

REMOTELY

By this third title I mean people involved in law education who are not ELS members. This may include a wide range of people: authors of church law books who are not members, university law teachers who include church law in their syllabuses, diocesan staff and others who support law training (ministry officers, DAC staff, faculty clerks, finance officers, liturgical officers and so forth). All of these are things and people whom we as a society want to support and encourage as part of the bigger law education picture. Our role in the area of education is not to be territorial about our own work but to encourage law education as widely as possible.

REVIEW

The current review of our education function gives us a chance to ensure that we are maximising our opportunities and that we offer effective support to members and non-members alike in the area of law training. This may involve a new syllabus, training for trainers, development of web resources and more. I invite any readers who are currently involved in training to let me know and anyone who wishes to comment on the education work and future possibilities to be in touch with me by email at vicar@stlawrencejewry.org.uk.

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The Anglican Diocese of Grafton's Response to Child Sexual Abuse at the North Coast Children's Home

GARTH BLAKE SC

Chairperson, Professional Standards Commission, Anglican Church of Australia

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INTRODUCTION

In January 2013 the Australian Government established the Royal Commission into Institutional Responses to Child Sexual Abuse. The terms of reference

require the Royal Commission to inquire as what should be done to eliminate or reduce impediments that currently exist for responding appropriately to child sexual abuse and related matters in institutional contexts, including addressing failures in, and impediments to, reporting, investigating and responding to allegations and incidents of abuse. Further, the Commission is directed to focus on systemic issues and to be informed by an understanding of individual cases. In November 2013 the Royal Commission held a public hearing into the Anglican Diocese of Grafton's response to child sexual abuse at the North Coast Children's Home and in October 2014 published its Report.¹

This comment will review the Report, and the disciplinary action taken by Diocese of Grafton.

THE EVENTS

The North Coast Children's Home (the Home) was set up in Lismore in 1919 to house children who were orphans or wards of the state, or had been abandoned or placed there by their parents. The Rector of Lismore, in the Diocese of Grafton, established the Home, which was known as the Church of England North Coast Children's Home, on land held in trust by the diocese's corporate trustees. A board of management ran the Home; the Rector of Lismore was the board's president and the Home's chaplain. Under the Home's constitution, two-thirds of the board members had to be members of the Church of England (from 1962 of the Church of England in Australia, which in 1981 changed its name to the Anglican Church of Australia).

The Anglican Church has two main processes for responding to child sexual abuse:

- i. Clergy discipline ordinances, which provide that diocesan tribunals have jurisdiction to hear a 'charge' against a member of the clergy for an offence involving sexual misconduct if the member is licensed by the bishop of the diocese or lives in the diocese or committed the offence within the diocese;
- ii. Professional standards ordinances, which provide that a diocese will have a professional standards director, a professional standards committee and a professional standards board, and that the professional standards board has jurisdiction to determine the fitness of a church worker to hold a position of responsibility.

1 Available at <http://childabuseroyalcommission.gov.au/documents/pef-cs3-report-19-9-14-post-pef-copy-edit_final-on>, accessed 1 October 2015.

In 2004, the Church's General Synod recommended that all dioceses adopt the model Professional Standards Ordinance (the Ordinance). The same year, the Diocese of Grafton adopted its own version, along with the Protocol for Dealing with Complaints of Child Sexual Abuse (the Protocol). In 2005, the diocese also adopted a Pastoral Care and Assistance Scheme (the Scheme) to guide its response to sexual abuse claims. The Scheme provides that claimants should be offered counselling, an apology and a payment in line with specified amounts.

The National Register, which was established on 1 June 2009, contains information of child abuse and sexual misconduct by clergy and lay persons. The information on the National Register is meant to be available to authorised people, such as bishops or professional standards directors, to determine whether to license or employ a person.

The Reverend Allan Kitchingman was ordained in 1963. In 1968 he was charged with the indecent assault of a 16-year-old boy. In December that year he was convicted and placed on a bond for two years for \$300. Kitchingman was then transferred to the Parish of Lismore in the Diocese of Grafton, to work closely with Archdeacon John Robinson, the Rector of Lismore and the president of the Home. Kitchingman was curate and assistant priest at the Home from 1969 to 1970.

Kitchingman retired to the Diocese of Newcastle in 2000. In 2002 he was convicted of five counts of indecent assault of a male in or about 1975, and was sentenced to prison. The victim lived at the Home. Neither the Diocese of Newcastle nor the Diocese of Grafton, despite knowledge of the conviction, started any disciplinary proceedings against Kitchingman.

Mr Tommy Campion first wrote to the Dioceses of Sydney and Grafton in 2005 about the abuse he had suffered at the Home. The Reverend Patrick Comben, then Registrar of the Diocese of Grafton, offered him counselling and sent him a copy of the Scheme. Mr Campion did not proceed with a claim under the Scheme because he first wanted to join other former residents in a group claim.

In 2006, over 40 former residents of the Home, led by Mr Campion, began a group claim against the Diocese of Grafton, in which they alleged that they were sexually abused by clergy, staff or other residents while living at the Home between 1940 and 1985. The claim identified alleged perpetrators of abuse at the Home, including the Reverend Campbell Brown and the Reverend Winston Morgan. The diocese denied that it and its corporate trustees had any legal liability for abuse at the Home.

The Diocese of Grafton did not follow its own policies in its handling of the group claim as set out in the Ordinance, the Protocol and the Scheme. In particular, Bishop Keith Slater, then Bishop of Grafton, and the Diocese of Grafton should have managed the process under the Protocol when the group claim was being handled between the diocesan and claimants' solicitors.

In December 2006 the Diocese of Grafton informed the police of the allegations against Brown and Morgan, but not the other alleged perpetrators. Brown had recently moved to the Diocese of Newcastle. In January 2007 the police advised Mr Comben that they were considering whether to investigate, and that they would prefer the diocese not to take further action if it might interfere with their investigation. Mr Comben did not follow up with the police to check on the investigation's status. The Diocese of Grafton did not take disciplinary action against Brown or Morgan.

Settlement negotiations were conducted on 19 and 20 December 2006 in a hostile manner, contrary to the spirit of the Scheme and the Protocol. The amounts offered to the claimants under the group claim were substantially lower than if the claim had been resolved under the Scheme.

After rejecting the offer under the group claim, Mr Campion sought counselling and payment in line with the Scheme. Bishop Slater suggested that Mr Campion was betraying the group claimants by renegotiating. In June 2010, Mr Campion accepted the same offer that was being made to the group claimants. Mr Campion continued to press the Church about his settlement. He sought documents such as the Home's constitution to better understand the issue of liability. Bishop Slater resisted giving this information because he was concerned about the possibility of legal action against committee members, including one who was elderly.

Three other former residents of the Home, who were not a part of the group claim, then came forward to the diocese with their stories of childhood abuse. Two were refused financial compensation and were offered a support person, while one received a payment but no pastoral support. These responses also differed from the way in which the diocese handled claims of child sexual abuse that were not related to the Home. Further, the diocese did not follow its policies related to reporting of abuse. The Ordinance requires any member of the clergy or bishop who receives information on allegations of sexual assault to report it to the professional standards committee. Bishop Slater did not refer two of these claims to the committee.

Representatives of the diocese, including Bishop Slater, restricted financial settlements for former residents because of concern as to the financial position of the diocese. Some individual claimants were denied financial compensation because the diocese's representatives said that it could no longer afford such claims. However, the diocese was able to realise assets to respond to other financial pressures, in particular the debt incurred by the Clarence Valley Anglican School.

Between 2006 and 2012, the Primate, Archbishop Phillip Aspinall, advised Bishop Slater that the group claimants should have their complaints properly heard and be offered counselling and pastoral support, that he should seek out further people who had been abused at the Home and that he should

inform the police of all criminal allegations which came to his attention arising out of the Home. Bishop Slater did not follow the Primate's advice.

Bishop Slater resigned as Bishop of Grafton on 17 May 2013. He issued a media statement in which he acknowledged that he was responsible for ensuring full compliance with the Protocol and that he had failed in this duty. He also apologised for not giving the claimants access to the professional standards director.

In September 2013, the Diocese of Grafton published an apology in several newspapers for the abuse at the Home and its handling of subsequent claims. In October that year, the bishop-in-council passed a revised Care and Assistance Scheme. The diocese reviewed all claims that had not been investigated under the Protocol and offered substantially increased settlements.

At the time of the public hearing, the allegations against Kitchingman, Brown and Morgan had not been entered on the National Register.

THE FINDINGS AND RECOMMENDATIONS

In its Report the Royal Commission made 28 findings, including the following:

- i. That the diocese's denial of legal liability and responsibility for the Home, and the lack of pastoral care for former residents, had a further detrimental effect on victims;
- ii. That claims were handled inconsistently, and that Bishop Slater did not report abuse allegations through proper channels;
- iii. That the Primate holds a position of influence, not authority, and that the Church's structure affects its handling of abuse complaints;
- iv. That the diocese prioritised funding the Clarence Valley Anglican School debt over the claims of abuse victims;
- v. That neither the Diocese of Newcastle nor the Diocese of Grafton took appropriate disciplinary action, despite having authority and being aware of the allegations;
- vi. That, at the time of the hearing, the National Register did not record the names of all people who might need to be registered because various dioceses have been unable to review all their files to determine whether an entry should be made.

The Commission made two recommendations. The first was that the Diocese of Grafton should regularly review the operation of its professional standards processes to ensure that the professional standards director and professional standards committee are appraised of all outstanding claims of sexual abuse. The second was that the diocese should determine whether to initiate disciplinary proceedings against Brown.

DISCIPLINARY ACTION TAKEN BY DIOCESE OF GRAFTON

Between the public hearing and the Report the Diocese of Grafton took disciplinary action against Kitchingman, which resulted in him being deposed from holy orders.

Subsequent to the Report the diocese has taken disciplinary action against Comben and Bishop Slater. On 10 July 2015 Comben was deposed from holy orders. On 16 October 2015 Bishop Slater was deposed from holy orders.²

CONCLUSION

The Royal Commission exposed significant failures by the Diocese of Grafton in its response to child sexual abuse at the Home. The failure of the diocese to follow its own procedures led to the manifest injustice of survivors of abuse at the Home being treated less favourably than other survivors of abuse. The failure to take disciplinary reaction against Kitchingman and Brown had placed people who had contact with them in their capacity as clergy at the risk of harm. These failures demonstrated incompetence by the leaders of the diocese in the implementation of its own policies. They also indicated a lack of change of culture in the diocese which placed the reputation of the Church and the status of its clergy above the welfare of survivors of child sexual abuse and the protection of the public, notwithstanding the adoption of policies for responding to child sexual abuse. The subsequent disciplinary action against Comben and Slater is significant as the Church has determined that the failure to follow its own procedures for responding to child sexual abuse warrants a disciplinary sanction. The severity of the sentence imposed upon them is a clear demonstration that the failure by Church leaders to follow the Church's own procedures for responding to child sexual abuse will be viewed as seriously as the conduct of the perpetrator.

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2 The Reports of the Professional Standards Board of the Diocese of Grafton which were given effect to by the deposition from holy orders of Reverends Kitchingman and Comben and Bishop Slater are not publicly available under the provisions of the Ordinance.