

John Ellis case opens in Sydney

The Royal Commission will start its eighth public hearing in Sydney next week when it examines the response of the Catholic Church in the John Ellis case.

John Ellis was an altar boy in the Bass Hill Parish in Sydney in the mid-1970s when Assistant Priest, Father Aidan Duggan, abused him. In 2004 Mr Ellis sued the Archdiocese of Sydney and Cardinal Pell for damages, but his court action was unsuccessful.

This is a controversial, high profile case because the ruling found 'the Church' does not exist as a 'legal entity', and so cannot be sued. The defence also argued that Cardinal Pell could not be sued because he was not Archbishop of Sydney at the time of the abuse, and so therefore could not be held responsible.

Many consider this so called 'Ellis Defence' created a 'new law' and a shield to protect the Church from legal action. Church officials say there is no such thing as the 'Ellis Defence', it was simple a straightforward legal defence - you cannot be liable for the wrong doing of others (in this case Father Aidan Duggan) unless you are directly or indirectly responsible for supervising their conduct.

It has been argued that the Ellis case created a barrier to taking action against the Church and created a precedent that has directly influenced many claims made against the Church since.

The Ellis case takes us to a broader consideration by the Church about how people can bring claims of damage against the Church in the courts. The Council is currently looking at these and other issues around civil litigation and legal action against the Church and will finalise and announce our policy shortly.

The whole area of civil litigation is extraordinarily complex, particularly for adult survivors of child sex abuse. The usual process requires that the person suing must prove that the abuse occurred and then demonstrate that their current injuries were caused directly by the abuse. These two issues alone are generally fiercely contested in court and can be very traumatizing for the person suing. This is regardless of whether the claim is against the Church or any other institution.

This is clearly not the best way to address child sex abuse cases that occurred many years ago. The Council believes a generous, independent compensation scheme, that is administered and investigates claims independently, is the fairest, quickest and most compassionate way forward. The institutions responsible for the abuse would fund this scheme.

In saying this, a person should still have a right and a clear pathway to bring a claim of damages against any institution where they have been damaged.

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At the heart of this case, which is often over looked in the legal contest, is the abuse suffered by a young boy at the hands of a Catholic Priest. I welcome the Royal Commission investigating the Ellis case and I am confident the case will be examined in the same professional and forensic way as the other public hearings. The response of *Towards Healing* and the pastoral assistance provided by the Dioceses will also be reviewed.

The Church is supportive of the Royal Commission process and will provide all the information required and support the investigation in every way.

After the John Ellis case the Royal Commission moves to Adelaide from 17th March and will begin looking into the [responses by the Catholic Archdiocese of Adelaide, and the South Australian Police, into allegations of child sexual abuse at St Ann's Special School.](#)

The next few weeks will be difficult times for survivors and their families as they relive their abuse. All Catholics will once again feel heavy hearted as the stories of abuse, and the response of the Church is revealed. Although challenging, we must embrace these revelations because we need to know the truth so that we can improve the future of the Church for everyone.

I applaud the [initiative taken by the St Joseph's Parish in Warrnambool](#), which is hosting two local workshops this week, to talk about child sexual abuse in the Church and its impact on survivors and the future.

People from across the parish, Catholics and non-Catholics alike, are expected to attend. We need to talk about these issues, we need to shine a light on the past and take control of the future so that we can build a Church that compassionately responds to victims and protects children.

Francis Sullivan

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www.tjhcouncil.org.au