

Submission to the Victorian Parliamentary Inquiry into the Handling of Child Abuse Allegations by Religious and Other Non-Government Organisations

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Archbishop of Melbourne 1996-2001

1 Introductory comments

I am grateful for the opportunity to provide a submission to this important parliamentary Inquiry to explain the steps I took during my time as Archbishop of Melbourne to address the crime of the sexual abuse of children by Melbourne clergy and church workers.

I also wish to do whatever I can to assist this Inquiry to identify ways in which to improve the situation further. I am here to listen and learn and to hear suggestions for improved procedures.

Let me begin by acknowledging the pain caused by the sexual abuse of children and apologise again to all those who suffered abuse from Catholic priests, religious and lay church workers.

Along with other leaders in the church, I will continue to work to prevent sexual abuse in the church and to help those who have been abused. Victims of sexual abuse are our first priority. I am committed to preventing abuse and protecting people. Victims should be treated with compassion and provided with financial assistance, counselling and other pastoral support.

It also means working with the police and other civil authorities to ensure there are no cover ups and no protection of abusers so that Catholic parishes, schools and welfare services continue to be safe places for young people. For the information of the Inquiry, a document setting out how these principles are applied under Towards Healing in the Archdiocese of Sydney is **attached** to this submission.

The figures provided at Appendix 3 of the Victorian Church's submission *Facing the Truth* (a copy of which is **attached** to this submission) provide evidence that our current systems are contributing effectively to ensuring that crimes of sexual abuse are not being repeated in the church.

As the table at Appendix 3 shows, the Melbourne Response and Towards Healing in Victoria upheld 224 complaints of sexual abuse arising from the 1970s, 82 complaints arising from the 1980s, 12 complaints arising from the 1990s, and 1 complaint arising in the decade from 2000. While there can be a gulf of many years between when a crime of child sexual abuse is committed and when it is reported, awareness of this terrible crime and public encouragement to report are probably at the highest levels they ever been in our community and this is a good thing. Certainly priests, principals and teachers in Catholic schools, leaders and workers in our health and welfare agencies and parents have a high level of awareness of the danger of sexual abuse and are alert to the warning signs. State child protection laws provide a further level of monitoring and assurance.

These facts provide clear evidence, and a basis for the Committee and the public to acknowledge, that things are very different in the Catholic community today from the 1960s and 1970s, which record the highest incidences of sexual abuse in the church in Victoria. While improvements are always welcome, the procedures we have in place now are working and have been effective in raising awareness of and in responding to the crime of sexual abuse in the church, and in assisting us to prevent future abuse. Thanks to the victims who have courageously spoken out about these crimes and also to the media, sexual abuse is no longer a secret; and thanks to enhanced laws, effective internal procedures, and much greater vigilance among church leaders, not least among the lay men and women in the church who work in this area or deliver services to children and other vulnerable people, there is no keeping it secret today.

Like Archbishop Hart and the other Australian bishops, I have apologised on a number of occasions for these terrible crimes. These apologies are and were sincere, necessary and appropriate.

While apologising publicly and privately to victims and their families is essential, I recall seeing the sister of one of the Catholic victims in another state explain on television that deeds are more important than words of apology. I agree wholeheartedly that actions speak louder than words.

I have worked conscientiously for the past 17 years (since first becoming Archbishop of Melbourne and subsequently as Archbishop of Sydney) to help victims of abuse and to establish procedures and protocols not only to support victims but also to do all that we can to ensure church personnel are never again involved in abuse. The measures taken by the Melbourne Response and Towards Healing demonstrate clearly my determination and that of the broader church in Australia to face up to the crime of sexual abuse and to act constructively to improve the situation and diminish the suffering of victims of abuse.

One point is of fundamental importance in my submission, because different perceptions colour the understanding of subsequent events and how they are interpreted. In Melbourne during the time I was Archbishop (and I know this continues today) the Catholic authorities worked from the principle that the needs of the victims must be our first consideration. When mistakes are made we acknowledge them, and we welcome suggestions for further improvements to our procedures. Our starting point is one of contrition and respect.

The primary purpose of this submission is to assist this important Inquiry in its understanding of matters of relevance that relate to my time as Archbishop of Melbourne. To assist the Inquiry, I attach a page to this submission setting out a brief chronology of my work and appointments in Victoria.

I have also taken the opportunity in this submission to briefly respond to a number of claims and allegations that have been made about me personally in submissions and evidence already received by the Inquiry.

2 The development and introduction of the Melbourne Response

2.1 Development of the Melbourne Response

When I was installed as the Archbishop of Melbourne on 16 August 1996, I was determined to ensure that processes were in place to respond to victims of abuse and that these processes were independent from the church. While the police are clearly best placed to investigate crimes and prosecute abusers, victims were also coming forward to church authorities. For this reason it seemed to me that the problem also required an institutional response, with clear procedures that provided assistance and certainty to victims. At this time, the media was full of accounts detailing sex abuse in the Catholic community. As an auxiliary bishop to Archbishop Little I did not have the authority to handle these matters and had only some general impressions about the response that was being made at that time, but this was sufficient to make it clear to me that this was an issue which needed urgent attention and that we needed to do much better in our response. It was my job when I became Archbishop to address this problem within the Archdiocese of Melbourne.

At that stage no decision had then been taken by the Australian bishops to set up the Towards Healing procedures. This was decided at the November 1996 meeting of the Australian Bishops' Conference. The Towards Healing Protocol was published in December 1997 and Towards Healing processes commenced in March 1997.

In light of the urgent need for an effective system to respond to victims of abuse and the uncertainty at that stage about initiatives for a national response, I moved quickly.

Within one hundred days of becoming Archbishop of Melbourne, I had established the role of the Independent Commissioner and the Melbourne Response. In addition to the Independent Commissioner's work of investigating complaints and making findings, the Melbourne Response also involved the independent provision of counselling services at no cost to victims and compensation awarded by an independent Compensation Panel. The intention of the Melbourne Response was to make it easier for victims to seek financial assistance and counselling without the need for legal representation or to establish legal liability, and the findings of either the police or Independent Commissioner were not contested.

The Melbourne Response with its central elements of the Independent Commissioner, an independent compensation panel, and an independent counselling service, was set up after considerable discussion and reflection and after discussions with the Solicitor General and the Victorian Police. Although I wanted to act swiftly, I also wanted to ensure that the response was the result of careful thought and consultation.

The Governor of Victoria was then Richard McGarvie, a retired judge of the Supreme Court, whom I had come to know previously through common cultural and academic interests. At a public event soon after I had become archbishop when we were seated side by side we discussed the necessity to take decisive action on crimes of sex abuse and how this might occur. The Governor suggested that I set up a "Catholic Royal Commission", by appointing a senior legal person and giving him independence and the authority to make recommendations to the archbishop.

The Governor's suggestion was examined and discussed on a number of occasions by a distinguished board of advisers, and I also discussed the matter in some detail with Mr Jeff Kennett, then Premier of Victoria, who was very keen that decisive action should be taken.

I wanted to ensure that the Victorian Police had an opportunity to consider and comment on the proposed response, in particular to ensure the response would not conflict with police investigations or actions in relation to sexual abuse. To that end, we consulted with Assistant Commissioner Brown who in turn sought the view of a senior member of the Victorian Police Child Exploitation Unit. The Victorian Police were closely involved in the process of finalising the response and the terms of reference of the Independent Commissioner, and when the Melbourne Response was announced, the police issued a media release on 30 October 1996 welcoming the initiative, "as a positive step in tackling this very sensitive community issue" and specifically welcoming the appointment of Mr Peter O'Callaghan QC as Independent Commissioner. A copy of this media release is **attached** to this submission.

In appointing those who would lead the three parts of the Melbourne Response, it was essential to have independent experts who were highly experienced and deeply respected. The first Independent Commissioner, Peter O'Callaghan QC, is an immensely experienced senior Queen's Counsel with extensive Royal Commission experience. I was confident that Mr O'Callaghan was the ideal candidate for this difficult and important role, and I believe that his work since his appointment in 1996 has proved this. By his training and whole life's work Mr O'Callaghan is scrupulously attentive to the demands of the law and natural justice, rigorous in his approach to evidence and proper procedure, and humane and compassionate to those who have been hurt or suffered injustice. He has brought all these qualities to his work as Independent Commissioner and helped hundreds of victims. I could not speak more highly of the integrity and professionalism of the Independent Commissioner. He has performed his difficult task very well.

Similarly, I took great care when determining the composition of the independent Compensation Panel. I was committed to selecting a chair for the panel who would ensure it operated in a fair and consistent manner. This is borne out by the fact that the first chair of the panel was Alex Chernov QC, who was subsequently appointed to the Supreme Court of Victoria and is now Governor of Victoria. As a further indication of the outstanding calibre of the people who agreed to assist in this important part of the Melbourne response, subsequent chairs David Habersberger QC and Susan Crennan QC were appointed to the Supreme Court of Victoria and the High Court of Australia respectively.

There was nothing clandestine about the establishment of the Melbourne Response. It was established after extensive consultation with independent experts, the police, the Solicitor-General and respected public figures, and was announced to the public at a press conference on 30 October 1996. We advertised the new system in parish bulletins and at public meetings and asked victims to come forward. The Melbourne Response was widely greeted as a useful and a significant improvement. When I left Melbourne in 2001, many people remarked to me that it was a positive development.

2.2 Results from the Melbourne Response

Information available from the Archdiocese of Melbourne is helpful in assessing the effectiveness of the Melbourne Response. During the period when I was Archbishop of Melbourne (1996-2001), Peter O'Callaghan QC, the Independent Commissioner, upheld 127 complaints of criminal abuse against children under the Melbourne Response. I do not know the total number of offenders against whom these complaints between 1996 and 2001 were made. However in the six years after 1996 while I was Archbishop, at least 20 Melbourne priests were stood down.

In his determinations about complaints of child sexual abuse between 1996 and 2012, the Independent Commissioner has found in favour of the victims in 97 per cent of cases. In addition to making findings, the Independent Commissioner also made recommendations which I always accepted.

Between 1996-2012, over 300 ex-gratia payments were made to victims after consideration by the Compensation Panel.

During the same period hundreds of survivors and family members have received counselling facilitated through the Carelink counselling service under the Melbourne Response.

These achievements of the Independent Commissioner, the Compensation Panel and Carelink demonstrate the effectiveness of the Melbourne Response in helping to discover the truth, dealing justly with victims and providing counselling and ex-gratia payments to help meet the needs of survivors and to facilitate healing.

I am pleased to have been associated with these developments. Many people have been helped and most of them are not dissatisfied. The work has been done by independent lay people, with high level legal and professional (for example, in counselling) expertise so removing any suggestion of clergy collusion or a lack of legal and psychological professionalism.

2.3 Support for Victims

The Melbourne Response is first and foremost about helping victims. From the beginning, the Melbourne Response has provided counselling services to victims and, where appropriate, to their families, at no cost to them. Very few have complained to me that this service was not helpful. The service is a practical expression of compassion.

In many cases the harm that has been done by sexual abuse causes lifelong suffering. In some cases it has even led to suicides, a tragedy which fills me with horror and sadness both for those who have died in this way and for those who love them. Sexual abuse also causes great

suffering for the families and friends of survivors, and we try to help them too. Over the years I have met one-on-one with a considerable number of survivors to acknowledge past wrongs and to work towards reconciliation.

Soon after becoming Melbourne's archbishop I attended a prayer service and general meeting with numerous victims, families and supporters and advocates at the then Cathedral Hall at St Patrick's Cathedral, and later on two occasions I met with a significant group of survivors and supporters at two meetings in the Oakleigh parish. I was present when a small number of victims attended Pope Benedict's Mass in the chapel at St Mary's Cathedral House and joined with the Holy Father in speaking with them afterwards.

The harm caused by sexual abuse often runs deep, and sometimes these meetings have not been easy for anyone — particularly the victims and their families. But they are very important, including for me as a bishop. Often it takes considerable courage for survivors to come forward, and I am grateful for this. I am also grateful to those who support survivors to come forward for the help and encouragement they provide.

My practice now is generally to meet with survivors after their claims have been settled. In this procedure there is much less chance of misinterpreting the church's efforts at reconciliation. I continue to be committed to meeting with victims and those who support them, and I am always open to doing so whenever it is likely to help healing.

2.4 Comparable compensation schemes

The Melbourne Response provides ex gratia payments to survivors of sexual abuse without requiring them to establish that a Melbourne Archdiocese official or entity is legally liable. This is in addition to counselling and medical costs which are uncapped and continue as necessary.

While I established a cap on ex gratia payments (so that there would be certainty for victims and the Archdiocese and to ensure that such payments were in keeping with community standards of the time), I decided that there should be no cap on counselling or medical costs. Compensation and an apology are important parts of our response to victims, but help with counselling and medical care is a crucial ongoing support. I recall that when I was determining an appropriate cap for payments that would be awarded by the Compensation Panel under the Melbourne Response, I took into consideration the maximum award that was then available under comparable schemes, particularly the scheme available to victims of crime in Victoria.

My recollection is that when the Melbourne Response was established, the maximum award of \$50,000 (excluding counselling which was an additional cost to be met by the Archdiocese of Melbourne) compared favourably with the maximum awards available to victims of sexual abuse and other serious crimes in Victoria and other states.

As I understand it, the current maximum award under the Melbourne Response exceeds the current maximum awards available under the *Victims Support and Rehabilitation Act 1996* (NSW) (both in its existing form and as it would be if amended by the *Victims Support and Rights Bill 2013*), the *Victims of Crime Assistance Act 1996* (Vic) and the Defence Abuse Reparation Scheme for compensating victims of sexual abuse in the Australian Defence Force.

3 Recourse against priests who are abusers

An important focus for this Inquiry is church processes to ensure that priests who are abusers are no longer a risk to children and what means are available to discipline priests.

No priest can exercise public ministry without the authorisation or "faculties" of the local bishop.

Bishops have the ability to withdraw the faculties of priests or remove them from ministry for serious reasons. Where a priest is accused of sexual abuse of a child, it is (and was when I was Archbishop of Melbourne) my practice to remove that priest from ministry on a temporary basis pending the outcome of investigations (such as a criminal prosecution or Towards Healing investigation). If the allegation is upheld (the priest is convicted or the complaint substantiated), then that priest is permanently removed from ministry. This is a punishment for life – his faculties are permanently withdrawn and the priest cannot hold himself out as a priest, cannot say Mass, hear confessions or administer the other sacraments, cannot dress as a priest and cannot hold any official position in the church at all.

The decisive step in protecting children, vulnerable people and the community is the permanent removal of faculties. It is similar to be a doctor or lawyer being barred from practice for life. These conditions apply also in the Melbourne archdiocese.

“Laicisation” means that a priest becomes a lay person again, as he was before ordination. Sometimes this is referred to as “defrocking”, but priests in good standing who decide to leave the ministry also apply for laicisation. It is not within the power of Australian bishops to laicise priests who have committed crimes and otherwise engaged in indecent conduct towards children. Nor can I, as a Cardinal, laicise a priest.

Laicisation under church law means that the priest is no longer a priest. A bishop can request the Vatican to laicise a priest, and, while very complicated procedures have become more streamlined in recent years, this process takes time.

What is important to understand is that withdrawing a priest’s faculties, or removing him from ministry, is an extremely serious disciplinary action analogous to termination of employment or removal of a solicitor’s practising certificate or a doctor’s licence. It is a permanent disciplinary measure meaning the person can no longer act as a priest. It is a life sentence.

In addition to this ability to permanently prevent priests from working as priests, Australian bishops also have the assistance of the civil law to ensure that children and others who may be vulnerable to abuse by that priest are protected.

Australian bishops, like other citizens, must comply with Australian law. Civil law obligations cannot be set aside by bishops. In New South Wales, suspected crimes against children must be reported to state authorities including the police and, in NSW at least, the Ombudsman and Department of Family and Community Services.

Church processes and procedures, including the provisions in canon law for the investigation of sexual abuse of minors and the punishment of abusers, are **not** a substitute for the reporting of crimes against children to the appropriate civil authorities. Any provisions in canonical processes for confidentiality are intended to protect the person who makes a complaint from any publicity or pressure which might discourage him from coming forward or from pursuing the complaint, and the right of the person who is accused to the presumption of innocence.

4 Proposals for reform to Victorian laws regarding reporting of child sexual abuse

Having been an Archbishop of both Melbourne and Sydney, I have worked with both the Victorian and NSW regimes for the protection of children and reporting of suspected child sexual abuse. I believe that there are aspects of the NSW child protection regime that provide superior protection for children and which, I respectfully suggest, warrant close consideration by this Inquiry.

I believe that the NSW regime provides significant protection for children in two key respects; by imposing greater reporting obligations on non-government agencies (including religious organisations) that work with children; and through the oversight by state authorities of investigations by government and non-government agencies into allegations of child sexual abuse against their employees. As I understand it, Victoria has no equivalent of:

- (a) s316 *Crimes Act 1900* (NSW) which, in general terms, requires disclosure of a serious criminal offence; or
- (b) The NSW Ombudsman child protection regime which requires both government and non government agencies that work with children to report allegations of sexual and other abuse to the NSW Ombudsman who then has oversight of investigations by the agencies into those allegations. The NSW Ombudsman also provides valuable advice and support for agencies undertaking complex investigations and making difficult decisions regarding the management of persons who are the subject of accusations.

Importantly, in my experience, the NSW system mandates the reporting of serious crimes including suspected child sexual abuse to the NSW Police and, in doing so, provides clear direction as to what the State requires the church (and every other person and entity in New South Wales) to do upon becoming aware of allegations of abuse.

As outlined in the **attached** copy of Sydney Archdiocese's "Response to Sexual Abuse" document, the Sydney Archdiocese reports allegations of crime to the police, including where an alleged abuser is deceased as this could be of some intelligence value to the police. Complainants should be encouraged and supported to report the abuse to police and it is the Archdiocese's practice to refer complainants to the church's Professional Standards Office NSW for assistance with reporting to the police if this is required. I believe strongly that the wishes of persons who notify complaints of abuse must be respected. Where complainants do not wish their identities to be disclosed to the police, I believe that this should be respected. In these cases, a practice has developed where the Professional Standards Office NSW (which has worked closely with police in relation to reporting these crimes) reports to the police all the details of the allegation without identifying the complainant. The Professional Standards Office also assists the police in passing on any request to interview the complainant.

I note in this context that both this Inquiry and the Commonwealth Royal Commission into Institutional Responses of Child Sexual Abuse have acknowledged the rights of complainants by allowing them to tell their stories confidentially and without being required to involve the police if that is their wish.

5 The *Ellis* decision

A number of submissions to this Inquiry demonstrate a misunderstanding of the facts and analysis that underpinned the decision of the Court of Appeal of the New South Wales Supreme Court in *Ellis v Trustees of the Roman Catholic Church*.

While it is, of course, entirely a matter for the Victorian parliament whether it wishes to pursue law reform of the kind advocated in some submissions to this Inquiry, it is important that this Inquiry is provided with accurate information regarding the *Ellis* decision so it is properly in a position to consider these important issues. More detailed information on this decision is an appendix to this submission. The main points to bear in mind in understanding what this decision stands for are as follows:

- (a) As set out in the appendix, this case turned on its own facts. Neither the body corporate nor myself as the current Archbishop of Sydney had appointed or supervised the accused priest, Fr Duggan. As a consequence, these defendants could not be liable for any acts of abuse perpetrated by Fr Duggan against Mr Ellis.

- (b) The *Ellis* decision stands for nothing more than the commonsense proposition that you cannot be liable for wrongdoing of others unless you authorised, or are directly or indirectly responsible for supervising, their conduct. This is, and has been for a long time, an uncontroversial and accepted part of Australian law.
- (c) The body corporate which Mr Ellis sued was created in 1936 by statute and has operated on the same basis in Sydney since its creation. Its establishment was not an attempt to avoid liability. To the contrary, the body corporate was, and is, able to be sued and has been sued.
- (d) Far from the case creating a new “defence”, in fact Mr Ellis was seeking to create a new type of liability to make people and entities that were not involved in the appointment or supervision of a person liable for that person’s wrongs. The Court rejected this proposition.
- (e) Persons and entities associated with the Archdiocese of Sydney, including bishops, are not “immune” from liability where (as is also the case for persons and entities generally in Australia) they had a responsibility to supervise the conduct of another person and failed in that responsibility.

Unless the Parliament intends to discriminate against the Catholic community and single it out for special treatment, proposals for legislative reform would effectively have to make all incorporated and unincorporated entities liable for the criminal conduct of their employees or members. This would be a significant departure for the law and cause considerable injustice by making innocent parties liable for wrongdoing for which they are not responsible.

6 Abuse of Emma Foster and Katie Foster by Fr O’Donnell

This Inquiry has heard of the terrible suffering of the Foster family, and the horrific abuse of Emma Foster and Katie Foster by Fr Kevin O’Donnell from 1987 and 1989 respectively until 1992. I would not want to do anything to exacerbate their sufferings in any way, and only wish to make a few brief comments on matters they have raised concerning myself.

When I became Archbishop of Melbourne in August 1996 O’Donnell was in jail for other offences against children. To the best of my knowledge, complaints were received by the Archdiocese of Melbourne about O’Donnell in November 1992, shortly after his retirement aged 75. Mr and Mrs Foster’s submission refers to reports made by victims of O’Donnell in 1946, 1958 and 1984; however, I do not have any knowledge of complaints made earlier than 1992.

By the time I became Archbishop of Melbourne, the Fosters had already alerted the Archdiocese of Melbourne to the crimes committed against their daughters by O’Donnell. I met Mr and Mrs Foster at their request privately on 18 February 1997, before the second of two public forums that I attended at Oakleigh parish where O’Donnell had been parish priest for many years and where he had abused several children, including Emma and Katie Foster.

I do not recall exactly what was said during my meeting with Mr and Mrs Foster, but I remember clearly that it was one of the most difficult meetings I have ever been involved in. I had no reason to doubt that O’Donnell had abused Emma and Katie Foster, and in meeting with Mr and Mrs Foster my only intention was to listen to their story and to try to help. It is clear that I did not succeed in this. No matter what I said or did, it seemed to make things worse. I am sorry for whatever I did to upset them at this meeting. It was certainly not my intention to upset them. I wanted to help them.

It was always my intention (and always has been) to treat Mr and Mrs Foster and their daughters with the utmost respect and compassion. I took their claims most seriously and accepted them

as truthful. The Independent Commissioner upheld Emma Foster's complaint and I wrote to her to acknowledge her suffering and offered an apology on behalf of the church and on my own behalf. The independent Compensation Panel offered financial assistance to Emma, in addition to assisting with ongoing medical, psychological and professional care for both Emma and Katie.

I am aware that in 2002, the Fosters commenced legal proceedings which were ultimately settled. That occurred after I had become Archbishop of Sydney and I was not involved in the defence or settlement of those proceedings.

I am very sorry for the abuse suffered by Emma and Katie Foster and for the suffering of the Foster family. I am also sorry that I have been unable to persuade Mr and Mrs Foster of my good intentions to help. More importantly, I regret deeply that I have been unable to bring them even a small amount of healing. They have suffered terribly.

O'Donnell committed horrible crimes and harmed many innocent people. The title Pastor Emeritus which is customarily bestowed on retired parish priests should have been revoked when he was jailed. Although he brought shame upon the priesthood and the church he was buried with other priests in Melbourne. Had he been laicised before he died this would not have occurred.

7 Gerald Ridsdale and David Ridsdale

Several submissions made to this inquiry have asserted that I knew, or should have known, before the early 1990s that Gerald Ridsdale engaged in the sexual abuse of children. It is suggested that I was involved in a 'cover up' of Ridsdale's crimes and knowingly participated in his transfer between parishes when complaints were made about his activities. Allegations have also been made publicly that I attempted to "buy the silence" of David Ridsdale, who was both the nephew and a victim of Gerald Ridsdale.

I completely deny each of those allegations. There is no truth to them whatsoever. I have answered these claims publicly on a number of occasions and will briefly restate my response to these claims here.

7.1 Gerald Ridsdale

In 1973 (for around 12 months) I lived with Gerald Ridsdale and two other priests in the St Alipius Presbytery. At that time, I said daily Mass at St Martin's in the Pines, a girls' secondary school where I was chaplain and lectured part-time at Sacred Heart Teachers College; however I said weekend Mass at Ballarat East parish (St Alipius) until 1983 and lived there from 1973 until approximately 1980. From 1974, I was the full time academic Director of Aquinas College, a campus of the Institute of Catholic Education (tertiary).

I was never in a position of authority over Ridsdale, and prior to the early 1990s, I had no knowledge or suspicion that Ridsdale was a paedophile. He concealed his crimes from me and other priests in Ballarat, from parishioners and from his own family. It was not until around 1990 that I first heard rumours that Gerald Ridsdale was receiving treatment at a US facility that specialised in treating paedophilia. In or around late 1992 (I cannot recall the exact date), I became aware that police suspected that Ridsdale had sexually abused children and were conducting investigations into allegations made by a number of victims.

While I was a member of the College of Consultors for Ballarat during 1977 to 1984, this position gave me no authority over Ridsdale or any other priest in Ballarat. The Consultors were made aware by Bishop Mulkearns of the appointment of priests, including Ridsdale, to different parishes as part of the ordinary series of appointments and reappointments of priests in the diocese. Bishop Mulkearns did not, however, raise or discuss the allegations against Ridsdale or

any other priest at the Consultors' meetings or at any time with me. In 1993 and 1994, Ridsdale first pleaded guilty to multiple charges of child sexual abuse.

In May 1993, I was asked by Ridsdale's lawyer to give evidence in support at his first sentencing. I told the lawyer that if I was called to give evidence, I would say that I believed the victims and that Ridsdale had done great harm to them. Ridsdale's lawyer ultimately declined to call me to give evidence but asked that I accompany him to Court. At that time, I was an auxiliary bishop of Melbourne and I agreed to do this reluctantly. I had never anticipated, and certainly never intended, that my doing so would be interpreted as an insult to his victims. While it was certainly not my intention, I accept that accompanying Ridsdale caused offence to his victims and for this reason I regret my decision. I realise that it was a mistake and I am sorry for the offence it caused.

7.2 David Ridsdale

As I have explained before at length, I recall receiving a phone call from David Ridsdale, Gerald Ridsdale's nephew, in around early February 1993 in which he disclosed to me that he had been a victim of abuse by his uncle. By the time of my conversation with David, I believed that Ridsdale was being investigated by police, and while I do not remember exactly what was said during our talk, I recall responding by offering my sympathy and asking if there was anything that I could do to help. The conversation was not acrimonious. I telephoned again later but he was out and I spoke to his partner, who raised no problems with me.

It came as a complete surprise to me when David subsequently claimed that I had offered him a bribe to "keep quiet" about the abuse he suffered at the hands of his uncle. David has not been consistent in his claims about what I said during the conversation, and at one stage it appeared as though he had withdrawn all or part of his allegations.

At no time during my conversation with David Ridsdale did I provide or offer to provide financial assistance to David Ridsdale or his family. At the time of our conversation in early February 1993, I held the position of auxiliary bishop and had no capacity to offer any kind of financial assistance. At the time of my discussion with David, I was already aware of the police investigation into Ridsdale. It would not have made any sense for me (or anyone) to try to 'buy' David Ridsdale's silence.

I was and remain extremely sympathetic to David Ridsdale who suffered horrible abuse at the hands of his uncle. I also sympathise with David's parents and the extended Ridsdale family who, like me, were deceived as to the true character of Gerald Ridsdale. I do not, however, understand why David made the claims he did about our conversation in 1993. It is an ongoing source of sadness and mystery to me.

8 Fr Searson

Evidence has been given to this Inquiry by both Ms Carmel Rafferty and Mr Graeme Sleeman in relation to the sexual abuse of children by Fr Peter Searson. Allegations are made by Ms Rafferty and Mr Sleeman that senior members of the Archdiocese of Melbourne were aware of Searson's abuse of children and failed to take appropriate action. I would like to respond to those limited aspects of their evidence that concern me.

In her evidence, Ms Rafferty says that a "delegation" of 3 teachers from the Holy Family School in Doveton met with me to raise concerns regarding Searson when I was an auxiliary bishop of Melbourne.

I do recall meeting with a small group from the Holy Family School in or around 1991 who asked to see me because I was the auxiliary bishop in the region. Similarly, I had received another

group earlier in 1989. They expressed concerns to me about Searson and were asking that he be removed or that action be taken against him. Apart from a concern that Searson was “hanging around the boys toilets”, my recollection is that the complaints were in general terms to the effect that Searson was extremely difficult to deal with and disliked by parents, staff and children.

I remember that after this, I spoke with Archbishop Little and the then Vicar General Monsignor Cudmore. I was asked by Archbishop Little to speak with Searson and direct him to conduct himself more appropriately and scrupulously. I did so, and I recall that Searson rejected the allegations of wrongdoing and strongly denied that he had acted inappropriately. He made clear that he greatly resented my raising these concerns with him. It was an unpleasant conversation.

I also recall that after the meeting with Searson, I spoke on a number of occasions with the then Principal of Holy Family School, Mr Ray Adams, and advised him about the concerns that had been raised, my consultation with the Archbishop and Vicar General and my meeting with Searson.

When concerns were raised with me in 1989 and 1991, there was not sufficient evidence to act against Searson. The police investigated complaints against him in 1989 and 1991 and it seems they also had insufficient evidence to take further action. The Catholic Education Office considered allegations against Searson in 1993 and there was still insufficient evidence to take action. However, that position changed in August 1996 when I became archbishop and was made aware of new allegations that Searson had physically (not sexually) assaulted a child. In line with my usual practice, I referred the matter to the Independent Commissioner who inquired into the allegations. The Victorian police were also notified of the allegations by the child’s parents at around the same time as the notification to the Archdiocese of Melbourne

In 1997 the Independent Commissioner investigated the two allegations against Searson from 1985. In February 1998, the Independent Commissioner upheld the complaints. The Independent Commissioner asked both victims to consider going to police. They refused and only agreed to engage with Mr O’Callaghan on the basis of strict confidentiality. The Independent Commissioner respected their wishes. Acting on the findings of the Independent Commissioner, I withdrew Searson’s faculties in July 1998 and asked him to resign which he did, effective 14 August 1998.

On 24 August 2012, I spoke to Archbishop Hart about Searson following media enquiries about the matter. I have seen a file note of that conversation which accurately reports my conversation. However, in that conversation I confused Mr Sleeman, who had resigned as principal in 1986, with the-then principal Mr Ray Adams, with whom (as mentioned earlier) I spoke on a number of occasions.

9 Allegations made by Dr Waller

On 21 September 2012, Dr Waller made a submission to this Inquiry on the letterhead of her firm, Waller Legal.

That submission included a number of allegations against me that were demonstrably false and which should never have been made. The allegations related to a client of Dr Waller’s that she refers to as “Victim 2”, who was abused by Br Robert Best.

Dr Waller has alleged that after the abuse by Best, Victim 2 attended the Presbytery at St Alipius and asked to speak to me and that I refused. Dr Waller also alleges that I was present when Victim 2 told another priest what had happened. Further, that the priest (allegedly in my presence) repeatedly struck Victim 2, ejected him from the presbytery and threatened to kill him if he told anyone.

A detailed response has already been provided to this Inquiry regarding the allegations made by Dr Waller. A further copy is **attached** to this submission. Accordingly, I will only deal briefly with Dr Waller's claims in this submission by reiterating:

- I was never told by Victim 2 in 1969, or at any other time, that he had been sexually abused by Best.
- In fact, in 1969, I was overseas studying at Oxford University and was not in Australia.
- I did not return to Australia until 1971 (to be appointed assistant priest at Swan Hill) and I did not live at St Alipius until 1973. Neither did I stay at the parish before 1973.
- Victim 2, in sworn testimony, did not give any evidence that identified me either as a priest he sought to report the abuse to, or as being present when he did report the abuse to another priest.

Dr Waller has been asked several times to retract her false claims (which she has refused to do). Dr Waller has invited me to address the matter directly with Victim 2. I have no desire to cause Victim 2 any additional pain or suffering in relation to this matter. Dr Waller has (on her own behalf and despite the plain evidence to the contrary) insisted on publishing these allegations.

False allegations such as those by Dr Waller add to the challenges involved in ensuring that the truth is told and the important work this Inquiry is undertaking. False allegations obscure the truth and only add to the hurt and suffering of victims of sexual abuse.

10 Concluding remarks.

I am grateful for the opportunity to make this submission and to address some of the matters that have arisen as part of the important work of this Inquiry. I look forward to being of assistance to the Inquiry and to answering any questions the Committee may have.

**Cardinal George Pell
Sydney, 24 May 2013**

Schedule

My Appointments and Work in Victoria

1966 to 1971

I was born in Ballarat and ordained as a priest for the Ballarat diocese on 16 December 1966 in Rome, then studied at Oxford University until 1971.

1971 to 1984

I returned to Australia to work in Swan Hill (1971-1972) before coming to Ballarat East in 1973 to work in the parish as junior assistant and part-time at the then Sacred Heart Teachers College and part time chaplain at St Martin's in the Pines. From 1974-84 I was a full-time academic at the Aquinas campus of the Institute of Catholic Education in Ballarat (Director 1974-84) and principal of the state-wide Institute of Catholic Education from 1981-84.

During my time in the Diocese of Ballarat, I was not a bishop and, as such, did not assign any priest to any parish during that period; nor did I arrange or approve the transfer of priests between parishes. That was the role of the Bishop of Ballarat. At that time, I was not involved in the work to combat sex abuse, where (in those years) the bishop usually delegated the Vicar General to respond to such matters or dealt with them himself.

Rector of Corpus Christi College and Auxiliary Bishop of Melbourne: 1985 to 1996

I was rector of the regional seminary Corpus Christi College, Clayton from 1985-87, when I was appointed an auxiliary bishop of the Archdiocese of Melbourne, remaining as such from 1987-96. It is my understanding that during those years Archbishop T.F. Little dealt with abuse matters himself or used the Vicar General to deal with concerns regarding sex abuse by clergy and others associated with the Archdiocese of Melbourne. Archbishop Little did not discuss such matters with me. As far as I recall he never raised one matter relating to sexual abuse with me.

Archbishop of Melbourne 1996 to 2001

Pope John Paul II appointed me as Archbishop of Melbourne on July 16, 1996 and I was installed as Archbishop of Melbourne on 16 August 1996.

I held this position until I was appointed as Archbishop of Sydney. Pope John Paul II appointed me as Archbishop of Sydney on 26 March 2001 and I was installed as Archbishop of Sydney on 10 May 2001.

During my time as Archbishop of Melbourne, as is the case today, religious orders generally were not subject directly to the local bishop. Instead, orders and congregations were generally responsible to their regional director (often known as a "provincial") and their global leader (often known as a "superior general"). The regional directors and global leaders are ultimately responsible to the Pope.

Ellis – Facts and Misunderstandings

Background facts relating to the claims by Mr John Ellis

- (a) Mr Ellis was an altar server at the parish of Bass Hill 1974-79. He alleged that he was abused by Fr Duggan as a minor and alleged that the abuse continued until he was 27 years old.
- (b) At the time of receiving Mr Ellis' complaint, the Sydney Archdiocese had not received any other complaints, nor had it had any notice of, any criminal conduct by Fr Duggan.
- (c) Mr Ellis was 46 when he made a complaint to the Archdiocese of Sydney in relation to his abuse by Fr Duggan. At that time, Mr Ellis was a highly qualified and talented lawyer, and had been a partner at international law firm Baker McKenzie.
- (d) By the time Mr Ellis made his complaint, Fr Duggan was very elderly and was suffering various neurological conditions. He was never able to confirm or deny the allegations against him and died after Mr Ellis commenced litigation.
- (e) Despite this, the Archdiocese of Sydney did make offers of compensation to Mr Ellis. However, the offers fell short of Mr Ellis's expectations and Mr Ellis commenced litigation against me and against the body corporate established under the *Roman Catholic Church Trust Property Act 1936 (NSW)*. Neither I, nor the body corporate, had been responsible for appointing or supervising Fr Duggan, and we defended the claim on that basis.
- (f) Mr Ellis was unsuccessful. The NSW Court of Appeal determined that:
 - (i) As a matter of fact, neither I nor the body corporate had appointed or supervised Fr Duggan and were not liable for the acts of abuse perpetrated by him against Mr Ellis. If either the body corporate or I (in my capacity as Archbishop of Sydney) had appointed Fr Duggan or been responsible for supervising him, the result of the case may have been very different.
 - (ii) As a matter of law, a current Archbishop of Sydney cannot be sued for the acts or omissions of the past Archbishops. The body corporate cannot be sued as a "universal defendant".
- (g) Despite his loss in court, Mr Ellis has been treated very generously by the Archdiocese. As he has acknowledged, he has received over \$500,000 in ex-gratia payments. Further, the body corporate waived legal costs that it was entitled to recover from Mr Ellis.

9.2 Misunderstanding and misinterpretation of the *Ellis* decision

As is apparent from the submissions received by this Inquiry, there are many who have misunderstood or misinterpreted the *Ellis* decision. Some of the factually incorrect statements that are often made about the decision include that:

- (a) The "Church" is "immune" from claims in relation to sexual abuse and there is no avenue for victims of abuse to pursue civil suits in relation to such claims.
- (b) The decision involved the creation of a "defence" or otherwise established novel legal principles.
- (c) The "Church" has deliberately sought to structure its affairs so that its assets and property cannot be accessed by victims of sexual abuse.

- (d) The decision established barriers that can only be overcome through the introduction of legislative reform.
- (e) No attempt was made to settle the claims by Mr Ellis, that Mr Ellis was not paid any compensation and that he was otherwise harshly treated by “the Church”.

None of these assertions is correct.