

# Royal Commission into Institutional Responses to Child Sexual Abuse

Opening Statement from Peter Gray SC,  
representing the Catholic Church's  
Truth Justice and Healing Council

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Governor Macquarie Tower  
Farrer Place  
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*Check against delivery*

## **TRUTH JUSTICE AND HEALING COUNCIL**

### **ROYAL COMMISSION**

#### **OPENING**

1. This is a searing and decisive moment in the history of the Catholic Church in Australia.
2. The sacred place of children, their innocence and their trustfulness, is central to the Christian tradition and to the Catholic faith. Many will remember, from their own childhoods, the ageless words from the Gospel of Mark:

*Let the little children come to me; do not stop them; for it is to such of these that the kingdom of God belongs. [Mark 10:14]*

And again from Mark, driving home the point:

*Whoever causes one of these little ones who believe in me to stumble, it would be better for him if a great millstone were hung round his neck, and he were cast into the sea. [Mark 9:42]*

3. The Catholic Church comes before this Royal Commission acutely aware of its failures in this fundamental part of its mission.
4. For many Catholics, the realisation that some Catholic priests and religious, of all people, had betrayed the trust of children and their parents, by abusing them in sexual ways, has been almost unbearable. The further bleak realisation that such behaviour was sometimes covered up, with wrongdoers protected while victims were disbelieved or treated coldly, has made an already disgraceful situation even worse.
5. For the vast majority of priests and religious, dedicated and selfless and innocent themselves, and truly faithful to their vows and their vocations, the revelations of recent decades have been heartbreakingly.

6. But for the victims and their families, the effects have obviously been and continue to be shattering and devastating. Terrible wrongs have been done to them. Complex, ongoing damage has been caused, the real extent of which may not even now be fully appreciated.
7. A great poet and priest, Gerard Manley Hopkins, in another context, found words which capture something of this nightmare:

*No worst, there is none. ...*

...

*Comforter, where, where is your comforting?*

*Mary, mother of us, where is your relief?*

8. I will say something in a moment about the way in which the Church intends to participate in and contribute to the work of the Royal Commission. But first let me repeat the unequivocal Commitment made by the leaders of the Catholic Church in Australia. It is on page 1 of our written submission to the Commission. It is in the following terms:

*The leaders of the Catholic Church in Australia recognise and acknowledge the devastating harm caused to people by the crime of child sexual abuse. We take this opportunity to state:*

- 1 *Sexual abuse of a child by a priest or religious is a crime under Australian law and under canon law.*
- 2 *Sexual abuse of a child by any Church personnel, whenever it occurred, was then and is now indefensible.*
- 3 *That such abuse has occurred at all, and the extent to which it has occurred, are facts of which the whole Church in Australia is deeply ashamed.*
- 4 *The Church fully and unreservedly acknowledges the devastating, deep and ongoing impact of sexual abuse on the lives of the victims and their families.*
- 5 *The Church acknowledges that many victims were not believed when they should have been.*
- 6 *The Church is also ashamed to acknowledge that, in some cases, those in positions of authority concealed or covered up what they knew of the facts, moved perpetrators to another place, thereby enabling*

*them to offend again, or failed to report matters to the police when they should have. That behaviour too is indefensible.*

7     *Too often in the past it is clear some Church leaders gave too high a priority to protecting the reputation of the Church, its priests, religious and other personnel, over the protection of children and their families, and over compassion and concern for those who suffered at the hands of Church personnel. That too was and is inexcusable.*

8     *In such ways, Church leaders betrayed the trust of their own people and the expectations of the wider community.*

9     *For all these things the Church is deeply sorry. It apologises to all those who have been harmed and betrayed. It humbly asks for forgiveness.*

*The leaders of the Catholic Church in Australia commit ourselves to endeavour to repair the wrongs of the past, to listen to and hear victims, to put their needs first, and to do everything we can to ensure a safer future for children.*

9. When the Royal Commission was announced, the leaders of the Church - the bishops and religious leaders from all around Australia - appreciated that the Commission would be, as it is, a watershed in Church history and indeed in Australian history. They realised that the issue of abuse within the Church is so fundamental, and so serious, that at least three things needed to happen:
  - (1) the Church must wherever possible speak with one voice at the Commission
  - (2) any of the old ways that still remained shrouded in secrecy, defensiveness, or damage control, must be renounced
  - (3) the Church should seize the opportunity provided by the momentous circuit-breaker of the Royal Commission, to renew itself, to look closely at the ways in which it has responded to the issue, both in the past and up to the present time, and to do so with humility and openness and generosity of spirit.
10. As to the second and third of these, time will tell, and the community will ultimately be the judge.

11. As to the first, let me say something about the Truth Justice and Healing Council.

### **The Truth Justice and Healing Council**

12. The Council was established in February 2013, by the peak body of bishops, the Australian Catholic Bishops Conference (ACBC) and the peak body of religious, Catholic Religious Australia (CRA). It is the Council which will represent, and speak for, the many dioceses and religious institutes which have authorised it to do so.
13. The Catholic Church in Australia is not a single discrete entity or thing. It is made up of people, in complex and disparate groupings - the millions of lay people as well as the priests and bishops and religious. There are some 34 dioceses and over 180 different religious orders and congregations. Each individual diocese and each individual religious institute is basically autonomous, and independent of every other. For example, no archbishop or bishop has any authority or control over any other bishop.
14. Not surprisingly, to achieve a consensus, among so many different and independent people and bodies and groupings, has in the past often been difficult. But on this issue, that of the tragedy of child sexual abuse, differences of view have been put aside.
15. The first major demonstration of that approach was the development of a uniform national protocol for responding to complaints of this kind. I will say something about that shortly.
16. The second is that the Truth Justice and Healing Council has been brought into existence. Every diocese, and well over 100 orders and congregations, have authorised the ACBC or CRA to represent and act for them in the engagement of the Church with the Royal Commission.
17. The ACBC and CRA have in turn delegated that authority to the Council.
18. For practical purposes, therefore, the Council will ordinarily speak for the whole Church: its dioceses, its religious institutes, its priests and religious, in the Royal

Commission.

19. All of them are united in their support for the principles stated in the Commitment which I reiterated at the beginning of these remarks.
20. Let there be no doubt about the attitude and approach of the Church to the work of this Royal Commission. The Church, through the Council, intends to co-operate with the Commission fully, without reservation. Tens of thousands of documents have so far been produced, from all around the country. Witnesses have been and will be made available. Bishops and archbishops and religious leaders will participate as the Commission may require.
21. The Council's aim is to do everything in its power to ensure that the Royal Commission has available to it, from the Church, all the material that it needs for the work it seeks to do, so as to ensure that a light is shone on dark places and times and events - in the words of St Augustine, nearly 2,000 years ago, to *flood the path with light*; to ensure that nothing is concealed or covered up in respect of what Church personnel did or failed to do; and so to give the victims, and also the Church itself, a better chance to heal.
22. In that way, in the end, something good may be able to emerge from the awfulness and the suffering which have occurred. If it does, it will be the victims and their families who will have brought that about.

### ***Towards Healing***

23. Let me turn now to *Towards Healing*, and to the four case studies which the Commission will be examining this week and next.
24. *Towards Healing* was adopted in 1996, and came into operation early 1997. It applies across the whole of Australia, with the exception of the Melbourne Archdiocese (where the Melbourne Response provides a different process with similar objectives).
25. *Towards Healing* today offers to a person who has been abused, by a priest or religious or other Church personnel, the opportunity to tell his or her story, personally and directly, to someone in authority in the Church, who will accept moral

responsibility on the part of the Church for what happened to him or her, acknowledge the damage he or she has suffered, give a sincere apology, and offer pastoral care and reparation of various kinds.

26. The aim is to place the victim at the forefront of the process, and to respond to the needs of each victim as an individual. Counselling and support in many different forms are offered. In particular, each victim is encouraged to take his or her case to the police where it involves criminal behaviour.
27. The adoption of *Towards Healing* was the culmination of many years of work. The history of its development, both in the years leading up to its introduction in 1996 and in the 17 years since then, reflects a growing recognition both of the extent of the underlying problem, and of the shocking and lasting impact of abuse on victims. It also reflects a growing if belated determination that the Church should adopt a victim-oriented approach, focusing on the needs of victims as more important than protecting the rights of accused clergy or the reputation of the Church.
28. Especially in the context of the time, 1996, the adoption of *Towards Healing* was a breakthrough, for the Catholic Church, and for Australia:
  - (a) In no other country had the Church developed a single national protocol or process for responding to victims of child sexual abuse, one which applied universally across all the different dioceses and religious institutes in the country.
  - (b) *Towards Healing* was endorsed and adopted by virtually all parts of the Church in Australia - both religious institutes and dioceses - despite the real and long-standing autonomy which each of them has
  - (c) The process was adopted by the Church in Australia in deliberate preference to relying solely on canon law processes, which are not victim-focused and are mainly concerned with how to deal with accused persons
  - (d) For the first time in Australia, the bishops and religious leaders established joint structures to oversee and manage the task of engaging with this issue. The National Committee for Professional Standards (NCPS) was the first, and remains the only, joint committee of the ACBC and CRA.
29. The content and approach of the original 1996 *Towards Healing* protocol were radically different to those of a previous national protocol which had been adopted in

1992. Since 1996, *Towards Healing* has also been the subject of several reviews, both internally and externally. Notable among those reviews have been those by Patrick Parkinson, Professor of Law at Sydney University and an expert in this area, in 1999-2000 and again in 2008-2010. Professor Parkinson's recommendations were accepted and adopted on both occasions, in the revised editions which followed those reviews. The current edition was published in 2010.

30. One of the basic concepts which lay behind the adoption of *Towards Healing* in 1996 was that the existing processes available in our community, to victims of abuse by Church personnel, left a gap. That gap was this: often the victim either had no recourse to the criminal justice system, for example because the wrongdoer was dead, or the victim insisted that he or she did not want to engage with either the criminal or the civil justice system, for example because of an unwillingness to have to deal with these deeply private and intimate matters in public (as our legal system requires). The Church, having an obvious moral responsibility for the suffering of the victim, felt that it must try to put in place some system or process which would at least to some extent fill that gap.
31. *Towards Healing* accordingly emphasises providing victims with pastoral care and support. Its main focus has never been the provision of lump sum payments as part of any reparation. It has never sought, and does not seek, to set up a system of compensation or damages, in the way that the civil law does.
32. However, by the same token, the *Towards Healing* protocol contains no cap on the amount which may be paid by way of reparation. Such amounts have in fact varied widely from case to case, diocese to diocese, religious order to religious order. Some have been substantial. The *Melbourne Response* does set a cap, currently \$75,000.00.
33. There can be a tension between the pastoral focus of *Towards Healing* and any monetary component of the outcome. For some victims, the pastoral aspect is their main concern. Some do not seek or want any payment. For others, the payment of money does matter. Sometimes that may be because of its obvious financial benefit to the victim. But also for some victims it is important that the Church be made to pay for what has been done. Negotiation of matters concerning money needs to be sensitively handled, because of the potential of the subject matter to dilute, or

pollute, the pastoral aspect of the process. In a number of the cases to be considered in these hearings over the next two weeks, that tension is apparent and could have been better handled.

34. The way the Church has approached this question of monetary reparation is one of the aspects of *Towards Healing* that has been criticised, by some victims and also by others. The Royal Commission will no doubt look closely at this aspect among many others, and the Church welcomes that examination. The Church, and the Council, have already been giving these matters serious attention, and the Council's written submission to the Royal Commission refers to some of the possible ways forward which the Council is considering.
35. *Towards Healing* is not perfect. The Council's written submission to the Royal Commission frankly acknowledges that to be so, and comments on some of the more significant criticisms.
36. It is quite plainly inconsistent in implementation, and variable in the outcomes it delivers. That is in part a reflection of the application of the process across the country by so many different, independent Church bodies, as outlined earlier.
37. It is highly dependent on the individuals involved, from the wide range of Church Authorities which use it. Those individuals might include, in any given case, the relevant State Director of Professional Standards, the contact person, the assessor, the facilitator, and the Church Authority representative - usually the relevant bishop or religious leader. All of these are human beings. Inevitably some have more aptitude, more skills, more sensitivity, than others. In all of the 4 cases to be examined in these current hearings, various elements of the process did not work as well as they might. These are also things which are to be examined and reflected upon by the Commission, and by the Australian community, and again the Church welcomes that examination.
38. The *Towards Healing* structures have other imperfections, including on one view insufficient transparency and accountability, and insufficient reliable data. Those deficiencies, and the ways in which they might be improved, will also no doubt be the subject of scrutiny. Again, the Council's written submission to the Royal Commission addresses these matters, and refers to the steps which have been and are being taken to improve the situation in these respects.

39. But on the other hand, what is unarguably true is that *Towards Healing* has delivered real and valuable pastoral support to many, many people, and has also provided victims with various forms of reparation, including financial assistance, which in some instances has been substantial.
40. It is also true that those many truly constructive outcomes from the process, notwithstanding its imperfections, have been the result of the thoughtful, considered and conscientious efforts of the concerned and caring people in the Church who designed and implemented it. Many of those people have given years of their own lives to trying to help to heal some of the terrible damage that has been caused by the shameful conduct of others.
41. The Council has been working with both the National Committee for Professional Standards, and the state Professional Standards Offices, to compile and consolidate more thorough and more comprehensive data, across the Church, with a view to enabling the Church and the whole community to see and assess the full picture of both the problem and the ways it has been approached.
42. That task is not yet complete, and we can only give preliminary figures at this stage. But overall some 1,700 people have engaged with the Church, through the *Towards Healing* process, with complaints or allegations of child sexual abuse most of which took place in the 30 years between 1950 and 1980. Some of those have unfortunately been disappointed with the process and critical of it, and inevitably some of those criticisms will have force. But for many, many people, *Towards Healing* has been a source of compassion and support which has been of real value to them.
43. Some of those 1,700 people have not pursued their complaint for various reasons, and a small number of complaints have been found to be not substantiated. But a very great many either have not been disputed, or have been substantiated. The data so far compiled indicates that at least \$43 million has been paid to victims of child sexual abuse, through *Towards Healing*.
44. I stress that the figures that I have just mentioned relate only to *Towards Healing*. They do not include, for example, figures in respect of the Melbourne Response, or in respect of cases where the victim has engaged with the Church in other ways outside

the *Towards Healing* process, or amounts that have been paid by some religious institutes.

### **The four case studies**

45. I turn now to the four individual case studies which are to be considered in these hearings over the next two weeks.
46. Four cases are a small fraction of the 1,700 people who have been through *Towards Healing* since its inception in 1997.
47. These four examples tell a variable story, with some cases relatively well handled in some or even most respects, and others much less so. One of the cases is not really a *Towards Healing* case at all, but an example of someone who chose to approach the Church outside *Towards Healing*.
48. In all 4 cases, the abuse had taken place some 30 or so years previously.
49. I will say something about each of them briefly, in the order in which they came to *Towards Healing*.

### **Mrs Joan Isaacs**

50. In the first case, Mrs Isaacs brought her complaint to the Archdiocese of Brisbane in the very early days of *Towards Healing*. She first made contact with the Archdiocese in 1996, slightly before *Towards Healing* had actually come into existence, and she later commenced the *Towards Healing* process in early 1999. The abuse itself had occurred in about 1968-69.
51. The pastoral response from the Church was prompt, in March-April 1999, and seemingly valuable and constructive. But the question of monetary payment was put aside to be dealt with later and separately. Lawyers and insurers dominated what took place thereafter, and a long drawn-out series of communications ended in ways which the victim understandably found deeply unsatisfactory and distressing.

## **DG and DK**

52. The next two cases involve one of Australia's largest religious orders, the Marist Brothers.
53. The first case, DG, was brought to the Marist Brothers in 2000. It concerned abuse which had taken place in the early 1970s. The victim did not want to adopt the *Towards Healing* process. He preferred to engage in a different process, having some features that were similar to *Towards Healing* but others that were not.
54. The Brothers willingly agreed to proceed in the way that the victim preferred. The end result was a settlement conference in early 2002, conducted by the lawyers acting for the victim and the Brothers respectively, with little involvement from the victim or from the representative of the Marist Brothers. Unfortunately, this meant that the conference included little pastoral content, and left the victim feeling that he had been marginalised from the process.
55. Nearly a decade passed between this first Marist Brothers case to be examined by the Commission in this hearing, and the second.
56. That second case was that of DK. His complaint was brought forward in late 2009. It concerned abuse which had taken place between 1976 and 1981.
57. This case did proceed as a *Towards Healing* case. A facilitated meeting took place in March 2010, in the form that the Brothers understood the victim to wish for.
58. At the time, 2010, the Brothers had the impression that the process appeared to have worked relatively well. But it subsequently emerged that the victim had concerns about aspects of the facilitation, and as a result his confidence in the integrity of the process has been undermined.

## **Ms Jennifer Ingham**

59. The fourth case concerns a victim who came to *Towards Healing* very recently. The abuse in question took place between 1978 and 1982. Ms Ingham contacted the Queensland Professional Standards Office in 2012, and for her, the *Towards Healing* process only concluded in June this year.

60. This case is an example of how *Towards Healing* is applied today, and it seems to be one of those which has led to some valuable and constructive outcomes for the victim. As the Church would see it, this case tends to demonstrate the progress and improvements that have been made by the Church over the years of experience in applying *Towards Healing*. Even in this case, however, criticisms can still be made of some aspects of the process.

#### **As to all four cases**

61. *Towards Healing* is the focus of these hearings, but the Church's response through *Towards Healing* is only a part of any victim's story.
62. The first part, of course, is the story of the abuse itself. What happened to each of these four people was disgraceful and inexcusable and criminal, and the Church profoundly apologises.
63. Then there is the story of who knew what, and when, and whether attempts by victims to report their abuse to the Church were heard, and acted upon appropriately. To greater or lesser extent, these four case studies illustrate some of the ways in which this aspect of the response to child sexual abuse can arise for consideration.
64. Finally there is the story of the *Towards Healing* process itself, as it may be experienced by each individual victim.
65. The four cases do help to demonstrate some important features of *Towards Healing*.
66. First, they demonstrate how flexible the process is in its application to different cases, and how responsive it can be to what the victim wants.
67. Second, they demonstrate the importance of an effective facilitation meeting, which is the core of *Towards Healing*, and the importance of senior Church leaders being personally involved in that process, and apologising personally and directly to victims.
68. Third, they show that each individual Church Authority involved looks at each case individually, bringing its own approach to that case. These four cases have quite

different outcomes, reflecting the variability in outcomes across *Towards Healing*.

69. Fourth, if the Church authority is insured, the role of the insurer can be important. In the Council's written submission, the Council draws attention to how the role of Catholic Church Insurance Ltd (CCI) in particular has changed over the years in relation to sexual abuse claims. Whereas initially CCI took a fairly traditional insurer's position, for example a reluctance to make admissions or apologies, in more recent times CCI's stance has been to encourage early settlements and not to treat the giving of apologies as prejudicing an insured's right to indemnity.
70. Fifth, they are examples of the ways in which lawyers can affect the process. Over time, the simple fact is that *Towards Healing* has become increasingly "legalised", on both sides. One result of that development may well be that some of the pastoral value of the process has been reduced.
71. Overall, these four cases reflect changes over time. During the nearly 17 years *Towards Healing* has been operating, the protocol has been amended several times, procedures have been improved, and levels of knowledge and understanding have increased. These four cases, spanning most of that 17 year period, generally tend to reflect such changes, developments and improvements over time.

### **Conclusion**

72. Finally, I stress on behalf of the Truth Justice and Healing Council that the Church is open to change.
73. While recognising the fine and devoted work of the many genuine and idealistic people who have committed themselves to working to assist victims of child sexual abuse, both through *Towards Healing* and in other ways, the Church also recognises that this is a time for another thoroughgoing review of *Towards Healing*, and consideration of other options and approaches.
74. The views of all those participating in this Royal Commission, especially those of the victims and their families, will be carefully and respectfully listened to and considered. These are difficult issues, and the Church acknowledges that it does not by any means have all the answers.
75. Today is a necessary day of reckoning for the Catholic Church.

76. The title of the Council for which I am privileged to appear is the Truth Justice and Healing Council. The first of those is truth. This is a time for truth. The Church is committed to the pursuit of that truth.
77. The Council, and through it the whole Church, are here today, and for as long as it may take, to hear the voices of victims, from whom the Church has much to learn and to whom it has not listened as well as it should in the past. To make known and to explain the role of the Church in the history of these events, but not to excuse it. To search for and help reveal the truth, and not to hide it. To admit what has happened in the past, and to commit to do everything possible in the future to protect and ensure the safety of children.
78. This is a time for us all, as the Commission's Chair has said, to bear witness to what has happened. We must hear and heed the stories of victims. The Church will co-operate fully in the Commission's historic task.

**Peter Gray SC**

9 December 2013

Counsel for the Truth Justice and Healing Council