



CATHOLIC ARCHDIOCESE OF MELBOURNE

## Response of the Archdiocese of Melbourne to the Recommendations from the Ryan Review

<b>Ryan Recommendation</b>	<b>Response of Archdiocese of Melbourne</b>
<p>The geographical and jurisdictional area of operation of the <i>Melbourne Response</i> be expanded to cover complaints of abuse allegedly committed within Victoria by any person under the control of the Bishop of any Victorian diocese or of the Provincial, Supervisor or other leader of a Catholic religious order carrying on activity within Victoria.</p> <p><b>(Recommendation 1)</b></p>	<p>The Archdiocese supports the establishment of a single national independent redress scheme as recommended by the Royal Commission and endorsed by the Truth Justice &amp; Healing Council. If a single national independent redress scheme is not to be established, the Archdiocese supports the establishment of a redress scheme by the Victorian Government which has uniform application to non-government and government institutions in Victoria. However the Archdiocese does not have the power to unilaterally implement Mr Ryan’s recommendation .</p>
<p>The respective functions presently performed under the <i>Melbourne Response</i> by the Independent Commissioners of determining whether abuse has occurred and, if so, its nature and extent and by the members of the Compensation Panel of determining the amount of compensation to be offered to each applicant be merged into one or more Panels, provisionally called “Assessment Panels”.</p> <p><b>(Recommendation 2).</b></p>	<p>While pressing for the establishment of a single national independent redress scheme and failing that, the establishment by the Victorian Government of a state-based scheme that the current structure of the Melbourne Response be maintained until the Commonwealth and Victorian governments provide their detailed response on the design and operation of the scheme recommended by the Royal Commission.</p>
<p>One or more persons with appropriate skills and experience should be appointed to investigate whether an applicant has, in fact, suffered abuse within the jurisdiction of the Redress Scheme.</p> <p><b>(Recommendation 3).</b></p>	<p>At present, the Independent Commissioners perform this role. While pressing for the establishment of a single national independent redress scheme and failing that, the establishment by the Victorian Government of a state-based scheme that the current structure of the Melbourne Response be maintained until the Commonwealth and Victorian governments provide their detailed response on the design and operation of the scheme recommended by the Royal Commission.</p>



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<p>Subject to appropriate accounting and auditing controls, the Redress Scheme should have its own administrative staff and budget. It should appoint its own solicitors as and when legal advice is required. Those solicitors, in turn, should retain Counsel Assisting the Independent Commissioner or the Assessment Panel when it is not appropriate for that function to be performed by an investigator suggested in Recommendation 3.</p> <p><b>(Recommendation 4)</b></p>	<p>While pressing for the establishment of a single national independent redress scheme and failing that, the establishment by the Victorian Government of a state-based scheme that the current structure of the Melbourne Response be maintained until the Commonwealth and Victorian governments provide their detailed response on the design and operation of the scheme recommended by the Royal Commission.</p>
<p>In case Recommendation 4 is not considered capable of implementation in full, records compiled and collaged for the purpose of the Redress Scheme should be retained within its own files and archives and not released or disclosed to the Archdiocese or any other outside body except with the consent of the applicant or by compulsion of law. The practice of files and copy of correspondence being retained by Corrs should be discontinued.</p> <p><b>(Recommendation 5).</b></p>	<p>The Archdiocese accepts that records compiled and collated by the Independent Commissioners, Compensation Panel and Carelink are confidential and should not be released or disclosed by them or Corrs on their behalf to the Archdiocese or any other outside body except with the consent of the applicant or by compulsion of law other than as required for the provision of an apology and the making of a compensation payment.</p>
<p>The Independent Commissioner, or the Chairman of the Assessment Panel, if the functions of the latter office are combined with those of the Independent Commissioner, should not simultaneously hold a delegation from the Archbishop pursuant to Canon 1717 of the Canon Law.</p> <p><b>(Recommendation 6).</b></p>	<p>Mr Ryan has found that nothing in the course of the Review supports a conclusion that any officials of the Melbourne Response ever acted at the direction of the Archdiocese or CCI, although it appears that he has misunderstood the reason for the Canon Law delegation. On this basis and to ensure that the Archbishop is not limited in the canonical action he can take against any priest in respect of whom a complaint is upheld the delegation under Canon 1717 is to be retained.</p>
<p>Any future selection of persons to exercise the powers and duties presently conferred on any of the Independent Commissioners, the Chairman of the Compensation Panel and the Director of Carelink, should</p>	<p>While pressing for the establishment of a single national independent redress scheme and failing that, the establishment by the Victorian Government of a state-based scheme, that the current structure of the</p>



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<p>be made from qualified applicants by the President or Chairman for the time being of an appropriate professional regulatory body such as the Law Institute of Victoria, the Victorian Bar, the Royal Australian and New Zealand College of Psychiatrists or the Psychologists Registration Board. Of course, the relevant President or Chairman should be able to delegate the selection to one or more nominees of his or her choice.</p> <p><b>(Recommendation 7)</b></p>	<p>Melbourne Response be maintained until the Commonwealth and Victorian governments provide their detailed response on the design and operation of the scheme recommended by the Royal Commission.</p>
<p>Carelink should be retained in substantially its present form with broadly similar functions. However, the protocols governing the Redress Scheme should clearly describe the services and other benefits available from Carelink and the criteria according to which Carelink staff exercise relevant discretions in the allocation of those services and benefits.</p> <p><b>(Recommendation 8)</b></p>	<p>Carelink undertakes a very important service for victims of abuse in the Archdiocese. Its long term future has been underwritten by the Archdiocese providing dedicated premises for Carelink.</p> <p>The recommendation of Mr Ryan is accepted.</p>
<p>Professional staff of Carelink should not themselves provide clinical, counselling or other services to “clients” except for the provision of assessments or reports:</p> <ul style="list-style-type: none"> <li>(i) To assist in selecting providers of those services or referring clients to them; or</li> <li>(ii) For the use by the Assessment Panel.</li> </ul> <p>A staff member should not, event for the purposes described in (i) and (ii) provide services to an applicant if the staff member has had a connection in some other capacity with the subject matter of the application.</p> <p><b>(Recommendation 9)</b></p>	<p>Carelink does not directly provide counselling and psychological care services. It refers and funds the provision of counselling and psychological care services by external health providers.</p> <p>The recommendation of Mr Ryan is already in place.</p>



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<p>The Assessment Panel should, in recommending the offer to be made, specify the assumptions which it has made as to the nature and extent of treatment, counselling and other support to be provided to the applicant by Carelink after acceptance of the offer. A record of its expectations in that respect should be retained by the Panel and a copy should be supplied to Carelink.</p> <p><b>(Recommendation 10)</b></p>	<p>The Archdiocese supports the principles to be followed in the provision of counselling and psychological care contained in Recommendation 9 of the Royal Commission’s report on redress and civil litigation.</p>
<p>The Assessment Panel should have a discretion to recommend an initial offer intended to recognise an applicant’s needs up to the date of the offer and to allow for a further amount or amounts to be recommended in the future (the total amount to be limited by the cap if one is to be retained).</p> <p><b>(Recommendation 11)</b></p>	<p>The recommendation of Mr Ryan and the Royal Commission is accepted.</p>
<p>The Assessment Panel should be empowered to recommend that offers, similar to those available to primary victims be made to the secondary victims, being members of the family of the primary victim and other persons, including carers, directly affected by the impact of abuse on the primary victim. Save in exceptional circumstances, the assessment of an offer for a secondary victim should be made at the same time as that for the primary victim.</p> <p><b>(Recommendation 12)</b></p>	<p>The Archdiocese adopts the position of the Royal Commission that redress is only available to a survivor of institutional child sexual abuse to ensure the affordability, sustainability and workability of the scheme.</p> <p>Counselling for secondary victims/survivors will continue to be available through Carelink.</p>



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<p>Acceptance of an offer recommended by the Assessment Panel should no longer be conditional upon the complainant’s executing a deed of release. If requested by the complainant who has in the past received a settlement under the <i>Melbourne Response</i> and signed a deed of release. The Church should waive any rights conferred on it by the deed. The waiver could be expressed to be subject to the complainant’s agreement that the amount received under the previous settlement is to be set off against any damages recovered at common law or otherwise in civil proceedings. A civil court would, in any event, give effect to such a set off in quantifying an aware of damages.</p> <p><b>(Recommendation 13).</b></p>	<p>The Archdiocese accepts Recommendation 63 from the Royal Commission’s report into redress and civil litigation.</p> <p>With effect from 1 January 2017, the Archdiocese is reimbursing costs and disbursements for legal advice in connection with the signing of the application form, making an application to the Panel, considering the offer and signing the Release of up to \$1,000 per applicant.</p>
<p>The amount of the cap on monetary settlements under the Victorian Redress Scheme should be at least doubled to \$150,000. To the extent that this recommendation is adopted it should be open to complainants who have accepted offers made when one or other of the past caps of \$50,000 or \$55,000 or the present cap of \$75,000 was applicable, to apply to have their settlements reopened. Where it can be demonstrated, as a matter of actuarial calculation, after allowing for changes in the value of money, that an applicant would have received a higher offer had the new cap been in force at the relevant time, the applicant should be paid the difference so that he or she would generally be equated with a complainant who commences an application after the cap has been enlarged.</p> <p><b>(Recommendation 14)</b></p>	<p>The recommendation of Mr Ryan is accepted. The Archdiocese has increased the cap to \$150,000 with effect from 1 January 2017 consistent with the announcement of the Commonwealth Government in November 2016.</p> <p>The Archdiocese is making additional payments to all survivors of child sexual abuse who will receive the difference between what would have been received if a cap of \$150,000 was in place at the time of the original payment less payments already received adjusted for inflation.</p>
<p>As soon as practicable after the making of an application to the Redress Scheme which is based on a <i>prima facie</i> credible allegation of sexual abuse under the control of the Church, the applicant should be invited to obtain</p>	<p>The Archdiocese accepts Recommendation 64 from the Royal Commission’s report on redress and civil litigation with from 1 January 2017. The Archdiocese is reimbursing costs and disbursements for legal</p>



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<p>legal advice and representation from a member of a panel comprising firms of solicitors and individual solicitors with expertise and experience in representing victims of crime (including sexual offences) or social security recipients. The choice of a practitioner from the panel should be left entirely to the applicant. Membership of the panel should be conditional upon the participating firm or solicitor agreeing to provide advice and representation up to a specified point, perhaps the hearing before the Assessment Panel, for which costs and disbursements to be charged would not exceed a capped amount, say \$5,000. Firms and practitioners admitted to the panel should be selected by the President of the time being of the Law Institute of Victoria or his or her nominee. Fees and disbursements up to the capped amount claimed by a member of the panel for acting for an applicant should be paid by the Church.</p> <p><b>(Recommendation 15).</b></p>	<p>advice in connection with the signing of the application form, making an application to the Panel, considering the offer and signing the Release of up to \$1,000 per applicant.</p>
<p>A consultative committee should be appointed to oversee compliance by the Redress Scheme with its published protocols and procedures. The Committee should also monitor performance by the principal officials of the Redress Scheme of the powers and functions variously conferred on them. As well, the Committee should be able to receive complaints, and where appropriate, refer matters to the appropriate officials for reconsideration. The Committee should not have power to substitute, for that of the relevant decision-maker under the Redress Scheme, its own view of what would be the correct or appropriate decision. The Committee should also furnish advice on the timing and form content of apologies to be proffered to victims and other relevant matters including changes to the Redress Scheme which it regards as desirable. The Committee should be widely representative and include among its members a victim of abuse, a representative of victims' advocacy and</p>	<p>While pressing for the establishment of a single national independent redress scheme and failing that, the establishment by the Victorian Government of a state-based scheme that the current structure of the Melbourne Response be maintained until the Commonwealth and Victorian governments provide their detailed response on the design and operation of the scheme recommended by the Royal Commission.</p>



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<p>support groups, a cleric or religious and a person with expertise in responding to the needs of survivors of sexual abuse. The Committee should publish regular reports of its activities and deliberations, perhaps in the Annual Report contemplated by Recommendation 17.</p> <p><b>(Recommendation 16).</b></p>	
<p>An annual report should be published by the Redress Scheme in addition to, and more general in terms than, the report presently published by Carelink. The report of the Redress Scheme should be similar to those published by ethics committees or other professional disciplinary agencies within bodies concerned with regulating the practice of various professions. It should indicate the number of applications received and resolved in the relevant year, the nature of each alleged abuse and some details about each alleged perpetrator without permitting the identification of the applicant. Similarly the report should provide details of the total amount of offers recommended by the Assessment Panel and the range within which they fell, without disclosing particulars of individual offers.</p> <p><b>(Recommendation 17).</b></p>	<p>The Archdiocese accepts the recommendation for the publication of an annual report containing the data recommended by the Royal Commission in Recommendation 69(e) of its report on redress and civil litigation.</p>