

Progress in responding to the Royal Commission into Institutional Responses to Child Sexual Abuse

(A report from the Royal Commission Steering Committee.)

Purpose

1. To inform the Synod of progress in the response of this Diocese to the Royal Commission into Institutional Responses to Sexual Abuse.

Background

2. The work of the Royal Commission may be summarised as follows –

- (a) The Commission is charged with examining the sexual abuse of children in the context of institutions throughout Australia including churches and their agencies;
- (b) Other unlawful or improper treatment of children that accompanied child sexual abuse may be considered by the Commission;
- (c) The Commission will identify where systems have failed to protect children and make recommendations on how to improve laws, policies and practices to prevent and better respond to child sexual abuse in institutions;
- (d) The Commission will not prosecute matters or make determinations for compensation;
- (e) The Commission will investigate allegations and refer criminal matters to the appropriate authorities for prosecution where appropriate;
- (f) The Commission will obtain information in a number of ways including by issuing notices to produce, conducting public and private hearings and undertaking a research and policy development program across four broad areas of focus: prevention, identification, response and justice for victims;
- (g) The Commission will last for 5 years (2013 to 2017).

3. The Royal Commission has served notices to produce on a number of Anglican Dioceses and organisations including our own.

4. The first public hearings of the Royal Commission commenced on 16 September 2013 and there have been 41 public hearings to date. A transcript of the public hearings is available on the Commission's website: <http://www.childabuseroyalcommission.gov.au>

5. The following Anglican organisations have been the subject of a public hearing to date –

- (a) the Anglican Diocese of Grafton and the North Coast Children's Home (18 November 2013 to 27 November 2013);
- (b) the Anglican Diocese of Tasmania and the Hutchins School (19 November 2014 to 5 November 2014 and 18 December 2014);
- (c) the Geelong Grammar School, Victoria (1 September 2015 to 11 September 2015 and 22 October 2015 to Friday 23 October 2015);
- (d) the Brisbane Grammar School and St Paul's School in Queensland (3 November 2015 to 12 November 2015);
- (e) The Church of England Boys' Society (CEBS) and the Anglican Dioceses of Tasmania, Adelaide, Brisbane and Sydney (27 January 2016 to 5 February 2016).

6. The Royal Commission released its Interim Report on 30 June 2014. In the Interim Report, the Royal Commission confirmed that –

- (a) it will require a further 2 years (until the end of 2017) to complete its work;
- (b) at that stage it was too early for the Royal Commission to make any recommendations;
- (c) only 70 public hearings will be able to be completed within the time it has allowed;
- (d) of the public hearings held to date themes include repeated abuse, multiple perpetrators, barriers to reporting abuse and adults that have systematically failed to protect children.

7. As at 1 July 2016 the Royal Commission had handled 31,829 phone calls, received 18,238 letters and emails, held 5,502 private sessions and made 1,606 referrals to authorities (including police). There have been over 60 prosecutions commenced as a result of these referrals to the authorities.

8. As part of its research and policy development program, the Royal Commission has published 26 research reports and two consultation papers. It has released 11 issues papers and received over 850 submissions in response to those papers.

9. Two final reports have been released, the first on Working With Children Checks in August 2015, and the second on Redress and Civil Litigation released in September 2015.
10. Registrations for private hearings will close on 30 September 2016. The Commission has advised that there will be no extensions of time for a private session after that date.
11. The Royal Commission has indicated that public hearings will come to an end in early 2017, with the other work of the Commission to be largely completed by the end of 2017. A reduced level of Royal Commission staff will continue to work during the first quarter of 2018 to finalise any outstanding matters not completed by the end of 2017.

The Anglican Church of Australia's response to the Royal Commission

12. A Royal Commission Working Group (Working Group) was established by the General Synod Standing Committee (GSSC) on 13 November 2012 to co-ordinate the Anglican Church of Australia's response to the Commission and to support and advise Dioceses and associated Anglican schools and agencies in any individual response they may be called on to make to the Commission.
13. The members of the Working Group are the Primate, the General Secretary of the General Synod Ms Anne Hywood, Mr Garth Blake SC, Ms Sue Harrington (lawyer SA), Mrs Helen Miller (counsellor, Sydney), Mr Ken Spackman (Registrar Melbourne Diocese), the Rev Dr Andrew Ford (Anglicare, Sydney).
14. The Working Group has previously made a recommendation that a file review of all past cases concerning child sexual abuse be undertaken using a Case File Review form developed for this purpose.
15. The Working Group has been active in co-ordinating submissions to the Royal Commission on behalf of the Anglican Church of Australia in response to Issues Papers. The Steering Committee has contributed to these submissions from time to time.

The Steering Committee

16. The Standing Committee appointed a Steering Committee in December 2012 to oversee the response of the Diocese to the Royal Commission and to provide the Director of Professional Standards with a point of reference for undertaking this work. The membership of the Steering Committee was revised by Standing Committee on 16 February 2015 and the current members are Mrs Michelle England, the Rev Dr Andrew Ford, Bishop Peter Hayward, Mr Doug Marr, Mr Michael Meek SC (Chair), Mr Richard Neal, Mr Russell Powell and Dr Robert Tong AM. Mr Lachlan Bryant and Mr Steve Lucas provide support to the Committee.
17. In March 2013, the Standing Committee passed the Synod (Royal Commission) Special Application Ordinance 2013 to allocate funds for the costs and expenses of preparing for and responding to the Commission. These funds are applied at the direction of the Steering Committee. The Property Trust has also contributed an equal amount of funds.
18. In late 2015 the Standing Committee approved the allocation of further funds for the costs and expenses of preparing for and responding to the Commission from 2015 to 2017. The Property Trust has also contributed an equal amount of funds.
19. The expenditure incurred by the Steering Committee to date is tracking within budget.
20. The Steering Committee meets as required, at least once every 2 to 3 months.

Review of past cases of the Diocese held by the PSU

21. After receiving the Working Group's advice for a file review to be undertaken a comprehensive review of all past cases concerning child sexual abuse was planned using the Case File Review form issued by the Working Group as the point of reference.
22. Sparke Helmore was chosen to complete the file review and scanning of files for a fixed price. The work was overseen by Mrs Gillian Davidson, a partner at Sparke Helmore and a member of the Standing Committee.
23. The file review was completed in June 2013. The PSU continues to conduct extensive work as a result of the review. The key areas of work are –
 - A general review of file management practices, including for example –
 - Marrying up related files;
 - Implementing clear file management practices in order to more easily differentiate and isolate 'current' files, that is, files where further work is required, from 'inactive' files, that is, files where no further action is necessary at this time;
 - Systematically attending to any outstanding matters such as making reports to police in cases where it is unclear whether this was done or making reasonable inquiries to follow up information received where this does not appear to have been done;

- Referring files held on behalf of other Dioceses and organisations to the Diocese or organisation concerned for their records, further review if necessary, and further action if warranted;
- Ensuring that the names of persons required to be entered onto the National Register have been so entered.

24. This work has put considerable pressure on the staff and resources of the PSU and the Diocesan Contact Persons and has progressed slowly but well. Since June 2013 this in-depth file review work has been undertaken across nearly all relevant files. In many cases there has been significant progress towards finalisation of work required in those files and in some cases this work is now complete.

Royal Commission Report on Redress Schemes and Civil Litigation

25. The Royal Commission's Report on Redress and Civil litigation was released on 14 September 2015.

26. There are 99 recommendations in the Report, which is may be accessed here –

<https://www.childabuseroyalcommission.gov.au/getattachment/743dbe01-eb40-4ecb-8b82-29fcf00b8f43/Final-report-Redress-and-civil-litigation>

27. In summary the recommendations in the Report, in very broad terms, are for –

- (a) A \$4 billion national redress scheme to be established to process redress claims for about 60,000 survivors of child sexual abuse (or alternatively state and territory based schemes),
- (b) Survivors with a "reasonable likelihood" of having been abused to receive at least \$10,000, and up to \$200,000 in the most severe cases, with such amounts to be paid for by the institution responsible for the abuse;
- (c) Federal state and territory governments to pay institutions' shortfall, which will be about \$613 million, or 15 per cent of total redress funding;
- (d) Unlimited counselling and psychological care to be available episodically throughout survivors' lives;
- (e) Law reforms to be made to enable survivors to more easily commence civil proceedings against institutions responsible for the child sexual abuse for compensation.

28. The Report recommends that either a national scheme or state and territory schemes be in place no later than 1 July 2017.

29. Despite it being almost 12 months since the Report was released, it remains unclear whether a national scheme or state and territory based redress schemes are likely to be adopted. The Federal Government has indicated that it will not be pursuing a national scheme but that it will work together with the states and territories to implement consistent state and territory schemes across the country. At least one state has indicated that they do not wish to implement a state-based redress scheme.

30. A number of states have made law reforms in response to the recommendations referred to in paragraph 25(e) above. On 9 March 2016 the *Limitation Amendment (Child Abuse) Act 2016* was passed by both houses of the NSW Parliament which removes time limitations on claims for child sex abuse, effective from 17 March 2016, with retrospective application.

31. The GSSC Working Group organised an Anglican Redress Consultation Forum in Melbourne on 1 June 2016 which representatives from each Diocese were invited to attend. Mr Doug Marr and Mr Lachlan Bryant attended on behalf of the Diocese of Sydney. The Rev Dr Andrew Ford from Anglicare Sydney also attended as a member of the Working Group.

32. Justice Peter McClellan from the Royal Commission had confirmed his attendance at the Forum but he became unavailable and arranged for Ms Leigh Sanders, Special Counsel to the Royal Commission and author of the Commission's Report on Redress and Civil Litigation, to attend in his place. Ms Sanders addressed the Forum on the key elements of a redress scheme with particular reference to the Report and confirmed that the federal, state and territory governments have yet to indicate whether they will be implementing or supporting redress schemes in line with the Royal Commission's recommendations.

33. Mr Garth Blake SC addressed the Forum advocating for a National Anglican redress scheme to be established.

34. Ms Christine McIntosh, Solicitor from King & Wood Mallesons, addressed the Forum on Customer Dispute Resolution Benchmarks and Key Principles with particular reference to the finance industry and how structuring a redress scheme for survivors of child sexual abuse may benefit from previous work done in that area.

35. The Forum did not reach a consensus on the way forward and requested the Working Group to do further work on what the possible options are for Dioceses in response to the recommendations in the Report.
36. Mr Lachlan Bryant, the Rev Dr Andrew Ford and Mr Steve Lucas also recently attended a consultation with senior NSW government representatives and advisors at their request for the purposes of investigating how a state-based-scheme could be set up and how best to consult with the Anglican church in NSW if such a scheme were to move forward.
37. Further progress on these important matters will be reported in due course.

Public Hearing concerning the Church of England Boys Society and the Anglican Dioceses of Tasmania, Adelaide, Brisbane and Sydney

38. A public hearing concerning the Church of England Boys Society (CEBS) and four Dioceses, including Sydney, was held in Hobart from 28 January to 5 February 2016, across 7 days of hearing time.
39. Cases from the Dioceses of Tasmania, Adelaide and Brisbane were covered over the first 6 days of the hearing with the last day focusing exclusively on the Diocese of Sydney.
40. In accordance with the Royal Commission's usual practice, pseudonyms were assigned for the witnesses whose identities the Commission determined are to remain confidential. These pseudonyms are used below as applicable.
41. The Sydney case study concerned former CEBS leader Simon Jacobs who committed offences against 6 boys whilst he was involved in CEBS at the Parishes of St Ives and Pymble in the late 1970s and early 1980s, for which he was convicted and sentenced to a term of imprisonment in 2011.
42. One of the survivors of Mr Jacob's abuse, BYC, and his mother, BYD, gave compelling evidence before the Commission about their experiences.
43. In the lead up to the public hearing another survivor of Mr Jacob's abuse, BYJ, and his mother, BYX, were also scheduled to give evidence during the public hearing about their experiences. Unfortunately this did not eventuate following the untimely and premature death of BYJ in late 2015.
44. The Commission heard evidence from Mr Ric Kells, who was in a leadership role in CEBS around the time when the abuse took place. Mr Kells told the Commission that he had made efforts to alert the church authorities about some concerning behaviour exhibited by Mr Jacobs towards a number of boys at the time but that no appropriate action was taken by the church authorities until 1983.
45. Bishop Peter Jensen also gave evidence before the Commission, as he was the Archbishop at the time when BYC and BYD came forward to inform the Diocese about this matter in 2002. The Commission was not only interested in the response of the Diocese at the time the abuse occurred and its more recent response but also asked Bishop Jensen to comment on matters such as the Christian teaching on forgiveness, repentance and the confidentiality of confessions.
46. Although Archbishop Glenn Davies was not required to give evidence as a witness at the public hearing he was able to attend during the initial days of the public hearing and Counsel assisting the Diocese, Mrs Michelle England was able to offer an apology to the survivors at the outset of the hearing on Archbishop Davies' behalf.
47. The Commission's Report concerning the public hearing which will include its findings and recommendations is yet to be published. It is expected that the Report will be available towards the end of 2016 or early 2017.

Public Hearing concerning the Anglican Diocese of Newcastle

48. A public hearing concerning the Anglican Diocese of Newcastle has been scheduled for 2 to 12 August 2016 in Newcastle.
49. The scope and purpose of the public hearing is to inquire into –
- (a) The past and present systems, policies and practices in place within the Anglican Diocese of Newcastle for responding to instances and allegations of child sexual abuse.
 - (b) The experiences of survivors of child sexual abuse perpetrated by clergy and lay people involved in or associated with the Anglican Diocese of Newcastle.
 - (c) The response of the Anglican Diocese of Newcastle and associated institutions to allegations of child sexual abuse made against clergy and lay people associated with the Anglican Diocese of Newcastle, including Graeme Lawrence, Gregory Goyette, Andrew Duncan, Bruce Hoare, Graeme Sturt, Peter Rushton, Ian Barrack, James Michael Brown and another Anglican priest.

- (d) The links between any institutional culture at St John's College, Morpeth and the perpetration of child sexual abuse, including by any person listed in paragraph (c).
- (e) Any related matters.

50. It is expected that the public hearing will be very confronting due to the extent of the abuse involved across the Newcastle Diocese and the number of office-holders in the Diocese and the wider community who were aware or involved in the abuse, some of them in significant roles. The attention and scrutiny of the media, both locally and abroad is expected to be intense.

51. Former Archbishop Harry Goodhew and former Sydney Director of Professional Standards Philip Gerber have both been asked to provide information to the Royal Commission. The terms of the Royal Commission's requests are the subject of a non-publication order at present.

52. It appears that Mr Gerber was Director of Professional Standards for the Diocese of Newcastle from about 2005 to 2007, similar to his role in the Dioceses of Grafton and Armidale during the period.

53. The Steering Committee has offered appropriate assistance to both Bishop Goodhew and Mr Gerber for their engagement with the Royal Commission.

The Anglican data project

54. In May 2016 the Royal Commission announced that it is undertaking a data project in respect to all dioceses of the Anglican Church of Australia. The project requires each Diocese to provide the Royal Commission with data concerning all child sexual abuse complaints received by the Diocese in the period 1 January 1980 to 31 December 2015.

55. The Dioceses of Sydney, Perth and Tasmania were selected by the Royal Commission to be part of a pilot for the project over a two week period in May 2016. The pilot involved the data for 10 complaints to be entered into an Excel template provided by the Royal Commission which was to be returned together with feedback within the given timeframe. After attempting to complete this process for a number of complaints, several concerns were identified including the overly restrictive parameters on the data sought or able to be provided that were likely to lead to matters being reported inadequately or inaccurately. The Steering Committee decided to provide detailed feedback outlining these concerns and suggesting improvements that may be made to the project in order to address these concerns before proceeding further.

56. After this feedback was provided to the Royal Commission representatives of the Diocese were invited to a private meeting with the Commission staff responsible for the data project together with the Solicitor Assisting the Royal Commission. Mr Doug Marr and Mr Lachlan Bryant attended this meeting on behalf of the Steering Committee on 15 June 2016. At the meeting the representatives of the Royal Commission confirmed that the concerns raised by the Steering Committee had been largely addressed and that the 22 other Dioceses were provided with the data project questionnaire on 14 June 2016 and allowed 11 weeks to complete the project.

57. Subsequent to this information being provided by the Royal Commission the Steering Committee formed the view that the PSU should participate in the data project on behalf of the Diocese for child sexual abuse complaints over the requisite period concerning members of clergy or church workers in the Diocese of Sydney. The Royal Commission has acknowledged that complaints concerning other Anglican organisations in the Diocese such as the old Church of England Homes (for which the Sydney Anglican Home Mission Society has responsibility) and Anglican schools in the Diocese, for which the PSU does not have responsibility, will not be included.

58. The PSU has employed two law clerks on a casual basis and increased the hours of a member of staff already employed for file review purposes to assist with the additional work required as a result of the Anglican data project. These employment costs are being met by funds allocated to the Steering Committee for the costs and expenses of preparing for and responding to the Royal Commission.

Diocese of Sydney and the Royal Commission

59. Required before the CEBS hearing in Hobart in early 2016, but ultimately tendered during that hearing, was a comprehensive statement on policy, procedures and responses of the Diocese provided by Archbishop Glenn Davies. A copy of the statement is available here –

https://www.childabuseroyalcommission.gov.au/downloadfile.ashx?guid=d51a64b0-9cc5-4150-b4d9-156d51b4e769&type=exhibit&filename=STAT.0843.001.0001_R&fileextension=pdf

60. The Royal Commission has indicated that there is likely to be a public hearing towards the end of 2016 that will involve multiple Dioceses across the Anglican Church of Australia concerning systems and practices across Dioceses to identify and highlight differences in approaches to matters of child sexual abuse and child protection. Subject to this public hearing being scheduled within the Royal Commission's timeframes, Sydney

is likely to be one of the Dioceses required to be involved in that hearing. It is expected the Archbishop's statement referred to above provides information on many of the issues that such a hearing is likely to address.

For and on behalf of the Royal Commission Steering Committee

LACHLAN BRYANT

Director, Professional Standards

24 August 2016