



Statement on Responding to Claims of Child Sexual Abuse by Clergy/Church Workers of the Archdiocese

1. In its 2012 booklet "Response to Sexual Abuse" (**2012 Response**), the Archdiocese of Sydney (**Archdiocese**) explained how it responds to claims of child sexual abuse and how it supports and assists survivors of sexual abuse. The Archdiocese has learned from mistakes made in the past (for example mistakes in the handling of the claim by John Ellis, which was the subject of Case Study 8 at the Royal Commission into Institutional Responses to Child Sexual Abuse (**Commission**)). The 2012 Response reflected a deepened understanding of the impact of child sexual abuse on survivors.
2. This Statement provides an update to the 2012 Response, explaining the current approach of the Archdiocese which continues to evolve, most recently in light of the Commission's proposal for a national redress scheme.
3. The Commission's redress report recommends interim arrangements to institutions pending the establishment of a national redress scheme. While individual institutions will not be able to replicate fully the proposed redress scheme and will not likely be able to achieve consistency and independence, the Commission suggests that institutions be guided by its redress report including in relation to:
 - a. the purpose of monetary payments (being a recognition or acknowledgement of suffering);
 - b. the recommended matrix for assessing monetary payments.
4. The Archdiocese fully supports the establishment of a national redress scheme.
5. In the meantime, the Archdiocese reaffirms that:
 - a. the Archdiocese accepts moral responsibility to address claims of sexual abuse against its clergy and other ministers and workers of the Archdiocese and will treat all survivors of abuse with respect and compassion;
 - b. where the Archdiocese is not the responsible Church authority in relation to a claim, we will assist survivors to identify and approach the church entity which has responsibility;
 - c. where the Archdiocese is the responsible Church authority, it will offer to meet with survivors and to assist them during the resolution of their claim (for example by financial help with counselling);
 - d. in all cases, the strong preference of the Archdiocese is to resolve claims pastorally and in a non-adversarial manner so survivors can avoid the costs and stress of litigation. This may be through a formal

Towards Healing process or through a pastoral meeting with a Church leader, such as the Vicar General or the Safeguarding Officer;

- e. in seeking to respond to survivors and to resolve claims pastorally, the Archdiocese will be guided by the Commission's recommendations regarding redress and how institutions should respond, pending establishment of a redress scheme (including in relation to monetary payments). Each case will be considered on its own merits and any payment in recognition of an established claim will be determined in light of the matrix recommended by the Commission;
 - f. the Archdiocese recognises that survivors of abuse always have a right to take legal action instead of participating in *Towards Healing* or another pastoral process. The Archdiocese will offer to meet the costs of counselling during the course of any such proceedings;
 - g. if legal proceedings have been commenced and the Archdiocese is responsible or potentially responsible, we will seek to settle the case rather than require survivors to litigate to final judgment;
 - h. in responding to legal proceedings, the Archdiocese will:
 - i. not rely on limitations periods in defending legal proceedings;
 - ii. seek to ensure that the proper defendant(s) have been sued and will assist survivors in identifying proper defendant(s);
 - iii. be open to seeking to resolve legal proceedings by alternative dispute resolution and will consider any potential resolution in light of the current state of the law.
 - i. The Archdiocese endorses and will be guided in litigation by the **attached** "Guidelines for Church Authorities in Responding to Civil claims for Child Sexual Abuse".
6. The Archdiocese will continue to notify the police and other appropriate authorities of any allegations of crime.

Since the report by Justice James to the Police Integrity Commission, which raised concerns about whether "blind reporting" (ie not revealing survivors' names and details) complies with the law, the Archdiocese now provides full reports to the police. Before doing so, where possible, the Archdiocese seeks to engage with survivors about reporting. We will let the police know if we do not know whether a survivor wishes to be contacted by the police or not.

Updated as at 9 March 2016

GUIDELINES FOR CHURCH AUTHORITIES IN RESPONDING TO CIVIL CLAIMS FOR CHILD SEXUAL ABUSE

When dealing with civil claims related to child sexual abuse, Church authorities should at all times act honestly, fairly and compassionately by:

- (a) dealing with claims promptly and not causing unnecessary delay in the handling of claims and litigation
- (b) assisting the claimant to identify the correct defendant to respond to the legal proceedings
- (c) facilitating access to records relating to the claimant, subject to considering the privacy entitlements of third parties and documents that are legally professionally privileged
- (d) making an early assessment of:
 - (i) the Church authority's prospects of success in defending the proceedings, and
 - (ii) the Church authority's potential liability in the claim made against it
- (e) acting consistently in the handling of claims and litigation
- (f) mindful of the potential for litigation to be a traumatic experience for claimants who have suffered sexual abuse, endeavouring to avoid legal proceedings wherever possible or to confine the scope of the proceedings
- (g) paying legitimate claims without litigation
- (h) considering resolving matters without the need for a claimant to take the formal step of filing a statement of claim
- (i) providing information about services and supports available to claimants and considering requests from claimants for counselling, pastoral and psychological care assistance, and other kinds of acknowledgement or redress, including meetings with the Church leader, site visits, etc
- (j) offering, and participating fully and effectively in, alternative dispute resolution processes wherever possible
- (k) if it is not possible to avoid litigation, keeping the costs of litigation to a minimum, including by:
 - (i) not requiring the claimant to prove a matter which the Church authority knows to be true or has accepted as true
 - (ii) not contesting liability if the Church authority knows that the dispute is only about the amount of compensation
 - (iii) monitoring the progress of the litigation and using appropriate methods to resolve the litigation, including alternative dispute resolution, settlement offers and payments into court, and
 - (iv) ensuring that arrangements are made so that a person participating in any alternative dispute resolution process or settlement negotiations on behalf of the Church authority can enter into a settlement of the claim or legal proceedings in the course of the process or the negotiations
- (l) not taking advantage of a claimant who lacks the resources to litigate a legitimate claim

- (m) if a statutory limitation period is available as a defence, not relying on that defence unless:
 - (i) the claim involves other defendants that are not Church defendants and there is a risk that the Church authority might bear a disproportionate share of the whole liability to the claimant, or
 - (ii) the lapse of time has a burdensome effect on the Church authority that is so serious that the Church authority considers that a fair trial would not be possible
- (n) if there is a need for expert evidence, co-operating with claimants about choice of expert, to facilitate agreement on the use of a single expert if practicable
- (o) not undertaking and pursuing appeals unless the Church authority believes that it has reasonable prospects for success
- (p) apologising if the Church authority is aware that it or its representatives or lawyers have acted wrongfully, improperly or in breach of these guidelines.