salmon, T3808:11-16 (Day 36A).
- 1051 Transcript of Michael Salmon, T3799:38-T8000:29 (Day 36A). See also Transcript of Michael Salmon, T3831:15-43 (Day 36A).
- 1052 Exhibit 4-62, Statement of Brother Andrew Moraghan, CTJH.500.06001.0001\_E\_R [30]; Transcript of Brother Andrew Moraghan, T3697:18-36 (Day 35). See also Transcript of Brother Andrew Moraghan, T3702:29-33; T3699:2-20 (Day 35).
- 1053 Exhibit 4-62, Statement of Brother Andrew Moraghan, CTJH.500.06001.0001\_E\_R [30].
- 1054 Transcript of Brother Andrew Moraghan, T3692:21-37 (Day 35).
- 1055 Transcript of Brother Andrew Moraghan, T3701:34-T3702:1 (Day 35).
- 1056 Transcript of Brother Andrew Moraghan, T3702:35-T3703:9 (Day 35).
- 1057 Transcript of Brother Andrew Moraghan, T3701:21-32 (Day 35).
- 1058 Exhibit 4-42, Tab 68, STAT.0085.002.0193\_R.
- 1059 Transcript of Brother Alexis Turton, T3478:43-T3479:29 (Day 35). See also Exhibit 4-45, Statement of Brother Alexis Turton, STAT.0085.002.0001\_R [89].
- 1060 Transcript of Brother Alexis Turton, T3481:2-34 (Day 32).
- 1061 Transcript of Brother Alexis Turton, T3478:43-T3479:29 (Day 32); Exhibit 4-42, Tab 51, STAT.0085.002.0181\_R.
- 1062 Transcript of DL, T3322:24-37 (Day 31).
- 1063 Transcript of DL, T3322:24-43 (Day 31).
- 1064 Transcript of Patrick Monahan, T3723:11-45 (Day 35).
- 1065 Transcript of Patrick Monahan, T3736:47-T3737:9 (Day 35).
- 1066 Exhibit 4-1, Tab B (*Towards Healing* 2010), CTJH.0001.001.0005 [14].
- 1067 Exhibit 4-43, Statement of DK, STAT.0075.001.0001\_R [43].
- 1068 Exhibit 4-43, Statement of DK, STAT.0075.001.0001\_R [44].
- 1069 Exhibit 4-42, Tab 73, STAT.0075.001.0036\_R.
- 1070 Exhibit 4-42, Tab 74, STAT.0075.001.0037\_R.
- 1071 Exhibit 4-42, Tab 74, STAT.0075.001.0037\_R.
- 1072 Exhibit 4-42, Tab 81, STAT.0085.002.0212.
- 1073 Exhibit 4-43, Statement of DK, STAT.0075.001.0001\_R [22]; Transcript of DK, T3291:45-T3295:41 (Day 31).
- 1074 Transcript of DK, T3293:36-T3294:15 (Day 31).
- 1075 Transcript of Brother Alexis Turton, T3355:15-23 (Day 31).
- 1076 Transcript of Brother Alexis Turton, T3355:15-23 (Day 31).
- 1077 Exhibit 4-42, Tab 85, STAT.0084.001.0101\_R.
- 1078 Exhibit 4-42, Tab 85, STAT.0084.001.0101\_R.
- 1079 Transcript of Michael Salmon, T3580:17-34; T3585:20-34 (Day 34).
- 1080 Exhibit 4-60, Statement of Michael John Salmon, STAT.0084.001.0001\_R [46].
- 1081 Transcript of DK, T3296:43-T3297:23 (Day 31).
- 1082 Transcript of DK, T3317:3-9 (Day 31).
- 1083 Exhibit 4-44, Statement of DL, STAT.0093.001.001\_R [33].
- 1084 Transcript of DL, T3329:36-T3330:6 (Day 32).
- 1085 Exhibit 4-42, Tab 82, CTJH.053.07009.0052\_R.
- 1086 Exhibit 4-42, Tab 82, CTJH.053.07009.0051\_R.
- 1087 Exhibit 4-42, Tab 82, CTJH.053.07009.0051\_R.
- 1088 Exhibit 4-42, Tab 84, STAT.0075.001.0038\_R.
- 1089 Exhibit 4-42, Tab 86, STAT.0075.001.0040\_R.
- 1090 Exhibit 4-42, Tab 87, STAT.0075.001.0041\_R.
- 1091 Exhibit 4-42, Tab 88, STAT.0075.001.0042\_R.
- 1092 Exhibit 4-42, Tab 92, STAT.0075.001.0043.
- 1093 Exhibit 4-42, Tab 94, STAT.0075.001.0045\_R.
- 1094 Transcript of Patrick Monahan, T3734:9-13 (Day 35).

- <sup>1095</sup> Transcript of Patrick Monahan, T3734:15-T3735:39 (Day 35); Exhibit 4-65, Statement of Patrick Monahan, CTJH.500.03001.0002\_E\_R [39].
- <sup>1096</sup> Exhibit 4-65, Statement of Patrick Monahan, CTJH.500.03001.0002\_E\_R [40].
- <sup>1097</sup> Transcript of Patrick Monahan, T3735:28-46 (Day 35).
- <sup>1098</sup> Transcript of Patrick Monahan, T3735:15-46 (Day 35).
- <sup>1099</sup> Transcript of Patrick Monahan, T3736:1-7 (Day 35).
- <sup>1100</sup> Transcript of Brother Jeffrey Crowe, T3773:17-21 (Day 36A).
- <sup>1101</sup> Transcript of Brother Jeffrey Crowe, T2772:23-35 (Day 36A).
- <sup>1102</sup> Transcript of Brother Jeffrey Crowe, T3774:8-13 (Day 36A).
- <sup>1103</sup> Transcript of Brother Jeffrey Crowe, T3774:15-25 (Day 36A).
- <sup>1104</sup> Transcript of Brother Jeffrey Crowe, T3753:11-44 (Day 36A).
- <sup>1105</sup> Transcript of Brother Jeffrey Crowe, T3753:11-44 (Day 36A).
- <sup>1106</sup> Transcript of Brother Jeffrey Crowe, T3754:1-38 (Day 36A).
- <sup>1107</sup> Transcript of Brother Jeffrey Crowe, T3754:1-38; T3757:5-19 (Day 36A).
- <sup>1108</sup> Transcript of Brother Jeffrey Crowe, T3774:15-25 (Day 36A).
- <sup>1109</sup> Transcript of Brother Jeffrey Crowe, T3758:34-T3759:4 (Day 36A).
- <sup>1110</sup> Transcript of Brother Jeffrey Crowe, T3775:8-T3779:21 (Day 36A).
- <sup>1111</sup> Transcript of Brother Jeffrey Crowe, T3775:8-T3779:21 (Day 36A).











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