ROYAL COMMISSION INTO INSTITUTIONAL
RESPONSES TO CHILD SEXUAL ABUSE

Public Hearing - Case Study 16
(Day C038)

Court 3.3, County Court of Victoria
250 William Street, Melbourne

On Monday, 18 August 2014 at 10.00am

Before the Chair:	Justice Peter McClellan AM
Before Commissioners:	Professor Helen Milroy
	Mr Andrew Murray
Counsel Assisting:	Ms Gail Furness SC
	Mr Angus Stewart

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THE CHAIR: Yes, Ms Furness.

MS FURNESS: Your Honour, this is the 16th case study to be heard by the Royal Commission and the first that is being heard in Melbourne. I appear with my learned junior Mr Stewart, assisted by Mr Amundsen, Ms Else, Ms Hagger and Ms Bozym.

THE CHAIR: Thank you. What are the other appearances?

MR CASH: May it please the Commission, I appear on behalf of Paul Hersbach. Cash is my name.

THE CHAIR: Yes.

MR SECCULL: Your Honour and Commissioners, I appear on behalf of the Foster family. My name is Seccull.

THE CHAIR: Yes.

MR RUSKIN: If the Commission pleases, I am Jeremy Ruskin and I appear with Mr Hoyne for Richard Leder.

THE CHAIR: Yes, thank you.

MR WOODS: If the Commissioners please, my name is Woods. I appear on behalf of Mr Gleeson, Mr O'Callaghan, Mr Curtain and Ms Sharkey. I appear with Mr Myers who is currently not here today but he will be back tomorrow. He will be in the courtroom tomorrow morning.

THE CHAIR: Yes. Anyone else?

MR GRAY: My name is Gray. I appear with Mr Lawrie for the Truth Justice and Healing Council and for the Archdiocese of Melbourne.

THE CHAIR: Yes, anyone else? Ms Furness, I assume all of those people have leave, do they?

MS FURNESS: They do, Your Honour.

THE CHAIR: Very well. Thank you. The legislation we are sitting under in this case study is?

MS FURNESS: Is the Commonwealth and Victorian legislation, Your Honour.

THE CHAIR: Both Acts?

MS FURNESS: Yes, Your Honour. As I indicated, this is the 16th case study the subject of public hearing by the Royal Commission, and the first public hearing in Victoria. It concerns the Melbourne Response, which is a process established by the Catholic Archdiocese of Melbourne to respond to those who have been relevantly for this Royal Commission sexually abused by priests, religious and lay persons under the control of the Archbishop of Melbourne.

The case study will explore the experiences of three people who have participated in the Melbourne Response or otherwise sought redress from the Archdiocese at various times since it began in October 1996.

There has been no formal or external review of the Melbourne Response since it began. There have, however, been increases in the cap of ex gratia compensation payments from time to time and the terms of conditions of those appointed to administer the Melbourne Response were slightly amended on two occasions.

The Royal Commission is aware that there are significant other issues in Victoria in relation to the Catholic Church. Depending upon the time available to the Royal Commission and other demands, there will be other public hearings in Victoria which concern the Catholic Church.

Now, turning then to the subject of this hearing, that is the Melbourne Response, Mr Richard Leder, a partner of Corrs Chambers Westgarth, the Archdiocese's solicitors, will give evidence that since about 1992 he has acted on behalf of the Archdiocese. The Royal Commission will hear that in the early 1990s an increasing number of plaintiffs were commencing civil proceedings in which they alleged they were the victims of sexual abuse by priests and other religious. Mr Leader's evidence will be that these claims were defended on various bases, including that the relevant offender was not under the jurisdiction or subject to the supervision of the Archbishop of Melbourne or indeed the Archdiocese or that the defendants did not have a legal responsibility for the illegal acts of accused priests.

Mr Leder's recollection as set out in his statement is

that from about 1992 or 1993 the Archdiocese Pastoral Response Office provided support and counselling to victims under the then Vicar-General, Monsignor Cudmore.

Archbishop Pell was installed as the Archbishop of Melbourne on 16 August 1996. It is expected that Cardinal Pell will give evidence that at that time it was his view that arrangements within the Archdiocese for responding to and assisting victims of child sexual abuse were insufficient to ensure a compassionate, effective and consistent response.

Mr Leder is expected to give evidence that during a meeting with Archbishop Pell in July 1996 the Archbishop said he wanted to remove the function of receiving complaints of abuse from the Vicar General's office and proposed a new process for dealing with complaints. There were discussions in August with Mr Leder, Archbishop Pell and the Archdiocese's business adviser, Mr Ted Exell, and various others, including Canon Law advisers regarding a proposed special investigator. These discussions culminated in a document entitled "Special Issues Four Part Plan - 14 August 1996". This was the first of seven drafts of the Four Part Plan.

Mr Leder is expected to give evidence that during the development of that plan he was asked to and reviewed the then draft "Towards Healing" document. He considered the differences between that and the Four Part Plan, and then further considered a later review of Towards Healing.

In late October 1996 Archbishop Pell announced a plan detailing the Melbourne Archdiocese response to victims of sexual abuse by priests, religious and lay persons under the control of the Archbishop of Melbourne. This subsequently became known as "the Melbourne Response".

Now, that response adopted the goals set out in a 1996 pastoral letter from the Australian Catholic Bishops Conference addressing the issue of sexual abuse by priests and religious. Those goals were: truth, humility, healing for victims, assistance to other persons affected and adequate response to those accused and to offenders and the prevention of any such offences in the future.

The Royal Commission is familiar with these goals from case studies 4 and 8 as they are the principles that

underpinned the Towards Healing protocol.

The key features of the Melbourne Response include the appointment of independent commissioners to inquire into allegations of sexual abuse, a free counselling and professional support service known as Carelink, and a Compensation Panel to provide ex gratia compensation payments to victims; that is, a Compensation Panel to recommend to the Archdiocese that it provides the ex gratia compensation payments to victims.

These three limbs will be explored in this case study. It is intended by the Melbourne Response that although each of these elements is funded by the Archdiocese of Melbourne they are run independently from the Archdiocese and from one another.

The usual process the Royal Commission will hear under the Melbourne Response is as follows: a complainant approaches one of the two Independent Commissioners to make an allegation or complaint or to seek counselling services or to obtain information about compensation.

The complainant then attends a recorded interview before an Independent Commissioner who determines whether he is satisfied that the complaint is established. The process by which that satisfaction is attained will be the subject of evidence. The complainant is usually then assessed by a consultant psychiatrist at Carelink.

Finally, if the Independent Commissioner is satisfied that the complaint is established, the person is referred to the Compensation Panel which determines the amount of ex gratia compensation to be offered based on the findings of the Independent Commissioner and recommends to the Archdiocese that that amount is paid. The evidence is expected to be that on each occasion the Archdiocese or Archbishop has accepted the recommendation of the Compensation Panel.

In announcing the Melbourne Response it was stated that the establishment of the Compensation Panel and the offer of ex gratia compensation payments were not an admission of liability. The Archbishop, the Archdiocese and the church in the document recording the Melbourne Response did not accept that they had any legal obligation to make payments to complainants.

When it began, ex gratia compensation payments were capped at $50,000. This amount increased to $55,000 in the year 2000 and again to $75,000 in 2008. On 4 April this year the current Archbishop, Archbishop Denis Hart, announced that he intends to hold a consultation process relating to the Melbourne Response which would consider the cap on ex gratia payments, how such payments are determined and whether past cases should be reviewed.

The Royal Commission will hear evidence from Mr Leder, Cardinal Pell and Archbishop Hart regarding the establishment and operation of the Melbourne Response as well as, in relation to Archbishop Hart, the work he has done thus far in the consultation process he spoke of in April of this year.

Now, in relation to the Independent Commissioners, and that is a term of art in the document, the Royal Commission will hear evidence that during the development of the Four Part Plan it was proposed that Peter O'Callaghan QC be appointed as the Independent Commissioner. Mr Leder is expected to give evidence that Mr O'Callaghan recommended that the terms of his appointment be discussed with the Victorian police. Mr Leder's evidence is expected to be that the draft terms of appointment were provided to the then Assistant Commissioner Brown, who was supportive of the proposed appointment, but recommended that there be an express requirement on the Independent Commissioner to encourage complainants to report matters to the police.

Now, as Your Honour and the Commissioners will be aware from previous case studies, the law differs between Victoria and New South Wales as to the obligation to report matters that involve a serious indictable offence or might involve such an offence to the police.

Mr O'Callaghan was appointed in October 1996 as Independent Commissioner and he remains in that role today.

From time to time he was assisted by a counsel assisting, Mr Jeffery Gleeson. As counsel assisting Mr O'Callaghan in his fact finding function, Mr Gleeson was responsible for appearing at contested hearings which occurred in cases where the alleged perpetrator denied the allegations. I will say more about those later.

In July 2012 Mr Gleeson, having since been appointed silk, was appointed as an Independent Commissioner. The initial appointment of Mr O'Callaghan was for a period of six months on the basis that the issue to which his job was directed may well have been finalised within that time. His appointment was since subsequently extended.

The Independent Commissioner's role is to inquire into the allegations, consult with the accused, the complainant, relevant witnesses and make a determination based on the evidence, refer the complainant to Carelink, refer upheld complaints to the Compensation Panel and make recommendations to the Archbishop about accused persons, particularly where they are still in active ministry.

In relation to the police, the terms and conditions of Mr O'Callaghan's initial appointment provided that immediately on receiving a complaint he would inform the complainant of his or her unfettered and continuing right to report the matter to police and he was to appropriately encourage the exercise of that right and not act to prevent any police action in respect of allegations of sexual abuse by church personnel.

Mr O'Callaghan is expected to give evidence that the terms and conditions of his appointment in October 1996 are the primary sources of the procedures he follows. Those terms were amended in 2002 to include physical and emotional abuse, and further amended in 2011 to provide that the Independent Commissioner would endeavour to meet regularly with the police and, if the complainant chose to go to the police, he would generally take no further steps.

The two current Independent Commissioners accept that they are subject to the rules of natural justice and to canon law. Both hold delegations from the Archbishop of Melbourne to conduct preliminary investigations pursuant to canon 1717 of the Code of Canon Law 1983. That code governs how a preliminary investigation into a delict, which is a crime under canon law, is to be carried out and by whom.

The Royal Commission will hear evidence from Mr O'Callaghan and Mr Gleeson regarding their roles in the Melbourne Response as well as evidence from Archbishop Hart regarding the Archdiocese's role and the function carried out by the Independent Commissioners.

Carelink, one of the other limbs of the Melbourne Response, is an Archdiocese funded service which facilitates and coordinates the provision of counselling, medical and other professional support services for victims of abuse by priests, religious and lay people who are or were under the control of the Archbishop of Melbourne. These services are provided at no cost to the victims and include payments for medication.

Carelink is coordinated by a Ms Susan Sharkey, a consulting psychologist. She has been in this role from 1996 to 2001 and then, after a couple of years break, from 2003 to date.

Archbishop Pell appointed Professor Richard Ball as the support professional responsible for the profession of treatment, counselling and support to victims on the commencement of the Melbourne Response. Professor Ball later became director of Carelink.

Each client of Carelink is assessed and interviewed so that their needs can be identified. They are referred to psychiatrists, psychologists and other health care professionals who have an appropriate background and expertise to address sexual and other abuse. Carelink receives regular reports from treating therapists so that a client's treatment can be monitored. If a complainant has their own counsellor or psychiatric care before coming to Carelink and that therapist is able to work with the complainant in relation to the abuse issues, Carelink sets up a process to fund and support those processes.

Once referred to Carelink by an Independent Commissioner, a complainant will be assessed by Carelink's consulting psychiatrist and this usually occurs before they go to the Compensation Panel. Carelink's services remain available to complainants after an ex gratia compensation payment has been made and they are also available to family members and others who are affected by such abuse, commonly referred to as "secondary victims". Counselling for what are called secondary victims is not necessarily available on the unlimited basis that it is for those primarily affected.

Ms Sharkey's evidence is likely to be that Carelink's policy in relation to claiming Medicare rebates is that

clients are only asked to claim psychiatric costs through Medicare. If there is then a gap between the rebate and the actual costs, Carelink covers that gap. Now, this issue arose in respect of the Fosters. Mr Leder is expected to give evidence that in 1997 he wrote to Professor Ball regarding the relationship between Carelink and Medicare, indicating that he had received advice from the Health Insurance Commission confirming that patients who received a medical treatment from service providers external to Carelink should make a claim for those services on Medicare.

The Royal Commission will hear evidence from Ms Sharkey regarding her role as coordinator. Professor Richard Ball has been excused from giving evidence on medical grounds.

As I indicated, following an assessment by Carelink and after a referral by an Independent Commissioner, complainants attend the Compensation Panel. The intended purpose of the Compensation Panel is to provide an alternative to legal proceedings. The panel is intended to operate in an informal way to provide a forum for the settlement of claims. It is not intended to be legalistic.

It commenced operating in the first half of 1997 and comprises four members: a solicitor, a community representative, a psychiatrist and a chair. With the exception of a short period in the beginning months of the panel, other than the Chair the current members have held their appointments since 1997.

The current chair, Mr David Curtain, was appointed in February 2004. The Commission will hear evidence from Mr Curtain regarding his role as chair. His position was held by the Honourable Justice Susan Crennan for the three preceding years, before that the Honourable David Habersberger and then initially the Honourable Alex Chernov held the position

The Archdiocese meets the professional costs of the panel members. The Chair of the panel is retained by the Archdiocese through its solicitors, Corrs, by way of a brief. Like other limbs of the Melbourne Response, the intention is that the panel operate independently of the Archdiocese. Mr Curtain will give evidence that the Compensation Panel hearings operate without the presence or

influence of the Archdiocese or their solicitors. He will also give evidence that before he commenced as chair and in the course of his appointment he has never met or communicated directly with Archbishop Hart.

The process is that the chair of the Compensation Panel receives the findings from the Independent Commissioner by way of written reasons for decision, invites complainants to attend the hearing, convenes the panel, including circulating the supporting material, medical reports and the like, conducts the hearing and makes a recommendation to the Archbishop as to the amount of ex gratia compensation to be offered.

Mr Curtain is expected to give evidence that after a hearing the panel discusses the appropriate amount and then in doing so discusses both the severity of the abuse and the ongoing effect that the abuse has had on the complainant's life. Mr Curtain will give evidence of the considerations taken into account by the panel.

The Royal Commission will hear evidence that it is the Archdiocese's policy to make an offer of ex gratia compensation to complainants in accordance with the panel's recommendation. As I have indicated, the Archdiocese has made an offer in the amount recommended in each case. Those offers are made to the complainants through Corrs, the Archdiocese's solicitor.

If an offered payment is accepted, the amount represents a full settlement of all claims against, among others, the Archbishop and the Archdiocese. Claimants are required to sign a deed of release to this effect. It is intended that there be no confidentiality clause in the deeds of release.

If the offered payment is not accepted, normal court processes remain available. In these circumstances, if a complainant elects to bring legal proceedings, the Melbourne Response process is to be treated confidentially.

I will now turn to those three participants in the Response who will give evidence today. Mrs Christine Foster will give evidence of her and her family's experience with the Melbourne Response, with the decision to cease participating in the Melbourne Response and the civil litigation proceedings that follow.

Mrs Foster, together with her husband, Anthony, are parents of three girls: Emma, Katie and Aimee. Mrs Foster will give evidence that two of her three daughters, Emma and Katie, were abused by their parish priest, Father Kevin O'Donnell, when they were students at Sacred Heart Primary School in Oakleigh. The abuse of each of the girls commenced in their early years of primary school and continued for some years. Neither Mrs Foster nor Anthony were aware of the abuse at the time it occurred.

In 1995, after O'Donnell was charged with some 49 child sex offences, Emma was diagnosed with anorexia. In September 1995, after O'Donnell pleaded guilty to various charges, Emma admitted to her general practitioner that she had been experiencing suicidal thoughts. She was subsequently admitted to an adolescent psychiatric unit and remained there for two months. Emma was expelled after a suicide attempt.

Emma made another attempt at her life in December 1995, and again in early 1996. In March 1996 Emma disclosed to her parents that she had been abused by O'Donnell. Mr and Mrs Foster then told their parish priest, Father Ted Teal, about Emma's disclosure. O'Donnell was sentenced in August 1995 to 39 months imprisonment after pleading guilty to 12 counts of indecent assault. He was released from prison on parole in November 1996 and died on 11 March 1997. He was buried a priest.

Mrs Foster will give evidence that in March 1997 a decision was made to go through the Melbourne Response to obtain help for Emma. Emma lodged an application with the help of her parents to the Melbourne Response and on 17 March 1997 was interviewed by Mr O'Callaghan. Emma was 15 years old at the time.

Mrs Foster will give evidence that shortly after in April 1997 they consulted a firm of solicitors, Williams Winter & Higgs to see what other options were available and to try to get help for the whole family. The Fosters were told that it would be very difficult to sue the Catholic Church. A suggestion was made that they seek assistance through the Victims of Crime Assistance Tribunal as an alternative to the Melbourne Response. These applications were made in May 1997.

On 3 October 1997 Mr O'Callaghan wrote to Mr and Mrs Foster informing them that he was satisfied that Emma was sexually abused by O'Donnell. Mr O'Callaghan will give evidence of the process by which he became satisfied of Emma's abuse by O'Donnell.

The Fosters were involved with Carelink at this stage and Mrs Foster will give evidence that she and Mr Foster raised objections to the role of Professor Ball at Carelink because Professor Ball had given expert evidence on behalf of O'Donnell in his sentencing hearing.

Now, in November 1997, while Emma's application was proceeding through the Melbourne Response, Mrs Foster discovered a suicide note written by their second daughter, Katie. The note disclosed that Katie had also been abused by O'Donnell.

On 1 December 1997 Mr and Mrs Foster met with Mr O'Callaghan regarding Katie's abuse and in early 1998 with her parents' assistance Katie made an application to the Melbourne Response.

In June the next year, 1998, Mr O'Callaghan sent his report regarding Emma, that is his findings about Emma, to the Compensation Panel and the next month interviewed Katie, together with her psychologist, regarding her abuse. In August the Fosters met with the Compensation Panel about Emma's abuse and shortly thereafter received an offer of $50,000 for Emma. That was then the maximum ex gratia payment made.

Emma accepted the offer and was forwarded a trust deed by the Archdiocese's lawyers. She did not sign the trust deed. In September 1998 the Fosters applied for compensation under the Melbourne Response and the Royal Commission will hear evidence that this claim was denied because compensation was generally only available for primary victims of abuse and they were considered to be not primary victims of abuse.

Now, in May 1999 Mr O'Callaghan visited the Foster family home and there will be evidence that during this visit indicated that he would make a finding that O'Donnell had sexually abused Katie. He will give evidence that he was satisfied that O'Donnell had sexually abused Katie, but while he intended to make a formal finding his delay in

doing so was in part because he inferred that the Fosters were going to take common law proceedings.

At the end of that month, in May 1999, Katie was significantly injured after being hit by a car. The accident left her with permanent brain damage and requiring 24-hour care. She was hospitalised for close to one year.

Now, in September 2000, some 15 or so months later, the solicitors for the Fosters wrote to Mr O'Callaghan asking him to confirm his previous verbal advice concerning a finding about Katie. The letter also said that Emma was still considering the offer made to her, because while Emma had in writing accepted it, she had not signed the trust deed which was necessary to formally accept the offer.

Mrs Foster will give evidence that between 1997 and 1999 she and her husband exchanged much correspondence with their solicitors regarding their options for seeking compensation and in February 1999 at a meeting with their lawyers they confirmed they wished to pursue legal action rather than continue through the Melbourne Response or the Victims of Crime Assistance Tribunal.

So, in 2002 they gave instructions to commence civil litigation proceedings on behalf of each of them and their children and they commenced action against the principal of the primary school the girls attended; Sir Frank Little, the then Archbishop of Melbourne at the time of the abuse; the current Archbishop of Melbourne; the Roman Catholic Trust Corporation for the Archdiocese; a former Vicar General and a Father Anthony Guelen. Corrs ultimately had instructions to act for each of those defendants.

The claims for damages made by Emma and Katie related to the consequences of their sexual abuse by O'Donnell. The claims for damages made by Mr and Mrs Foster and their third daughter, Aimee, were on the basis that they suffered nervous shock as a result of the abuse of Emma and Katie. In their defence each of the defendants did not admit the sexual abuse of Emma and Katie.

Archbishop Hart and Mr Leder are expected to give evidence regarding the defence of this litigation, including the decision not to admit the abuse of Emma and Katie and the denial of the consequential shock, personal injury, loss and damage.

Now, in the period from late 2003 to late 2004 statements of claim, defences, amended statements of claim and amended defences were filed and served. In March 2005 there were discussions between the solicitors for the Fosters and Mr Leder about whether their respective clients would be willing to attend a without prejudice meeting. That took place some months later in June of that year and then in November of that year, 2005, those discussions continued by way of formal mediation.

The mediation resulted in an out of court settlement being reached. It was agreed that the Fosters would receive the sum of $750,000 plus their legal costs. Mr Leder will give evidence that this sum included provision for medical expenses for the Fosters and therefore in January 2006 he advised both Carelink and the Fosters' solicitors that, because of that, Carelink would cease paying the Fosters' medical expenses.

Mrs Foster will give evidence of the impact of O'Donnell's sexual abuse on Katie and Emma and the family. Up to the mediation in November 2005 Emma had at least 900 doctors, specialists and pathology visits, at least 75 outpatient psychology appointments and some 52 admissions to hospital, detox and rehabilitation clinics. Emma never recovered from the sexual abuse she suffered. In January 2008 she took her own life.

Mrs Foster will give evidence that Katie took to binge drinking to escape the memories of her abuse and that Katie will always require 24-hour care after being hit by a car after binge drinking in 1999. She will also give evidence that their third daughter, Aimee, has suffered since the age of 10, witnessing the impact of sexual abuse on her sisters' lives.

In 2009 Mrs Foster co-authored a book with Paul Kennedy titled "Hell on the Way to Heaven" regarding the impact of the sexual abuse of Emma and Katie and the Church's response on her family.

The Royal Commission will then hear from Paul Hersbach. Mr Hersbach was sexually abused by Father Victor Rubeo from 1985 to 1988. Mr Hersbach was 8 to 11 years of age at the time and Father Rubeo had played a significant role in the life of the Hersbach family.

When Mr Hersbach was 16 years old his father told him that he, his father, had been sexually abused by Rubeo when he was a child. In 1996 Rubeo pleaded guilty to two counts of indecent assault against Mr Hersbach's father and uncle, his father's twin brother. In 2010 fresh charges were laid against Rubeo in respect of his abuse of Mr Hersbach's father and uncle and on 16 December 2011, the day that he was to appear in court for his committal, Rubeo died.

Mr Hersbach will give evidence that his first encounter with the Melbourne Response was as a secondary victim arising from his father's abuse. Mr Hersbach attended Carelink in his early 20s. He was encouraged to access counselling services through Carelink and did so off and on for about 15 years.

On 1 March 2006 he disclosed in counselling that Mr Rubeo had abused him. He was told to see the Independent Commissioner, Mr O'Callaghan. He met Mr O'Callaghan later in March of that year, 2006, and he will give evidence as to his discussions with Mr O'Callaghan about going to the police. He will say that Mr O'Callaghan told him that he could go to the police if he wanted, but that based on what Mr Hersbach had told him he didn't think anything would happen. Mr Hersbach did not approach the police.

Mr O'Callaghan will give evidence in relation to what he tells those who come to him in respect of going to the police.

Mr Hersbach will say that he left the meeting unaware whether his story had been accepted, but about six weeks later he received a letter from Mr O'Callaghan which said in part, "With respect to the unsurprising haziness of your memory there would not appear to be much point in your taking the matter to the police. However, that is a matter for you." The letter continued that, assuming Mr Hersbach was not going to take the matter to the police, Mr O'Callaghan was satisfied that he was a victim of Rubeo and referred him to the Compensation Panel.

On 31 October 2006, Mr Hersbach met with the Compensation Panel, chaired by Mr Curtain, and that meeting took place in Carelink's offices. The next month he received an offer of compensation for $17,500 and enclosed

with that offer was a deed of release for him to sign. He also received a letter of apology from Archbishop Hart. He will give evidence that he found the sentiments and the statements within that letter to be generic.

He did not accept the offer of compensation for more than a year. He will give evidence that ultimately signing the offer became part of his healing process and in November 2007 he signed the deed and received the compensation

He will give evidence of the impact of Rubeo's sexual abuse on his life. He considered himself lucky, as he has learnt how to cope and how to recognise what triggers his emotions.

The third complainant who will give evidence today is known by the pseudonym [AFA] and shortly, Your Honour, I will hand up an order in respect of that.

[AFA] was sexual abused by Father Michael Glennon on three occasions over a period of 18 months when he was about 15 years old. He will give evidence that he first met Glennon when he was 14 years of age at a karate school Glennon had opened at his local parish, St Gabriel's. [AFA] saw Glennon as a father figure.

It was not until he was in his early 40s that he disclosed his abuse to his counsellor. He will give evidence that in 2011 he saw a brochure for the Melbourne Response at his local church and he called the number listed. He spoke with Mr O'Callaghan and made an appointment to meet him. He went to Mr O'Callaghan's chambers in February of that year and will give evidence that during the meeting he said to Mr O'Callaghan, among other matters, that if there was any chance of putting Glennon back in prison he thought he would go to the police.

[AFA] will give evidence that Mr O'Callaghan told him that, if he took his matter to the police, Mr O'Callaghan would not be able to investigate his matter while the police process was ongoing. [AFA] felt discouraged from going to the police. Mr O'Callaghan is expected to give evidence that he is concerned that [AFA] thought he was being discouraged because that was not his intention; rather, he was endeavouring to provide [AFA] with the

relevant criteria to consider in deciding whether to go to the police.

In February 2011 [AFA] was told by Mr O'Callaghan in writing that he was satisfied that [AFA] was a victim of abuse and he was told he could go to Carelink and the Compensation Panel.

In April he met Ms Sharkey and Dr Brann, the consulting psychiatrist at Carelink, and he took his wife with him. He will give evidence that he was asked about the abuse by Glennon, its impact on his life. He will say he found the meeting confronting.

He met with the Compensation Panel the next month in May 2011 and he found that daunting. The next month, June 2011, he received an offer of compensation in the amount of $50,000. Now, at this time compensation payments were capped at $75,000. He was not given any explanation as to how the offer of $50,000 was calculated.

He didn't consider the offer adequate and he wrote to Mr Leder saying so and saying that he was rejecting the offer and that he may commence legal proceedings. Mr Leder is expected to give evidence that he responded that the offer was not a starting point for negotiations and the original offer remained open. He could not make it higher.

On 5 July he accepted the offer of compensation.

After the Melbourne Response process finalised, [AFA] reported his abuse to the police. Glennon was charged and was to face trial in relation to his abuse of [AFA] in June 2014. However, on 1 January this year he died while still in prison for other child sexual abuse offences.

On 17 April 2012, through the Governor in Council, the Victorian Government requested that the joint investigatory Family and Community Development Committee inquire into the handling of child abuse by religious and other non-governmental organisations. That committee received submissions and heard evidence in relation to the Melbourne Response, including from the Foster family. Its report was tabled in November last year and recommendations were made in a number of areas, including reforming the criminal law, access to civil litigation and the like.

As with the case studies heard in relation to the Towards Healing, the Royal Commission requested data from the Archdiocese of Melbourne concerning the Melbourne Response since it began in October 1996 and that data was provided with an end date of 31 March 2014.

Now, that data reveals that 351 complaints have been made to the Melbourne Response in that time. Of these complaints, 326 were upheld by an Independent Commissioner, nine were not upheld and 16 are currently defined as being undetermined. The undetermined claims are either dormant, ongoing, the complainant is deceased or the complainant is described as considering civil proceedings.

Of the 326 complaints which have been upheld six were subsequently settled outside of the Melbourne Response. 80 per cent of the 326 complaints related to alleged incidents of child sexual abuse that occurred from 1950 to 1980 inclusive. Fourteen per cent related to alleged incidents that occurred from 1981 to 1990 inclusive, and two per cent relate to alleged incidents that occurred from 1991 to 2006 inclusive.

The remaining four per cent of those upheld related to incidents that occurred from 1937 to 1949. No upheld complaints relate to incidents of child sexual abuse that is reported to have occurred after 2006.

The two institutions in the Melbourne Archdiocese subject to the largest numbers of Melbourne Response complaints are the Sacred Heart Primary School and the Sacred Heart Parish, both in Oakleigh. Sacred Heart Parish and Primary School together are subject to at least 19 complaints. Kevin O'Donnell is the subject of 18 of the 19 complaints in relation to the school and parish. The one complaint that did not name O'Donnell relates to an unknown accused.

Seventy-seven individuals have been named as the subject of one or more of the 326 upheld complaints. Of these, just over half, 42, are known by the Archdiocese to be dead. Some, including those who have left the clergy, will also be deceased without the Archdiocese necessarily knowing.

The data provided indicated that the most common position held by church personnel subject to a Melbourne

Response complaint at the time of the alleged incident was a diocesan priest; 84 per cent.

The two accused the subject of the largest number of complaints to the Melbourne Response are: Kevin O'Donnell, with 50 complaints made, 50 complaints upheld for alleged abuse from 1944 to 1992; Michael Glennon, with 23 complaints made and 21 upheld for alleged abuse spanning the period 1959 to 1991.

The data provided to the Royal Commission by the Archdiocese reveals that the total compensation amount paid to 31 March 2014 within the Melbourne Response in respect of O'Donnell was $1.886 million, accounting for almost 20 per cent of all compensation paid by the Melbourne Response.

The counselling and expense costs relating to those complaints again settled within the Melbourne Response was some $280,000, which is about 12 per cent of the reported total Carelink costs concerning complaints made within the Melbourne Response. So the total compensation and counselling paid through the Melbourne Response in relation to O'Donnell is $2.166 million, noting that additional complaints have been settled outside the Melbourne Response.

When you look at those totals of complaints settled in and out of the Melbourne Response up to March 2014 the amount is $2.934 million, which is about $2.5 million in compensation and just over 375 in counselling.

The data provided to the Royal Commission reveals that from October 1996 to the end of March this year the average compensation payment amount paid is $36,100, $33,187 for those claims settled within the response, $168,000 for those that began within the Melbourne Response but settled outside, and just short of $300,000 for those outside the Melbourne Response.

Since the cap increased to $75,000 the total amount of compensation paid to 65 victims of child sexual abuse has been $3.3 million, the average compensation payment being just over $50,000. 201 of the 301 claims paid within the Melbourne Response were completely or partially indemnified by the Catholic Church insurance company. The data provided indicated that a third of the claims reported to

be paid within the Melbourne Response were paid in full by the Archdiocese and were not indemnified by CCI.

The total amount paid until the end of March 2014 in the Melbourne Response is $9.723 million by way of ex gratia compensation. $1.63 million has been paid by way of compensation outside the Melbourne Response, with a total of $11.354 million. Carelink medical consultation, counselling and treatment costs amounted to $7.385 million, and medical consultation, counselling and treatment costs paid by the Archdiocese and not costed to Carelink amounted to an additional $150,000-odd.

The calculation as a result of all of those figures is that the total of ex gratia payments made under the Melbourne Response for child sexual abuse claims and amounts paid for medical counselling and treatment amounted to $17.259 million. The cost of administering the Melbourne Response was $17.011 million. This includes Independent Commissioner costs of $7.794 million, Compensation Panel costs of just under half a million and Carelink costs of $3.766 million.

As I indicated earlier, this case study is designed to explore the issue of redress. As Your Honour and the Royal Commissioners are aware, the Royal Commission has indicated that it intends to make recommendations in relation to redress before the end of this financial year. The issues that this case study will give rise to which will assist in that process include the independence of a redress scheme; criteria for determining the amounts of compensation; the involvement of the responsible church authority in a redress scheme; separation of the responsible church authority from investigation, assessment, determination of complaints; legal representation of complainants in a redress scheme; pastoral expectations of complainants and how they might be met; use and terms of deeds of release; and the relationship between redress and civil litigation.

Now, would Your Honour consider a short adjournment before I call the first witness, who will be Mrs Foster?

THE CHAIR: Very well. You let us know when you are ready.

MS FURNESS: Thank you, Your Honour.

SHORT ADJOURNMENT

MS FURNESS: I call Christine Ann Foster. Her husband, Anthony Foster, is sitting as a support --

THE CHAIR: I'm sorry?

MS FURNESS: Her husband, Anthony, is sitting as her support next to her.

THE CHAIR: Yes. I don't know who is in charge of the system, but sometimes you drop in and out.

MS FURNESS: Yes, I've been told that. I understand somebody was looking into it, Your Honour.

THE CHAIR: Yes.

<CHRISTINE ANN FOSTER, affirmed [11.15am]

<EXAMINATION BY MS FURNESS:

MS FURNESS: Q. Would you tell the Royal Commission your full name and occupation?
A. My full name is Christine Ann Foster and I'm retired.

Q. Mrs Foster, you prepared a statement dated 19 July this year for the Royal Commission?
A. Yes.

Q. Do you have a copy of that with you?
A. I do.

Q. There are a number of matters I think you wish to revise in it. Can I take you first to paragraph 25?
A. Yes.

Q. On the first line there's reference to a "Monsignor General Cudmore". That should be Monsignor Gerald Cudmore?
A. Yes.

Q. Then paragraph 38?
A. Yes.

Q. The name of the Victorian Police liaison officer has been redacted?
A. That's correct.

Q. Paragraph 45. You wish to delete "application for compensation form" where it appears in the second and third line; is that right?
A. Yes.

Q. And replace it with "consent to Independent Commissioner form"?
A. That's correct.

Q. On paragraph 49 there's two errors you wish to correct, as I understand it. The phrase "was likely to have committed more offences", that's about two-thirds of the way down the paragraph, do you see that?
A. Yes.

Q. You want that changed from "was likely to have committed more offences than he had admitted to in that criminal case", you want that changed to "was likely to have committed more offences than he had admitted to in his criminal case"?
A. That's correct.

Q. Now paragraph 55, in the second last line before the quote you refer to "the other was a young lawyer from Corrs"?
A. Yes.

Q. You want that changed to "the other was a young lawyer I assumed from Corrs"?
A. Yes.

Q. Paragraph 56, about four lines down, you say, "I approached the lawyer from Corrs", do you see that?
A. Yes.

Q. You wish that to be changed to "I approached the lawyer"?
A. Correct.

Q. Now, with those amendments, Mrs Foster, are the contents of your statement true and correct?
A. Yes, they are.

MS FURNESS: I tender the statement.

EXHIBIT #16-1 STATEMENT OF CHRISTINE ANN FOSTER, DATED

19/7/2014

MS FURNESS: Q. Mrs Foster, I invite you to read your statement and I understand Anthony will assist you in that you will read sections of the statement separately?
A. Yes.

Q. And you will begin.
A. I will.

Q. I invite you to do that.
A. Thank you. This statement made by me accurately sets out the evidence that I am prepared to give to the Royal Commission into Institutional Responses to Child Sexual Abuse. The statement is true and correct to the best of my knowledge and belief. Where direct speech is referred to in this statement it is provided in words or words to the effect of those which were used to the best of my recollection. Where I use the expression "we" I am referring to my husband, Anthony John Foster, and myself.

Background. My full name is Christine Ann Foster, and my date of birth. I am married to Anthony John Foster. Anthony and I were married on 26 July 1980 in Melbourne, Victoria. Anthony and I had three daughters, Emma born November 1981, Katie born July 1983 and Aimee born in March 1985. As young children our daughters were healthy and we lived a happy and successful life in both family and business areas.

Each of our daughters attended Sacred Heart Catholic Primary School in Oakleigh. Emma began prep in 1987, Katie in 1989 and Aimee in 1990. Beside the school was the Sacred Heart Church and across the road was the presbytery where Father Kevin John O'Donnell lived. He often visited the primary school and its playgrounds.

After completing the primary school education, our daughters attended Sacred Heart Girls College.

Emma's experience. In March 1985 when Emma was 13 years old an article appeared in our local newspaper about O'Donnell. The article stated that O'Donnell was facing 49 charges in relation to sexually abusing boys over a 30-year period. Emma, myself and Anthony all read the article. Anthony and I were both shocked. I questioned Emma at the time whether O'Donnell had ever touched her.

Emma did not immediately answer me and, after I asked her three times, finally answered "no".

In June 1995, we received a telephone call from one of Emma's teachers informing us that Emma had not eaten her lunch and that some of her friends were worried about her. Some weeks later Emma was diagnosed with anorexia. On 5 August 1995 the front page of the Herald-Sun featured a photograph of O'Donnell with the headlines, "Paedophile priest locked up". The article explained that O'Donnell had pleaded guilty to charges of indecent assault between 1946 and 1977 against 10 boys and two girls and had been remanded in custody. I read the article that day and struggled to process the words.

The article included awful stories of victims' accounts of sexual abuse. It was the first time I learnt that O'Donnell not only abused boys, but girls too. I realised as I was reading the article that the accusations against O'Donnell were no longer accusations but offences O'Donnell had admitted to committing. They were not just allegations, they were truths. The article raised the possibility in my mind that Emma may have been a victim of O'Donnell despite her previously telling me she was not.

Emma's health continued to deteriorate. In early September 1995 Emma revealed to her GP that she was experiencing suicidal thoughts. The GP informed me and referred Emma to an emergency psychiatric appointment. The GP told me to keep a very close eye on Emma, particularly until the appointment. At that appointment Emma told the psychiatrist that she had previously attempted suicide with an overdose of painkillers.

On 25 September 1995 Emma was admitted to the adolescent psychiatric unit for anorexia, depression and the earlier suicide attempt. Emma continued to struggle during her time at the unit. We attended many counselling sessions individually and as a family. After two months at the unit Emma was expelled following another suicide attempt. When we brought Emma home her health had not improved and she was in a much worse condition than when she was first admitted to the unit.

On the morning of 21 December 1995 we woke to discover that Emma had taken an overdose of painkillers. As a

result, Emma was hospitalised for two days. Soon after this, Anthony and I took our daughters away for a holiday. At the outset of our time away we experienced a number of concerning incidents with Emma, yet by the end of the trip Emma's outlook changed. She seemed happier and Anthony and I arrived home more hopeful

Emma's improvement was short-lived. In early 1996 Emma took an overdose of painkillers on two occasions and was eventually readmitted to the adolescent psychiatric unit. Anthony and I spoke to Emma's psychiatrist and expressed our confusion and concern. The psychiatrist told Anthony and me that Emma was displaying all the symptoms of someone who had been sexually abused.

We relayed what Emma's psychiatrist had told us to our own psychologist. During that conversation our psychologist said words to the following effect:

> I concur with his opinion. I would say that Emma isn't just showing signs of someone who was sexually abused. I would say she was sexually abused. In fact, her behaviour suggests it happened repeatedly.

Anthony and I were shocked and we started to wonder who might be responsible. Anthony then said to the psychologist, "What if I told you Emma was the favoured child of a paedophile who is currently in prison?" Anthony and our psychologist then discussed the likelihood that O'Donnell was responsible, but I was not yet convinced. Initially I could not imagine how this could have happened and wondered when O'Donnell was alone with Emma. When I thought about it, I realised that O'Donnell had unfettered access to Emma at school and could have taken her from class or from the school playgrounds without anyone seeking my consent.

Our psychologist seemed to have some experience with Catholic Church related matters and arranged a meeting for us with Mr Shane Wall on 1 March 1996. While we were not exactly sure of his role and he did not ask to see Emma, after one session with him the Catholic Church began paying for our counselling. We took this to mean that the Catholic Church had accepted responsibility for the abuse.

In the past I had overheard Emma say a couple of times

to other children, "Coke makes me drunk." I had not thought too much of it at the time. In about February 1996 Emma and I had a conversation where she said to me, "Coke used to make me drunk but now it doesn't."

Later that same evening I recalled that some years earlier I had overheard a conversation between Emma and Katie. Katie had offered Emma a drink of Coca Cola and Emma said that she did not like the taste of it. Katie seemed surprised by this and insisted that Emma should like it because it tasted nice. Emma relented and took a sip and said to Katie, "It tastes different. It's okay." I then came to the realisation that O'Donnell may well have laced Coca Cola and given it to Emma to drink.

The next morning I had a conversation with Emma where I reminded her of our discussion the night before. I asked Emma, "What sort of drunk did the coke make you feel?" Emma considered her answer and replied, "Very drunk and dizzy and it made a loud noise in my ears." She told me this happened in the school hall.

Not long after my realisation, Anthony telephoned a police liaison officer familiar with the case against O'Donnell and said, "My wife has told me she thinks O'Donnell might have made Emma drunk when he sexually assaulted her." Anthony then started repeating the words the police officer was saying to him out loud so that I could hear. Anthony said, "He used to drug kids. It was part of his MO."

On the evening of 27 March 1996, about one month after Emma's second admission to the psychiatric unit, we received a telephone call from the unit informing us that Emma had cut herself and that she had disclosed to a nurse that she had been sexually abused by O'Donnell.

The next day I attended a meeting together with Anthony, Emma and her psychologist. The psychologist asked Emma's permission to repeat her disclosure to us and Emma sat in a ball on a chair nodding as the psychologist repeated Emma's account of the sexual abuse by O'Donnell.

In addition, Emma told us she remembered a door with a sign "shower" on it beside the stage in the Sacred Heart parish hall. She said O'Donnell took her through the door and into the room. She said that they were alone. She

said O'Donnell sat her on his knee and did awful things to her.

Some time later photographs were taken of these areas that Emma referred to. We feel sick to think of our daughter alone in there with O'Donnell.

The day after Emma's disclosure we telephoned Father Ted Teal, our parish priest. We asked him to come to our house and talk about Emma. At this stage Emma had been in and out of the adolescent psychiatric unit for about six months. We felt we finally had an explanation of her difficulties. We told Father Teal of Emma's disclosure of abuse by O'Donnell. Father Teal was sympathetic, but as he was leaving our home and with his back to us he said, "Don't tell anyone."

The Oakleigh Forum. By letter dated 1 May 1996 we and other parents petitioned Father Teal for a meeting between the Catholic Church and the parents whose children attended Sacred Heart School while O'Donnell was parish priest. The letter was signed by many parents.

By letter dated 7 June 1996, Monsignor Gerald Cudmore, the Vicar General of the Archdiocese of Melbourne, wrote to our psychologist saying, "I am most anxious to provide assistance in whatever form may be necessary to the child, her family, other families and to the parish as a whole who may have suffered abuse."

On 25 June 1996 a preliminary meeting was held and attended by several representatives of the Catholic Church, including Monsignor Cudmore. It was Monsignor Cudmore who had established the Pastoral Response Office which offered counselling to the victims of Catholic clergy sexual abuse. The Pastoral Response Office indicated to us at the meeting that it wanted to run the Oakleigh Forum. I was reluctant to hand over control of the forum to the Catholic Church, but I felt pressured to do so.

On 29 July 1996 the Oakleigh Forum was held. Approximately 250 people attended. We arranged for a psychologist to speak at the forum about situations that led to child assault and signs to look for in children that may indicate that they had been abused. Monsignor Cudmore was to attend the forum, but did not. The priest who replaced him, Father Joe McMahon, said that he "wondered

why he was there" and after the forum I felt that many questions were left unanswered.

On 10 August 1996 I read an article in The Age newspaper which recorded comments of the then Archbishop designate of Melbourne, George Pell. It reported Archbishop Pell was agreeing that "payments to victims across Australia could involve millions of dollars" and further that "I don't know what we will be up for. If we have to borrow money we will, whatever the tab." The article also reported that Archbishop Pell had said the Catholic Church would not play "legal games" with victims.

On or about 14 August 1996 we received a letter from the Pastoral Response Office which stated, "After our discussion this morning I'd like to reiterate that this office is able to obtain financial provision for therapeutic care for yourself, Anthony and your whole family, if needed."

The Melbourne Forum. In September 1996 the Pastoral Response Office invited some of us to become part of the Victims' Advisory Group in preparation for the Melbourne Forum. I understood the Melbourne Forum to be an initiative of the Pastoral Response Office to address the issue of Catholic clergy sexual abuse throughout the Catholic Archdiocese of Melbourne.

On 19 October 1996 Anthony and I attended the Melbourne Forum. Archbishop Pell and a number of other Catholic Church leaders took the stage. I cannot now recall the names of the other Catholic Church leaders. I participated in the Melbourne Forum as did a number of other people, including victims. During the Melbourne Forum one of the Catholic Church leaders announced that the Melbourne Response would be formed. There was not much detail given at that time.

For the purposes of the Melbourne Forum I wrote a letter dated 19 October 1996 on behalf of the parents from our Oakleigh parish group which was critical of the Catholic Church. I asked someone else to read my letter aloud as I did not trust my composure. My letter was read out to the Melbourne Forum and was met by applause from others in the audience. When the reader reached the part of my letter which said, "To these criminals, and they are criminals, you offer asylum, so their offences are not

brought to light ..." the Catholic Church leadership stood up and walked off the stage and did not return.

In the days that followed, Anthony and I came to the view that the purpose of the Melbourne Forum had not been to facilitate communication between victims and the Catholic Church hierarchy as we had hoped. Rather, the event seemed designed to announce what we would later know as the Pell Process or the Melbourne Response. We reached this view because of the attitude demonstrated by the Catholic Church leaders in attendance on the day. They did not engage with the audience, they seemed standoffish and they were separated from us sitting up on the stage. They did not appear to want to listen to parents describe the horror of finding a sexual offender in the very heart of their parish. They walked out on us.

MR FOSTER:

> On 30 October 1996, 11 days after the Melbourne Forum, the details of the Melbourne Response were announced. Anthony and I read about the details in the newspaper and elsewhere. Around this time we received a brochure entitled "Sexual abuse - the Melbourne Archdiocese response" which was signed by Archbishop Pell.
>
> From this material we understood that there were three components to the scheme. First, a victim's complaint would be directed to a Catholic Church appointed Independent Commissioner who was to investigate and decide if the allegation of abuse was valid. If the Independent Commissioner found the allegation to be valid, the victim then moved to the second section of the scheme which was the Compensation Panel. The Compensation Panel was responsible for deciding the amount of money to be offered to the victim, capped at $50,000. Any money paid was ex gratia, meaning it was given with no admission of responsibility or liability for damage. The final component of the scheme was Carelink. If an allegation was accepted, victims could go to Carelink to receive

counselling or treatment costs.

Our immediate reaction to reading the details of the Melbourne Response was outrage. Anthony and I considered $50,000 to be an entirely inadequate amount to compensate Emma for the lifelong damage caused by the sexual abuse.

In his letter of 7 June 1996 Monsignor Cudmore had accepted O'Donnell's abuse of Emma and had offered whatever help was necessary for the whole family. Now Emma had to apply for what would be capped assistance. We felt betrayed.

Around this time we learned that accepting a payment through the Melbourne Response meant signing a document that released the Catholic Church from any and all further claims. Anthony and I also learnt that Professor Richard Ball had been appointed to run the Carelink component of the Melbourne Response. As such, he was in charge of responding to and looking after victims of Catholic clergy sexual abuse. I felt very uncomfortable about this because a Victorian Police liaison officer had previously told me that Professor Ball gave expert evidence on behalf of the defence in the criminal case against O'Donnell. The officer also told me that Professor Ball had provided reports to defence lawyers acting for other paedophile priests and brothers, including Ridsdale, Glennon, Gannon and Best.

Anthony and I were profoundly shocked that Professor Ball was responsible for the counselling arm of the Melbourne Response. I felt that this was not fair to victims. To me, it demonstrated a lack of understanding of how victims might feel and the need for a separate, independent and safe place for victims to go for help. It is for these reasons that I was too horrified to deal with Professor Ball and

we declined to do so for quite some time.

In the brochure entitled "Sexual abuse - The Melbourne Archdiocese Response", Archbishop Pell quoted the Catholic Bishops of Australia pastoral letter of 1996 stating that, "In seeking to do what is possible, our major goals must be: truth, humility, healing for victims, assistance to other persons affected." Our experience with the Melbourne Response over time led Anthony and I to believe that this statement was nothing but empty words.

Request for O'Donnell to be stripped of his clerical status. In about November 1996, Anthony and I approached Father Teal to ensure that O'Donnell, now a convicted sex offender, was stripped of his clerical status. An appointment was subsequently made for us to speak with Father Ross McKenney, a canon lawyer from a neighbouring parish. On 5 December 1996 Anthony and I met with Father McKenney. The meeting did not go well. Anthony and I told him that we wanted the Catholic Church to laicise O'Donnell as his crimes against children made him unfit for the title. Father McKenney scoffed in response and said, "We can't do that."

Invited to seek assistance under Melbourne Response. On 5 December 1996 we received a letter enclosing forms from the Pastoral Response Office that requested that Anthony and I authorise the transfer of our files from the Pastoral Response Office over to the new Melbourne Response, that is to Carelink and to the Independent Commissioner. The attached materials said that this was "in order to receive the appropriate assistance from either Mr O'Callaghan in reference to complaints and compensation matters, or Professor Ball (Carelink) for psychiatric, psychological counselling and support services." When Anthony and I later applied for

compensation under the Melbourne Response as secondary victims, our application was refused by Mr O'Callaghan.

Archbishop Pell's visit to Oakleigh. In mid-December 1996 Anthony and I received notification that Archbishop Pell would visit Oakleigh to meet with a group of about 30 parents in February 1997. Anthony and I were informed that Archbishop Pell wished to meet with us prior to meeting the group. On 17 February 1997 we met with Archbishop Pell. During our meeting we discussed the Melbourne Response. Anthony said to Archbishop Pell that we viewed the new scheme as a cost saving measure by the Catholic Church and to the detriment of victims. Part of the reason we had this view was due to the cap and its restrictions. In response, Archbishop Pell said to Anthony, "If you don't like what we're doing, take us to court."

We also raised with Archbishop Pell our opposition to Professor Ball being appointed to Carelink. Archbishop Pell responded that Professor Ball "was the best man for the job". Our objections and concerns about Professor Ball fell on deaf ears. Professor Ball occupied his position for many years.

After our private meeting with Archbishop Pell we attended the larger group meeting. Victims shared their stories during the meeting and asked Archbishop Pell a number of questions. One of the questions asked was in relation to known paedophiles still serving in parishes in Melbourne. Archbishop Pell's response was, "It's all gossip until it's proven in court and I don't listen to gossip."

Emma's application under the Melbourne Response. In March 1997 we made the decision to go through the Melbourne Response to seek help for Emma. With our

assistance Emma signed and lodged the consent to Independent Commissioner form. Emma was then 15 years old. We met with Mr Peter O'Callaghan QC, the Independent Commissioner, and he interviewed Emma.

On 24 April 1997 we consulted solicitors Williams, Winter & Higgs. We had felt quite powerless in our dealings with the Catholic Church thus far and decided to redress this imbalance by seeking independent legal advice.

We wanted to see what other options there might be to try to get some help for our whole family. Our solicitors informed us that it would be very difficult to sue the Catholic Church and suggested that we initially seek assistance through the Victims of Crime Assistance Tribunal as an alternative to the Melbourne Response.

In May 1997 applications for assistance were lodged with the Victims of Crime Assistance Tribunal on behalf of each of us. We then put those applications on hold. I thought that, from an ethical point of view, the Catholic Church should be the entity providing the assistance. Despite the initial legal advice I had received, I was hopeful to find a way to bring a civil claim.

Following Emma's application to the Melbourne Response, I submitted invoices for Emma's medical treatment to Carelink for payment. On or about 24 June 1997 I received a letter from Reverend Monsignor Denis Hart, the Vicar General of the Archdiocese of Melbourne, as he then was. The letter expressed the view that Medicare and/or our private health insurance should be relied upon to pay Emma's outstanding medical accounts. I thought that this was inappropriate. It seemed to me that the Catholic Church wanted to transfer responsibility for Emma's medical expenses

from itself and on to taxpayers (through Medicare) and on to our private health insurer. This did not feel right to me.

At around this time Carelink had been contacting us frequently seeking to set up a meeting with Professor Ball. I felt pressured. Despite my objection to his role, I relented. On 29 July 1997 we met with Professor Ball. Professor Ball made a tape recording of our meeting. When we questioned Professor Ball about his assessment report of O'Donnell used in the criminal trial, Professor Ball admitted to making his assessment after meeting O'Donnell only once. I expressed my view that he should have known, in his expert opinion, that O'Donnell was likely to reoffend and was likely to have committed more offences than he admitted to in his criminal case.

Professor Ball in regard to the provision of counselling to our family said that should be our responsibility. I understood this to mean that in his view Carelink and/or the Catholic Church should be providing counselling to our family.

On or about 3 October 1997 we received a letter from Mr O'Callaghan informing us that he proposed to make a formal finding that he was satisfied that Emma was the victim of sexual abuse by O'Donnell.

On or about 28 April 1998 we received a letter from Mr O'Callaghan enclosing a copy of his proposed report to the Compensation Panel in respect of Emma. Mr O'Callaghan invited us to provide him with comments in respect of the draft.

On or about 10 June 1998 we received a letter from Mr O'Callaghan advising he had written to the chairman of the Compensation Panel regarding his finding regarding Emma.

On or about 8 July 1998 we received a letter from Mr David Habersberger QC, the Chair of the Compensation Panel, informing us of an appointment to see the panel on 11 August 1998 in relation to Emma's application.

On or about 7 August 1998 we received a letter from Corrs Chambers Westgarth (Corrs) ahead of Emma's appointment with the Compensation Panel outlining the legal issues around Emma being a minor.

On 11 August 1998 we attended the Compensation Panel to plead Emma's case. We knew the cap was only $50,000. When we arrived, we were greeted and escorted to a meeting room where a number of men and women sat around a large table. I can only recall details of two of the panel members that attended. One was Mr Habersberger and the other was a young lawyer I assumed from Corrs who acted for Archbishop Pell and the Archdiocese of Melbourne. Anthony stated to the panel:

"You have the reports of what has happened to Emma. I do not want to upset myself further by talking about it now. I believe you should pay Emma the full compensation amount of $50,000."

Mr Habersberger agreed that we did not need to go over Emma's sufferings and we were grateful for his kindness. He said that a letter would be sent to us at a later date informing us of Emma's compensation amount.

Following our discussion with the Compensation Panel, I approached the lawyer. I spoke to him about the costs our family had incurred in our attempts to improve Emma's life as a result of the sexual abuse, including moving schools. At that point in time I calculated that we had spent approximately $15,000. This was only the expenses for which I had actual

receipts. He said to me, "Oh, the ex gratia compensation payment Emma receives will cover that." I was unimpressed and responded by asking him whether he expected me to take $15,000 from Emma by way of reimbursement of these expenses.

I then approached Mr Habersberger with my request. He listened and suggested that we speak with a more senior lawyer as what we were asking for was not covered by Carelink or the ex gratia payment.

On or about 31 August 1998 we received a letter from Corrs confirming that the Compensation Panel had recommended to Archbishop Pell that Emma be offered the maximum amount of compensation, being $50,000. The letter said it was an alternative to litigation which would otherwise be strenuously defended.

Enclosed with the letter from Corrs was a personal letter addressed to Emma dated 26 August 1998 from Archbishop Pell. In that letter Archbishop Pell offered Emma a personal apology for the wrongs and hurts she suffered at the hands of O'Donnell.

In the same envelope was a letter dated 12 August 1998 from Mr Habersberger suggesting that we contact Mr Richard Leder of Corrs about Emma's incurred expenses. Anthony rang Mr Leder to inquire about reimbursement of these expenses. I was in the room with Anthony when he made the telephone call. To each requested item Mr Leder replied, "I can't help you with that. What else can I help you with?" Anthony asked about the next item on the list. Again Mr Leder replied, "I can't help you with that. What else can I help you with?" And so it continued until there was nothing left to say.

Neither Anthony nor I ever had any sense about how the amounts of compensation were

decided by the Compensation Panel. We were provided no information in relation to any criteria that was applied to Emma's application by the Compensation Panel and no appeal process was offered. Nothing about this process was transparent.

Emma received a letter dated 3 December 1998 from Corrs which I saw and read. The letter confirmed Emma's acceptance of the compensation offer and informed her that the next step would be to establish a trust in which the funds were to be held until she turned 18. From this we understood that Emma must have communicated to Corrs her intended acceptance of the offer of $50,000.

On or about 8 February 1999 Emma received a letter from Corrs enclosing a proposed trust deed.

On or about 22 September 2000 we asked our solicitors to write to Mr O'Callaghan informing him that Emma was still considering the offer made to her.

A. Katie's experience and application under the Melbourne Response. In November 1997 we learned that Katie too had been sexually abused by O'Donnell. I discovered a suicide note Katie had written. The note said that her sister had been abused by O'Donnell and that she had been abused by O'Donnell too. We made an appointment for Katie to see a psychologist. From that point forwards Katie saw a psychologist weekly.

In early 1998 we assisted Katie to lodge an application for compensation under the Melbourne Response as we had done with Emma.

On 29 June 1998 Mr O'Callaghan interviewed Katie about the sexual abuse of her by O'Donnell.

We understand that Emma and Katie did certain things to try and find relief from the suffering caused by the sexual abuse perpetrated against them by O'Donnell. While Emma took drugs to obtain respite from her traumatic

memories, Katie began to binge drink to find relief. Twice we had returned home from work to find Katie very drunk. I believe that if Katie had not been subjected to ongoing sexual assault by O'Donnell she would not have resorted to binge drinking.

On 28 May 1999 Katie was crossing a road while she was under the influence of alcohol. Katie was hit by a car and the impact stopped her heart and caused a number of bleeds and swelling to her brain. Katie was in a comatose state for about four months and remained in hospital for almost one year. The accident left her with permanent brain damage. For the rest of her life Katie will require 24-hour care. While it remained a priority for us to continue working towards bringing a case against the Catholic Church, we were faced with many challenges and adjustments to our lives following Katie's accident. On 26 May 2000 Katie left hospital and returned home to us.

In our solicitor's letter of 22 September 2000 to Mr O'Callaghan, Mr O'Callaghan was asked to confirm his previous verbal advice that he accepted that O'Donnell had sexually abused Katie.

Anthony and Chrissie's applications under the Melbourne Response. On 13 September 1998 Anthony and I applied for compensation through the Melbourne Response on behalf of ourselves.

By letter dated 17 November 1998 Mr O'Callaghan rejected both Anthony and my application for compensation. The letter stated, "The Compensation Panel will have no finding from me that you are entitled to be treated as a victim and will presumably act accordingly."

Civil litigation considered. Between 1997 and 1999 we exchanged many letters and phone calls with our solicitors in respect of our options for seeking compensation. By 1999 we needed to make a decision in respect of our applications to the Victims of Crime Assistance Tribunal because of the time limitations that applied. Our solicitors suggested a meeting with a barrister, Mr Tim Seccull.

On 26 February 1999 we met with Mr Seccull and our solicitors to discuss possible common law actions we could take against the Catholic Church. At that meeting we

confirmed with our solicitors that we wanted to pursue civil legal action against the Catholic Church rather than continuing with the Melbourne Response or the Victims of Crime Assistance Tribunal. Emma and Katie also attended the meeting and each gave statements to Tim in relation to the abuse by O'Donnell.

Mr Seccull informed us at that meeting that the next step in preparing a case against the Catholic Church was to have Emma and Katie assessed by a medico-legal psychiatrist with expertise in trauma. On 17 March 1999 both Emma and Katie met with the specialist. Nine months later we received drafts of the report.

Due to the complex nature of our case, it took our solicitors and Anthony and I quite some time to reach the point where we were ready to go ahead with the civil claims.

Mr O'Callaghan visits our home. On 6 May 1999, about six months before Emma turned 18, Mr O'Callaghan made an appointment to visit our home to discuss Katie's application to the Melbourne Response. Mr O'Callaghan informed us during his visit that he would make a finding for Katie the same as Emma's, that O'Donnell had sexually abused Katie. Mr O'Callaghan also wanted to talk privately to Emma, I assume about accepting the offer of $50,000. We had told Emma not to accept the offer as we knew this would end all her rights. We did not allow Mr O'Callaghan to speak privately with Emma. A week to 10 days later, Mr O'Callaghan rang me at work asking if I had engaged lawyers. I neither confirmed nor denied that we had engaged lawyers.

Civil litigation. In 2002 we instructed our solicitors to commence five separate legal proceedings in the Supreme Court of Victoria on behalf of Anthony, Emma, Katie, Aimee and me. The following defendants were named in each proceeding: one, Noreen Harrison, the former principal of Sacred Heart Primary School (first defendant); two, Emeritus Archbishop for the Diocese of Melbourne, Sir Frank Little (second defendant); three, Archbishop for the Diocese of Melbourne, the Most Reverend Dennis J Hart (third defendant); four, Roman Catholic Trust Corporation for the Diocese of Melbourne (fourth defendant); five, Reverend Father Hilton Deakin (fifth defendant), former Vicar General; and, sixth, Reverend Father Anthony Guelen

(sixth defendant) - served with O'Donnell at Dandenong.

The proceedings in relation to Anthony and I were issued on or about 22 March 2002. The proceedings in relation to Emma, Katie and Aimee were issued on or about 28 October 2002. The proceedings were served on the defendants some time later in 2003. Our solicitors informed us that Corrs was acting for each and every one of the defendants.

The proceedings in relation to Emma and Katie made a claim for damages for injuries sustained as a result of the sexual assaults perpetrated on them by O'Donnell whilst in attendance at Sacred Heart Catholic Primary School. The proceedings alleged that the sexual assaults occurred in premises owned and operated by the first to fourth defendants whilst Emma, Katie and O'Donnell were under the care and control of the first to sixth defendants. Further, it was alleged that the sexual assaults occurred at a time subsequent to the first to sixth defendants becoming aware of O'Donnell's propensity to behave dangerously and inappropriately with young children.

In particular, it was alleged against the first to fifth defendants in the statement of claim that: one, in or about 1958 complaints were made by two people in respect of the interference by O'Donnell with a young boy. Such complaints were made to Monsignor Laurence Moran, the then chief administrator for the Diocese of Melbourne; and, two, in early 1992 Reverend Father John Silvano complained to the fifth defendant, Hilton Deakin, about the inappropriate behaviour of O'Donnell with young children.

Further, it was alleged against the sixth defendant, Reverend Father Anthony Guelen, that his breach of duty was in: one, failing to act upon the observations of O'Donnell engaging in inappropriate behaviour with a young boy whilst in the Diocese of Melbourne in or about 1958; two, having made the observations referred to above, failing to communicate the nature of the same to the appropriate authorities, including the then Archbishop of the Diocese of Melbourne and Victoria Police; and, three, having made the observations referred to above, failing to ensure that O'Donnell was not permitted contact and/or involvement with young children.

The claim for damages was made on the basis that Emma

and Katie suffered injuries as a consequence of the sexual assaults by O'Donnell and/or the negligence and breach of duty of the first to sixth defendants.

The proceedings relating to Anthony, Aimee and I differed in relation to the nature of the injuries we each sustained. The claim for damages was made on the basis that we each suffered injury by way of nervous shock as a consequence of the sexual assaults by O'Donnell perpetrated against Emma and Katie and/or the negligence and breach of duties of the first to sixth defendants.

On or about 7 May 2004 our solicitors received defences on behalf of the first to sixth defendants. In each of the proceedings the defences said that the statement of claim did not disclose a cause of action and was liable to be struck out. Our solicitors provided us with a copy of the defences at the time. Anthony and I were both shocked to find that in Emma and Katie's proceedings the defendants did not admit that O'Donnell subjected the girls to sexual abuse. Further, the defendants denied that Emma and Katie suffered shock, personal injury, loss and damage as a consequence of the breach of their respective duties. Mr O'Callaghan had previously made formal findings that O'Donnell sexually abused Emma and Archbishop Pell had offered Emma a personal apology. Mr O'Callaghan had also verbally indicated to us that he would make findings that O'Donnell sexually abused Katie.

In October 2004 amended statements of claim and defences were filed and served in each of the proceedings. The parties were due to give discovery in December 2004. In December 2004 our solicitors informed us that Corrs had foreshadowed it would seek to strike out parts of our statements of claim in each proceeding and therefore would not be providing discovery.

By February 2005 our solicitors had still not received the defendants' foreshadowed strike-out application. In about early March 2005 we instructed our solicitors to seek a without prejudice meeting with the solicitors for the defendants. Due to unavailability of various persons, the without prejudice meeting did not take place until 24 June 2005. Following the without prejudice meeting, we instructed our solicitors to recommence settlement discussions by way of mediation. Again, due to

unavailability of various persons, the mediation was delayed and did not take place until November 2005.

On 7 November 2005 a mediation session was held between our legal representatives. We were represented by Mr Stanley QC and Mr Seccull on the day. Anthony, Emma, Katie, Aimee and I also attended the offices of the mediation and sat in the next room while the mediation took place. Our solicitors sought our instructions throughout the entire mediation process. We instructed Mr Stanley to make it clear to the defendants that we were not prepared to resolve our cases for the amount of money available under the Melbourne Response and that we were prepared to go to trial.

The defendants initially offered us a figure of $250,000 plus costs with no ongoing entitlement to Carelink and no indemnity in respect of the Health Insurance Commission. We instructed Mr Stanley to make a counteroffer of 1.5 million plus costs. The defendants then made a counteroffer of $350,000 on the same terms as first offered. At this point Anthony then entered the mediation and spoke directly to the legal representatives for the defendants. Following Anthony's discussion, we instructed Mr Stanley to make a counteroffer of $750,000 plus solicitor/client costs in all cases, an ongoing entitlement to Carelink and an indemnity in respect to the Health Insurance Commission. The defendants made a counteroffer of $500,000 on the same terms. We instructed Mr Stanley to reject the defendants' offer and inform them that $750,000 was our bottom line.

Finally the defendants made an offer of $750,000. The offer included payment of our costs taxed on a solicitor-client basis unless otherwise agreed and an indemnity in respect of any payments to the Health Insurance Commission, but no ongoing entitlement to Carelink. We made the decision to allocate the settlement sum of $750,000 to each of us as follows: one, Emma, $450,000; two, Katie, $220,000; three, Aimee, $30,000; four, Anthony, $25,000; five, me, $25,000.

On 3 March 2006 the terms of the settlement were agreed and executed by our solicitors. The settlement was conditional on the approval of the settlement of Katie's proceedings by the Supreme Court of Victoria. Each of the proceedings was settled without any liability being

admitted on the part of any of the defendants and further terms and conditions. We agreed to release and forever discharge the defendants and any person who was, is or who becomes the Archbishop of the Catholic Archdiocese of Melbourne from any claims arising out of the proceedings or the assaults by O'Donnell on Emma and Katie.

Further, we agreed not to make any further claim for expenses or compensation arising out of proceedings or the assaults by O'Donnell on Emma and Katie, including assistance provided through Carelink. This affected us greatly as our family heavily relied on support and counselling services for Emma and Katie. We have learnt from our experience that lifelong support of victims and victims' families is crucial in dealing with the effect of child sexual abuse. This is simply because the effect that child sexual abuse has on people is lifelong, so the support offered needs to be lifelong.

We agreed that the terms of the settlement would remain confidential between the parties and undertook not to disclose any part of the terms to any other person other than as required by law.

In or about April 2007 our solicitors received a cheque for payment of our legal costs in the amount of $122,000.

MR FOSTER:

> Counselling offered by Carelink, then retracted during civil litigation. In December 2002, before proceedings were served, a new staff member of Carelink by the name of Elizabeth Harding contacted us wanting to meet for a coffee. She was very compassionate and asked why we were not seeing a psychologist. She told us that we, including Aimee, should be getting treatment and to send her the accounts for payment. Up until that point the Melbourne Response had refused to pay for intermittent therapy for Anthony, Aimee and I. At her invitation, Anthony and I began seeing a local family therapist to assist us through our struggles.

On or about 17 January 2003 Mrs Maheras received a letter from Ms Harding authorising counselling for the Foster family. Mrs Maheras told us that she was sending accounts directly to Carelink for payment.

Mrs Maheras advised me that she had received two telephone calls in November 2004 from Ms Harding stating that Mr O'Callaghan had not approved the payment of our counselling expenses and that he had "hit the roof" about it. Mrs Maheras provided me with notes of the two telephone calls. Mrs Maheras has sadly now passed away. Mrs Maheras told us that the Catholic Church immediately stop paying for our counselling and even refused to pay for the previous months' accounts.

Impact on our lives. Emma first suffered anorexia in June 1995 and until mediation in November 2005 she had visited doctors, specialists and pathology services about 906 times, plus at least 75 outpatient psychology appointments and more than 52 admissions into hospital, detox and rehabilitation clinics. Despite all this professional help and our love for her, our Emma sadly never recovered from the sexual abuse she suffered. Her life continued to spiral out of control and in January 2008 she took her own life.

Katie has never recovered from being hit by a car while binge drinking to escape the memories of her sexual assault. She will always require 24-hour care.

Aimee has suffered since the age of 10 witnessing the disintegration of her sisters' lives. She has also been deprived of our attention over the past 18 years with our time spent caring for Emma and Katie.

In July 2008, whilst on holiday in England

and during the lead-up to the Pope's visit to Sydney for World Youth Day, we were made aware of media coverage about Cardinal Pell. It was alleged that Cardinal Pell had sent two contradictory letters to victims of a particular Catholic clergy sex offender, each letter bearing the same date. Anthony was interviewed on the ABC TV Lateline program on 15 July 2008. We made the decision to cut our trip short. We wanted to return to Australia and travel to Sydney in an attempt to meet and convince the Pope of the need for changes to how the Catholic Church responds to victims of Catholic clergy sexual abuse.

During our journey to Sydney, on a stopover in Tokyo, we were made aware of a comment by Bishop Anthony Fisher in response to the Lateline interview where he referred to us as "dwelling crankily on old wounds". Emma had died only six months earlier. We lived with the pain of our wounds daily, and still do. We found these comments to be very hurtful.

On arrival in Sydney we condemned Bishop Fisher's comments and during the following days we requested a meeting with the Pope. We were ignored by the Catholic Church. The Pope left Sydney without meeting us.

The conduct of the Catholic Church aggravated our suffering, including the inconsistent responses we received over time about whether or not they believed Emma and Katie, and whether or not they would assist Anthony and I by paying for our counselling.

The civil litigation process took our family almost 10 years to complete. It required countless hours of effort at a significant personal cost and the help of our dedicated legal team. We are of the view that we settled for an amount of money that was far less than what our children

were entitled to. Even so, it was a far better result than we could have hoped for from the Melbourne Response. With the settlement funds Emma was able to purchase a house. Katie was able to move into her own home which was specially designed to take into account her disabilities. Very few victims, however, are afforded the support our children had to be able to achieve such a result.

Subsequent events. In 2009 I co-authored a book with Paul Kennedy titled "Hell on the Way to Heaven" which details the devastating impact of events upon our family. It was published in 2010. I have prepared a timeline of events.

On 23 November 2012 Anthony, Katie, Aimee and I gave evidence to the Victorian inquiry into the handling of child abuse by religious and other organisations.

We met with Cardinal Pell in Sydney in March 2014 following his appearance at the Royal Commission. We stated our position of wanting the Melbourne Response compensation cap removed and all previous and future cases to be reassessed in line with civil limits. He agreed with our proposal to review the Melbourne Response and said he would speak to Archbishop Hart. We then met with Archbishop Hart in Melbourne in April 2014. Archbishop Hart agreed to review the situation and invited us to be part of the consultation with the aim to present the results to this hearing.

Based on our experience, our view is that the Melbourne Response should be re-evaluated to ensure it complies with the legal and moral standards of our society to ensure and enable just compensation and care for all victims. Civil levels of compensation ought to be awarded to victims. There should be no time limit for civil or criminal claims in regard to

sexual crimes against children. We would like to see an independent reassessment of all past claims under the Melbourne Response to more adequately reflect the levels of compensation that could be achieved if victims took legal action against the Catholic Church. To be clear, we think it is appropriate to revisit every previous settlement under the Melbourne Response to make sure proper financial compensation was paid.

We had the means and ability to guide our daughters through the Melbourne Response process; however, not all victims have that same level of support. Even as parents of victims, we found the experience to be daunting. From the moment we entered the meeting with the Compensation Panel we felt intimidated. Based on our experience, we consider that victims without adequate support or legal representation would feel intimidated and overwhelmed by the whole process.

Our understanding is that the three stages of the Melbourne Response are intended to be independent from one another. This is not reflective of our experience with the Melbourne Response. The Independent Commissioner 's role is to determine whether an assault has occurred, yet we were faced with a situation where the Independent Commissioner requested to speak with Emma, we assumed in relation to accepting the offer of $50,000. We found this to demonstrate a lack of independence.

Having experienced both the Melbourne Response and the legal system as a means of gaining compensation, our view is that the legal system is a far superior option than engaging in the Melbourne Response. We would like to see changes to the legal system to allow victims to receive full and just compensation for what has happened to them.

We also support the introduction of a redress scheme funded by the responsible institutions as an alternative to, but not replacing, victims' recourse to the legal system. To this end we commend the COIN submission to issues paper 6 to the Royal Commission.

MS FURNESS: Thank you. I have no further questions.

THE CHAIR: Does anyone else have any questions of Mrs Foster?

MR RUSKIN: No, Your Honour.

MR WOODS: No, Your Honour.

MR GRAY: No, Your Honour.

MR SECCULL: Yes, I do, Your Honour.

<EXAMINATION BY MR SECCULL:

MR SECCULL: Q. Your Honour, my name is Seccull and I appear for the Foster family. Mrs Foster, whilst reading your statement you took us to the paragraphs including paragraphs 58 and 59. If I could ask you, please, just to refer to those statements at paragraphs 58 and 59. In paragraph 58 you make reference to two letters, that is a letter dated 31 August 1998?
A. Yes.

Q. And, secondly, a letter dated 26 August 1998?
A. Yes.

Q. And then in paragraph 59 a letter dated 12 August 1998?
A. Yes.

Q. Do you recall receiving those three letters?
A. Yes, they came in one envelope.

Q. Do you recall, having opened the envelope, in which order they appeared?
A. The first was the apology from George Pell.

Q. Yes. Your Honour, that apology appears at tab 138. I'm wondering if that could be shown, please. Is that a document to which you refer, Mrs Foster?
A. Yes, it is.

Q. If I could just ask you to read, please, the final paragraph of that document?
A.

> On behalf of the Catholic Church and personally, I apologise to you and to those around you for the wrongs and hurt you have suffered at the hands of Father Kevin O'Donnell. Whether or not you choose to accept the enclosed offer, I offer you my prayers.

Q. Thank you, Mrs Foster. Mrs Foster, do you then recall the second letter that you viewed, having opened that one envelope?
A. Yes, it was a letter from Corrs.

Q. Your Honour, that also appears at tab 138. I'm wondering if Mrs Foster could be shown that. Thank you, Your Honour. Mrs Foster, if I could just ask you to read paragraph 3 of that document, please?
A. Yes.

Q. Paragraph 3?
A.

> The compensation offer, together with the services that remain available through Carelink, are offered to Emma by the Archbishop in the hope that they will assist her recovery and provide a realistic alternative to litigation that will otherwise be strenuously defended. Importantly, it is also hoped that Emma will in time be able to put the abuse she has suffered behind her, and focus on the future. Enclosed is a personal letter to Emma from the Archbishop. We note that His Grace has also met with you personally on prior occasions.

Q. Thank you. Before I take you to the final letter that was enclosed in that envelope, if I could just ask you, please, to relay to the Commission your sense of feeling

having read that paragraph and in particular the phrase as follows, "That will be otherwise strenuously defended"?
A. I felt betrayed.

Q. In what way?
A. I felt there was an apology and then there was a threat. It was just more of the same from the church.

Q. Thank you. For the sake of completeness, Mrs Foster, if I can take you, please, to a document that appears, Your Honour, at tab 135. Mrs Foster, is this the final document that was enclosed in that envelope?
A. Yes, it is.

MR SECCULL: Thank you, Your Honour. I have no further questions.

MS FURNESS: Nothing further, Your Honour.

THE CHAIR: Thank you, Mrs Foster and Mr Foster.

<THE WITNESS WITHDREW

THE CHAIR: Yes, Ms Furness.

MS FURNESS: Your Honour, I call Paul Hersbach.

<PAUL DANIEL HERSBACH, affirmed: [12.26pm]

<EXAMINATION BY MS FURNESS:

MS FURNESS: Q. Would you tell the Royal Commission your full name and your current employment circumstances?
A. My full name is Paul Daniel Hersbach. My position has recently changed and I'm currently the head of integration at Australia Post.

Q. Mr Hersbach, have you provided a statement for the Royal Commission?
A. Yes, that's correct.

Q. Do you have a copy of that with you?
A. I do.

Q. Are there any amendments you wish to make to that statement?
A. No, there are not.

Q. Are the contents true and correct?
A. Yes, they are.

MS FURNESS: I tender that statement.

EXHIBIT #16-2 STATEMENT OF PAUL DANIEL HERSBACH, DATED 1/8/2014

THE CHAIR: Ms Furness --

MS FURNESS: I propose to tender the bundles after the witnesses, Your Honour.

THE CHAIR: Very well. But we should note that there's already been reference to documents in that bundle. When tabs are referred to, it's the tabs in the bundle. You don't want to give it a number now so we don't lose it?

MS FURNESS: I'm certainly happy to, Your Honour. I tender the three volumes of the tender bundle, volumes 1, 2, 3.

EXHIBIT #16-3 THREE VOLUMES OF TENDER BUNDLE

MS FURNESS: Mr Hersbach, I invite you to read your statement. You can either read it from the screen or the hard copy; whatever is most convenient to you.
A. Thank you. This statement by me accurately sets out the evidence that I am prepared to give to the Royal Commission into Institutional Responses to Child Sexual Abuse. The statement is true and correct to the best of my knowledge and belief.

Where direct speech is referred to in this statement, it is provided in words or words to the effect of those which were used to the best of my recollection.

Background. My full name is Paul Daniel Hersbach. My date of birth is 1977. I am the second of four children. I have an older brother and two younger sisters.

My father, Tony, was the child of immigrant parents from Holland. His family lived on a Housing Commission estate in Laverton in western Melbourne. He was an altar boy in the 1960s and attended school at St Mary's in Altona where Father Victor Gabriel Rubeo was a priest. Both my

father and his twin brother, Will, were groomed and sexually abused by Father Rubeo. My father was abused over a period of about eight years, from the age of 10 until he was about 18 years old. Neither twin knew of each other's abuse until later in life in 1997.

My parents got married when they were 19 years old in 1973. Father Rubeo officiated at their wedding. After their marriage in 1973 he gave them $10,000 as a deposit towards the purchase of a house in Gladstone Park.

Father Rubeo remained a part of my father's life after my parents' marriage and after my siblings and I were born. He was present at every family event and milestone. He christened my three siblings and me. He came on our family holidays to Pambula Beach where he would sleep in the annex with my brother and me.

Father Rubeo took over the running of the family and behaved like he was in charge. My parents have told me that he inserted himself into the middle of their marriage, their day-to-day life, their decisions and the upbringing of my siblings and me. Father Rubeo would open my parents' mail, pay bills and buy groceries for the family. My siblings and I would call him Gramps. He even had a hat made with "Super Gramps" embroidered on it.

We lived in the house at Gladstone Park until 1983, when I was six. My three siblings and I were all born while my parents lived there. During this time Father Rubeo would come over once a week, usually on Sundays after he finished church. He would participate in our Sunday night family dinner and usually spend the night in our house, returning to the presbytery the following day. He had his own bedroom in our house. I thought this was normal.

At the beginning of 1984 Father Rubeo was moved to a parish in East Brighton called St Finbar's. My father expressed a desire for a tree change and Father Rubeo arranged for the purchase of a block of land in the Dandenongs. Rather than remain in our family home at Gladstone Park while the new house was built, Father Rubeo decided that my family should move into the presbytery in East Brighton with him. My family lived there with him for about six months in the second half of 1984. I was seven at the time, my brother was nine and my sisters four and

one.

Father Rubeo became the parish priest at Holy Name Parish in East Preston in 1985. Our family moved with him to his new presbytery and lived there for a year. The presbytery at East Preston was not a typical house. It had been designed to accommodate travelling priests and was made up of a number of sections. From a central living and cooking area there were three to four wings that each contained a bedroom, sitting room and bathroom. My brother, Adam, and I lived in one section of the presbytery while my parents lived in another with my sisters, Kathryn and Elizabeth. Father Rubeo lived in another section.

Sexual abuse. While living in the presbytery at East Preston I was sexually abused by Father Rubeo on multiple occasions. Father Rubeo would come into our bedroom at night and sit on my bed.

He would enter the bathroom while my brother and I were naked. I recall being in the bath with my brother and him coming into the room and watching us. He would see us naked and we would see him naked. He would allow us to come into his bathroom whilst he was showering and preparing for bed. I would see him playing with himself. At the time I thought this was normal.

At the beginning of 1986 we moved to the Dandenongs. Father Rubeo remained in our lives. He would arrive at our home on a Sunday afternoon, join our family dinners and then sleep in his own room in our house. He continued his pattern of sexual behaviour towards me at this time, and I was nine years old.

Father Rubeo would shower us with gifts, particularly Adam and me. He bought us new computers, our first CD player and a go-kart.

In 1988, when I was 11 years old, Father Rubeo took Adam and me on a trip to Adelaide to stay with his brother. This is the last time I can recall him acting sexually and inappropriately around me.

At the end of 1993 Father Rubeo took Adam, me and another 18-year-old male to Africa for eight weeks over Christmas. I was 16 years old at the time of the trip and my brother was 18. Adam and I were very excited to go on

this trip. My parents have since told me that they could not find the strength at the time to say no to us, nor to Father Rubeo.

Part of our trip to Africa was a group tour, and I remember having a wonderful time and outrageous fun with the group. One evening, early in the group tour, Father Rubeo confronted my brother and me and demanded that we spend more time with him and stop going out in the evenings with the rest of the group. Adam stood up to Father Rubeo and explained quite forthrightly that there would be no change and that Father Rubeo would have to get used to it. I can still recall the look in Father Rubeo's eyes. It looked like he was trying to show anger, but the look was pure shock. I now believe this was because it was the first time in over 30 years that a Hersbach had ever said no to him, or dared to say no to him.

A few months after we got back from Africa my father told my siblings and me that he had been sexually abused by Father Rubeo when he was a child. We were gathered around the kitchen table for dinner when dad dropped the bombshell. I remember feeling numb at the time. I struggled for many years to understand why Father Rubeo had been able to continue to be part of our lives, and why my father was unable to say no to him. I grieved for the loss of Father Rubeo from our lives. At that time I did not identify myself as a victim. I only saw Father Rubeo as Grampa and I could not understand.

In August 1994 dad made an official complaint about Father Rubeo in a meeting with Gerald Cudmore, the vicar general at the time. Father Rubeo continued his role as parish priest in Boronia.

Father Rubeo contacted my father by mail in 1995. In this note he asked for my father to repay the $10,000 he gave my parents for their house deposit in 1973. My father ignored the request.

In 1996, in an interview with Victoria Police regarding an unrelated matter, Father Rubeo admitted to sexually abusing my father and his brother. The police contacted my father and uncle and then pressed charges against Father Rubeo. Father Rubeo pleaded guilty to two counts of indecent assault upon my father and uncle. He was given a good behaviour bond, and no conviction was

recorded.

In 1997 my father applied for assistance through Carelink as part of the Melbourne Response. He received counselling services through Carelink and eventually made an application for compensation. He received $35,000. Compensation was capped at $50,000 at the time.

My father and his brother were re-interviewed by Victoria Police in 2010. The police laid fresh charges against Father Rubeo for his abuse of my father and uncle. The original charges in 1996 were only for two counts of indecent assault. The fresh charges included an additional 30 counts of indecent assault.

On 16 December 2011, the day he was due in court for the committal hearing, Father Rubeo died. My brother told me that he made various attempts to contact the then Vicar General of the Archdiocese, Les Tomlinson, regarding the details of Father Rubeo's funeral, but that these details were never provided to him. My family and I were unable to attend Father Rubeo's funeral even if we had wanted to.

The Melbourne Response. Carelink. My father made me aware that I would qualify for assistance through Carelink. My father told me Carelink had advised him that the immediate family of primary victims are able to access Carelink's counselling services, as they are considered secondary victims.

I first met with Carelink administrator Susan Sharkey when I was in my early 20s. She said I qualified as a secondary victim and encouraged me to seek counselling. I understood that as a secondary victim I was entitled to counselling but not compensation.

I accessed counselling services through Carelink on and off for about 15 years. I first started seeing a counsellor, Lethe Gaskin, and later a psychologist, Dr Rachel Mackenzie. Neither Ms Gaskin nor Dr Mackenzie worked at Carelink, but Carelink paid for their services.

I have never been asked for my Medicare details during my engagement with Carelink. My wife has accessed Carelink counselling services as a secondary victim. She told me that she was asked by Carelink to provide her Medicare details and that she refused. My sisters and father told

me that they have provided their Medicare details at Carelink's request. I do not think it is appropriate that Medicare should pay for Carelink services.

Every so often I went back to Carelink and saw Ms Sharkey to check in. I was always fearful in the process that my status as a secondary victim would be called into question and that Carelink would seek to limit my access to counselling services.

Carelink was set up on the second storey of a terrace. The reception was often unstaffed and there was nowhere separate to sit and wait. My impression was that Ms Sharkey was acting as an administrator and as a counsellor. I think there should have been a greater separation between the administration of Carelink and the counselling services it provided.

In 2006 I spoke with Ms Gaskin about difficulties I was having adjusting to married life. I had been married for just over a year at this time. At this time my state of mind was poor and this had started to affect my wife and our marriage. I had the understanding that if I qualified as a primary victim then I need not fear losing access to counselling services, but I cannot recall how or why I had this understanding. I knew from my father's experience that if I was a primary victim that my wife would also be entitled to counselling services and that together we could also get couples counselling. Soon after this I approached Carelink and a meeting was arranged for me to attend Carelink.

On 1 March 2006 I met with Ms Sharkey and Professor Richard Ball at the Carelink office. I had not met Professor Ball before this meeting. I remember the conversation was being recorded as the recorder was sitting on the desk during the meeting, and the meeting lasted for about one hour.

I cannot recall being given any guidance or explanation about what to expect at this meeting. I found this meeting exceptionally traumatic. There were two of them and one of me, and I felt as though I was being interrogated. I found having two people speak at once to me as a victim to be extremely confronting. I felt that the power balance shifted significantly from a one-on-one conversation.

In this setting I disclosed that Father Rubeo had abused me. This was the first time I had disclosed to anyone the specifics of my abuse and its impacts on me. The nature and the tone of the questions were intimate, private and confronting. My main concern was that they would not believe me and thus not support me in being designated as a primary victim. I feel I told them more than I needed to and far more than I believe was reasonably required for them to do their job.

At the meeting with Ms Sharkey and Professor Ball, Professor Ball insisted that I become a patient of his and see him at his offices in Fitzroy. I felt pressured to see Professor Ball and I did not feel I had any choice but to go. When I saw him at the first appointment I attended at his office he gave me a lengthy survey which included questions about my sexual preferences and experiences and he told me to fill it out for his research. I did not understand the purpose of those sessions. I attended appointments at his office three or four times.

Ms Sharkey and Professor Ball told me during my meeting with them that I needed to see Peter O'Callaghan QC, the Independent Commissioner under the Melbourne Response. I understood that Mr O'Callaghan would assess whether I was a primary victim. I also understood that if I was assessed as a primary victim I would be entitled to apply for compensation from the Melbourne Response's Compensation Panel. I was given a brochure and an information booklet on the Melbourne Response.

Independent Commissioner. I met with Mr O'Callaghan on 9 March 2006 at Owen Dixon Chambers. I will never forget Mr O'Callaghan's chambers. It was a massive room - monstrous - it seemed to me to be the domain of an experienced legal professional. There were papers and books strewn everywhere. Mr O'Callaghan looked very comfortable but I was not. I sat down and he started recording our interview. I attended this meeting alone.

Mr O'Callaghan asked whether I would consent to him seeing the transcript of my conversation with Professor Ball and Ms Sharkey. He said, "I've just got to do what a normal investigator would." At the end of the interview Mr O'Callaghan asked whether I wanted to go to the police. Mr O'Callaghan said words to the effect, "Look, I'm obliged

to say that you can go to the cops if you want but, based on what you've told me, I don't think anything is going to happen." I accepted this advice and I did not pursue the police aspect or question what he said.

In retrospect I consider it inappropriate that Mr O'Callaghan gave me his opinion about going to the police and what would happen if I did go to them. I believe that Mr O'Callaghan could and should have given me the names of independent lawyers and encouraged me to seek independent legal advice at this point. I left the meeting with Mr O'Callaghan not knowing whether Mr O'Callaghan had accepted my story.

About six weeks after my meeting with Mr O'Callaghan I received a letter from him dated 20 April 2006. Enclosed with the letter was a copy of the transcript of my interview with Mr O'Callaghan. In the letter Mr O'Callaghan said that based on my memory there did not seem to be much point in taking my matter to the police and that if I did go to the police he would not be able to take any further steps in relation to my case until the police matter was completed.

The letter also said that on the assumption that I would not go to the police Mr O'Callaghan was satisfied that I was a victim of child sexual abuse by Father Rubeo and that he referred me to the Compensation Panel. Two brochures explaining the role of the Compensation Panel were included with the letter.

The entire process with Mr O'Callaghan felt very formal. I felt that there was no room in the process for compassion, debate or for me, the victim.

Compensation Panel. On 6 September 2006 I received a letter from the Compensation Panel asking me to meet with them.

On 31 October 2006 I met with the Compensation Panel, chaired by David Curtain QC. The meeting took place in the evening at Carelink's premises. I attended by myself. By this stage in the process I was emotionally raw. I felt that the only purpose of the meeting was how much I would score out of 55,000, which was the cap on compensation payments under the Melbourne Response at the time.

I do not know whether the panel had a report from Professor Ball or Mr O'Callaghan but I understood that they had read through the documents about my case. They asked me to tell them the effects of the abuse on my life. Again I was being asked to tell my story to a group of four strangers around a small table. The Compensation Panel was the first contact with the Melbourne Response where I met with people who I felt had a genuine compassion for victims. They took the time to put me at ease, and explained in a meaningful way who they were and what they did.

The meeting did not last long, maybe an hour, and was very awkward. I felt for the panel. I felt that hearing at close range the impact of 25 years of emotional and physical abuse would have been a terrible task. At times they struggled to make eye contact and seemed moved by what I told them.

On or around 2 November 2006 I received a letter from Mr Curtain recommending an offer of $17,500 in compensation. I was not given any indication of how the figure was calculated.

On 13 November 2006 the church's solicitors wrote to me and included a deed of release and a form letter signed by the Archbishop of Melbourne, Denis Hart. The solicitor's note emphasised that there were no confidentiality provisions in the deed of release.

The letter from Archbishop Hart angered me at the time and it angers me still. It was signed personally by him, but I feel that the sentiment and statements within it are generic.

I put the deed of release in a drawer at home and did not sign it for more than a year. At that stage I was still seeing Dr Mackenzie every one to two weeks. I told her that I did not want my decision to go through the Melbourne Response to be about money. She advised me to postpone making a decision on the offer until I was ready, and confirmed with Carelink that it would not expire.

Signing the offer became part of my healing process. I had made some great progress with Dr Mackenzie's help, and in November 2007 I signed the document and received my compensation payout. My feelings towards the deed of

release have changed significantly in the past five years. Signing it helped me emotionally at the time, but now it causes me angst. The Catholic Church has taken so much from me over the years. I feel like the church has exerted complete and total control over my life. I find it ironic that at the point where I finally wrested that control back I signed a document giving up my rights and putting myself again under its control.

Effect on my life. For all the things that Father Rubeo did to me, the worst by far was robbing a young boy of his father. For 16 years he inserted himself between us by behaving and making decisions as if he was my father. This despicable act was far worse than any physical abuse could ever have been. It breaks my heart that he took this away from us.

The journey for every victim of sexual abuse is very different. Some find the strength to get better, to heal and cope. Too many do not. They take their own lives. They abuse others. I consider myself to be one of the lucky ones. I have learnt how to cope, how to recognise what triggers my emotions and what I have to do to manage them. It has taken an enormous amount of effort and time to get to this position, but I know that I can never stand still. This fight will never end for me, but I am getting better at fighting it.

My recommendations. I would like to see Carelink re-designed and reinvigorated. I want Carelink to become the Catholic Church's 100-year plan to deal with victims of abuse. The plan needs to have clear processes that make it easier for victims to know where to go and what to do. It needs to be given sufficient resources and brought into the new century.

In Carelink's re-design it would be helpful for them to specify their "rules of engagement". Their website should explain how they deal with victims, who we need to speak to, what we need to do and what we and our families will be entitled to. We should be given other avenues to access counselling services. To this day, Ms Sharkey remains the gatekeeper for access to counselling services. I now find it too traumatic to speak with Carelink and my last contact with them was over five years ago.

I would like my wife to be able to easily access

Carelink's counselling services. I do not want her to have to explain to a stranger why she qualifies. I do not want her checked up on. I do not want her to worry about how many counselling sessions she might be entitled to. I do not want her to be asked for her Medicare details to help pay for the service.

I want the church to acknowledge that the deeds of release signed by victims through the Melbourne Response may add to a victim's burden and exacerbate the very problem they were designed to alleviate. For those victims that so desire, I want the church to demonstrate its compassionate intent by releasing those victims from their obligations under the deeds.

I want the church to acknowledge that the value of individual compensation payments made to victims grossly undervalues the impact of sexual abuse on victims. I would like to see the Compensation Panel re-open every case of compensation and make an independent assessment of uncapped compensation. The process should be transparent and benchmarked against standards from within the secular community. Society must decide what is considered fair and adequate compensation, not the institution.

I want the church to show compassion for its victims. Sadly, I believe that my story reflects the broader approach of the Catholic Church to paedophilia and sexual abuse, including the Melbourne Response. I feel that the mental health and healing of survivors are not the core issues driving the church's approach to the issue, but the protection of the institution via suppression and silence is utmost.

I do not need or want a personal apology. I do not want the church burnt down. All I want is someone from the Catholic Church to show compassion and give me a call one day and say, "Hi Paul. How are you going these days? How are you and your family getting along? Can I do anything to help?"

MS FURNESS: Your Honour, I note the time. It might be appropriate to take --

THE CHAIR: Does anyone else have any --

MR CASH: Yes. I represent Mr Hersbach and he wants to

elaborate on some things.

THE CHAIR: We will take the lunch adjournment and come back at 2 o'clock.

<THE WITNESS WITHDREW

LUNCHEON ADJOURNMENT

THE CHAIR: Ms Furness, we should explain to everyone, particularly those who might have been watching on the Net, that unfortunately we have now lost two hours because, as I understand it, of a partial failure of the electricity system in the City of Melbourne, but we are grateful to everyone for their patience in waiting for those who have worked hard to bring our systems back into some level of function. What we will do is sit on until 5 o'clock or thereabouts, depending upon where you get with the witnesses today.

MS FURNESS: Thank you, Your Honour. My learned friend was about to ask questions.

THE CHAIR: There is no-one else who wants to ask questions, is there?

MR RUSKIN: No, Your Honour.

MR GRAY: No, Your Honour.

THE CHAIR: Very well. Thank you.

<PAUL DANIEL HERSBACH, recalled: [4.04pm]

<EXAMINATION BY MR CASH:

MR CASH: Q. Cash is my name and I appear on behalf of Mr Hersbach. Sir, you have instructed me, haven't you, how it is that there are some aspects of your statement that you want to elaborate upon, is that right?
A. Yes, that's correct.

Q. We are conscious of the time and we want to focus on those particular areas that you are keen to provide over the course of perhaps 10 minutes some elaboration --

THE CHAIR: Just make sure that you cover what Mr Hersbach

wants you to cover because I don't want you or him to feel constrained by time not to tell us what he would like to tell us. Do you understand?
A. Yes, I do.

MR CASH: Thank you for that indication, Your Honour. Sir, can I take you to paragraph 29 of your statement. Have you got that in front of you there?
A. No, sir.

Q. You have it there, do you?
A. I do.

Q. Paragraph 29?
A. Yes.

Q. Paragraph 29 you say this. You say:

> I have never been asked for my Medicare details during my engagement with Carelink. My wife has accessed Carelink counselling services as a secondary victim. She has told me that she was asked by Carelink to provide her Medicare details and that she refused. My sisters and father told me that they have provided their Medicare details at Carelink's request. I do not think it is appropriate that Medicare should pay for Carelink services.

I understand you wanted to elaborate on that. Why is it that it's your view that it's inappropriate that Medicare should pay for the Carelink services?
A. My views have changed. I personally didn't think when I was asked for Medicare details there was a problem until my wife came home and it was the position that put her in, I think her perspective, a different perspective from someone who hadn't been involved with the Melbourne Response for a long time. Her view and one that I absolutely share is that I don't believe that the taxpayer should be funding the counselling that we received, and furthermore I don't believe it's appropriate that the Church represents that they pay for these services where in fact they are paying for the gap between what the counsellor charges and what Medicare covers.

THE CHAIR: I understand. Just keep going. We have some

technical issues up here, but it won't affect the evidence.

MR CASH: Thank you. I understand you would feel interested to know, it would help you to know to the extent to which the community has had to pay for these things?
A. Absolutely. I believe as part of this process that the Church should disclose how much has been claimed on Medicare for those services.

Q. At paragraph 34 of your statement you are talking in that paragraph about how it was that you met with Ms Sharkey and Professor Ball at Carelink and how it was that you "found this meeting exceptionally traumatic. There were two of them and one of me and I felt as though I was being interrogated." You say, "I found having two people speak at once to me as a victim to be extremely confronting." I understand that you want to address the Royal Commission in relation to a concern as to why was it necessary that you be questioned by two people; is that right?
A. Yes, that's correct. The process that Carelink took us through sitting in a room with a psychiatrist and having someone there listening in when they're asking you intimate personal questions about your sex life, about things that you have done, about what your thoughts are, this is confronting for a victim with a psychologist. It can often take years for a victim to get to the point with their own psychiatrist or help to talk about issues, and what happened with Carelink is in meeting one, hour one, minute one, they were into it and I found that extremely confronting.

Q. You talk about the Independent Commissioner at paragraphs 37 and thereafter, and I want to ask you a little bit about that because you say this. You say that in relation to Mr O'Callaghan:

> He said, "I've just got to do what a normal investigator would." At the end of the interview, Mr O'Callaghan asked whether I wanted to go to the police. Mr O'Callaghan said words to the effect of, "Look, I'm obliged to say that you can go to the cops if you want but, based on what you've told me, I don't think anything is going to happen." I accepted this advice and I did not pursue the police aspect or

question what he said.

You call it advice, "I accepted this advice". Did you truly understand that to be advice or what was the situation?
A. The situation and the circumstance I came to be in O'Callaghan's chambers is I was a victim. It all happened very quickly. I had met with Carelink and within a couple of days I was in his chambers at Owen Dixon Chambers. I had studied. I had come out of university recently. I had friends who had been through the legal profession and it was evident to me that this was somebody who had achieved a lot in their career and got to a certain point. So, when you study yourself I think you gain an appreciation for the intelligence of others and you gain an impression of them. At that time I thought, you know, he was a significant enough and senior enough authority that I didn't question at all when he said that. You know, I put the thought out of my mind completely about going to the police.

Q. He ultimately sent you a letter and it reminded you that you have:

> ... a continuing and unfettered right to report the matter to the police and I encourage the exercise of that right. In your case, however, with respect to the unsurprising haziness of your memory, there would not appear to be much point in your taking the matter to the police. However, that's a matter for you.

Did you regard that as advice or how did you regard that?
A. I did regard it at the time as advice. As I said, my impression of him was well formed at that stage having visited him in his chambers and I came to the conclusion that he was probably qualified to give me that advice.

Q. What was the situation? Were you inclined to think that you would go to the police or not in the absence of that advice?
A. No, I hadn't. I knew my father had been and it had been a very difficult process at that point to go to the police. A lot has changed since, and I was aware of my father's circumstances and his difficulty and that, coupled with Mr O'Callaghan's comments to me, meant that I didn't

go to the police.

Q. Are you able to say as to whether your thinking might have been, "Well, I would have gone to the police had it not been for that advice"?
A. I think I'd say I just didn't know any better.

Q. How did that advice impact upon your decision to go or not to go to the police?
A. Based on that advice, I did not go to the police.

Q. You say in paragraph 40:

> In retrospect I consider it inappropriate that Mr O'Callaghan gave me his opinion about going to the police and what would happen if I did go to them. I believe that Mr O'Callaghan could and should have given me the names of independent lawyers and encouraged me to seek independent legal advice at this point.

Was he not independent, did you feel, or what?
A. No, at that stage he was - his role in that meeting I had with him was to determine whether I was a victim of abuse. So I don't believe he was independent at that time.

Q. And what do you say now in retrospect about somebody in his position with respect to him giving a view about as to whether, if you go to the police, it will be pursued or not?
A. My recollection of it now and the reason for including those comments in paragraph 40 was that I was in a vulnerable position at that stage. I was a victim at the time and I was also fairly young. I was probably only in my early 20s and I guess as I have grown to know myself you learn what you don't know a lot about and I think at that time if I look back and were to give myself advice now I would say I didn't know what I didn't know.

Q. Later in your statement you talk about how it is you attended at the panel hearing and an amount of money in the sum of $17,500 was recommended and you also talk very encouragingly about Mr Curtain and his empathetic response and you wanted to endorse that, did you?
A. Absolutely. I mentioned in my statement that that was the first group of people in the process that were

compassionate and the things that they did that showed their compassion was the way they spoke to me, the way they introduced themselves, the way - it was obvious to me that on reflection that they had been trained and taught to behave in a certain way and that was appreciated.

Q. You have instructed me how in future you think - and correct me if I'm wrong about this in my terminology - that a victim might be assisted to know as to the ins and outs as to why it is that a particular sum has been determined as appropriate?
A. Certainly. It's a difficult - determining a level of compensation is always going to be a difficult thing because it will always tend people to compare and you want to know on a scale, it's a points system, where do you sit on the scale. I don't have an answer for that. However, in reading the documents since then I have become aware that there have been some guidelines internally that the Compensation Panel have used for determining how much was given and I think this process, I'd like that to become evident and I think that society should have a say in determining what the victim should get.

Q. A topic that you particularly want me to take the Royal Commission to is the subject of the letter that was received by you and it's dated 10 November 2006 and appears at tab 250. It's the letter from Archbishop Hart to yourself. You have concerns about victims being written to in the manner in which it was phrased. Can you explain?
A. It's both the manner and the mechanism. In my statements before I talked about getting a phone call, someone from the Church making a genuine attempt to understand who I was. I think it would have been - the sentiment that he has conveyed in that letter could easily have been and I think in my case it was justified that he would have asked to at least meet with me and conveyed it personally. That would have made a huge difference to me.

Q. You appreciate that it was well intended?
A. Absolutely. Through this whole process it's been my experience that the vast majority or all of the people involved in the Melbourne Response have had good intentions sometimes or well meaning intentions, often not without a lot of experience in dealing with victims. What I mean by that is I don't believe they set out to create problems for us, but I also don't believe they have been able to identify that the process has created problems for victims.

Q. It concludes:

> On behalf of the Catholic Church and personally, I apologise to you and to those around you for the wrongs and hurt you have suffered at the hands of Father Rubeo. Whether or not you chose to accept the enclosed offer, I offer you my prayers. Yours sincerely in Christ.

It is signed by the Archbishop of Melbourne. What do you want to convey to the Royal Commission about the manner in which it is signed off?
A. Yes, it's funny. The thing that affects me about this note, see how he's put the cross next to his name? That's what Rubeo did when he signed his name.

Q. You particularly wanted to say something about "Yours sincerely in Christ"; is that right?
A. Yes, to a victim, to be told that again by the perpetrators, it shows a lack of understanding of - it shows their lack of understanding of how I feel.

Q. In paragraph 53 of your statement you say this:

> Signing it helped me emotionally at the time, but now causes me angst. The Catholic Church has taken so much from me over the years. I feel like the Church has exerted complete and total control over my life. I find it ironic that, at the point where I finally wrested that control back, I signed a document giving up my rights and putting myself again under its control.

What do you mean by that?
A. It took me over a year to sign the deed of release. I'm fortunate I wasn't in a position where the money was going to make a huge difference to my life. It wasn't about that. I signed it, at the time it helped. I have to say for two or three years it was a really good thing. But this particular sentiment came out in the process of preparing to make my submissions to the Royal Commission where I took that document out and the legal nature of the document, the fact that I have signed over my rights again to the Catholic Church and my ability to pursue, regardless

of whether I wanted to, still causes me angst.

Q. You have signed up to this document and this process. Despite that, you at the end of your statement are quite pointedly describing how it is that you wish that "the Church to demonstrate its compassionate intent by releasing those victims from their obligations under the deeds." Do you think that's something that would mean very much to yourself?
A. Absolutely. The deeds do nothing for the victims, so they are a mechanism that the Church has used that, frankly, they don't make a difference to the victims at all.

Q. Would that help the healing process if the Church took that step?
A. Without doubt it would help the healing process. It would be an indication of their compassion towards victims to release them from those deeds.

Q. If the Church took that step, how would that impact upon your perception as to its being genuine about its intention to assist those who have suffered at the hands of --
A. I think it goes to the whole point of the response needing to be genuine. You know, "genuine" is a subjective term, so people are going to make their own opinions about what's genuine and what's not and you are going to hear from me and others about what we think is genuine. The way I have been treated as a counter pointer as an example is that the way that I have been treated by the Royal Commission from the time I made a private statement to me sitting in a box today, I think the model of how they should treat and the way to be compassionate is actually already set. We only need to look at what the Commission has set up, the support they have given victims, the follow-up, the phone calls, the process, the professionalism of it, is exactly what the Church needs to do. It can be done. There is a way. It just needs well meaning people who want to help the victims to do it from the start.

THE CHAIR: Mr Hersbach, can I just ask you: in relation to the deed, is there any one issue in the deed that stands out as one that you would see as requiring the Church to set aside?
A. It's the nature of the document. There's this

document that sits in my house, Your Honour, that is a symbol of what they've done. So the document in itself, I don't have plans now to go and do something about it. It's the fact that in a drawer at home is this document that says, with my signature, saying I have given my rights over to the Church on this.

MR CASH: Q. Just following on from His Honour's questioning, in relation to your wanting to be released from the obligations, in particular if you were allowed to sue the Church, how do you think that that would assist your healing process?
A. I've not considered suing the Church personally. I'm in a position in my life where, as I said, I think I'm one of the lucky ones where I have been able to be well educated and have a career and I don't want for much. I think I am the exception to the rule. In the 300-odd victims that were spoken about this morning, I think it would have far more effect on some of those lives than my own.

Q. So in conclusion, sir, so far as my questioning is concerned, is there any overwhelming suggestion that you would like to make in terms of future processes, what you think might be a good process in future?
A. I would just like to reiterate that I think the model is set with the Royal Commission and I think the people and the processes that have been set up for victims are the blueprint for the Catholic Church to use in dealing with others.

MR CASH: No further questions, thank you.

THE CHAIR: Yes, Ms Furness.

MS FURNESS: Nothing further, Your Honour.

THE CHAIR: Thank you, Mr Hersbach. You may step down. Thank you for coming. You are excused.

<THE WITNESS WITHDREW

MS FURNESS: Your Honour, I call [AFA]. Can I indicate that Mr [AFA] is giving evidence in the hearing room. However, his image will not be webcast. So those who are watching and listening to this elsewhere will not be able to see the witness's face.

THE CHAIR: But the audio will continue, will it?

MS FURNESS: The audio will continue. I'm told the audio will continue, Your Honour.

THE CHAIR: Mr [AFA], you are happy with that happening? You are happy for the audio to continue?

THE WITNESS: Yes, I am.

<[AFA], sworn [4.25pm]

<EXAMINATION BY MS FURNESS:

MS FURNESS: Q. Sir, you have made a statement to the Royal Commission?
A. Yes, I have.

Q. And you have a copy of that statement with you?
A. Yes, I have.

Q. And it is dated 31 July 2014?
A. That's correct.

Q. I understand at paragraph 29 you wish to add a couple of words?
A. Yes, that's right.

Q. As it currently reads, "In about June 2011, after the Melbourne Response process had finished", you wish to add the words "Compensation Panel" after "response"; is that right?
A. That's correct, yes.

Q. So the sentence is in relation to the end of the compensation part of the Melbourne Response?
A. That's correct, yes.

Q. Thank you. With that amendment, sir, are the contents of your statement true and correct?
A. Yes.

MS FURNESS: I tender that statement.

EXHIBIT #16-4 STATEMENT OF [AFA] DATED 31/7/2014

MS FURNESS: Q. I invite you, sir, to read your statement.
A. Thank you. This statement made by me accurately sets out the evidence that I'm prepared to give to the Royal Commission into Institutional Responses to Child Sexual Abuse. The statement is true and correct to the best of my knowledge and belief.

Where speech is referred to in this statement, it is provided in words or words to the effect of those which were used to the best of my recollection.

My full name is [AFA]. I was born in 1962. I grew up in Reservoir in Melbourne and went to St Gabriel's Primary School. My local parish was St Gabriel's Catholic Church, Reservoir.

When I was 14, I met Father Michael Glennon at a karate school he had just opened at St Gabriel's. Father Glennon ran a foundation called the Peaceful Hand Youth Foundation, which he founded.

I went to karate school about once a week, but I saw Father Glennon more than that. I used to go to the presbytery all the time and hang out with him. We would hang out with a cup of coffee and play pool. I saw him as a father figure.

Sexual abuse. Father Glennon sexually abused me three times over a period of about 18 months from when I was about 15.

The first time it happened, Father Glennon and I were going to St Monica's at Moonee Ponds, where he was opening a new karate school. When I was in the car with him he told me that he was bisexual. After the karate demonstration we drove back to the church. He fondled and molested me in his car in the car park at the back of St Gabriel's presbytery.

The next time Father Glennon took me camping to Lancefield in Victoria, where the karate school had a camp. I slept in a two-man tent with Father Glennon. That night he sexually abused me as well.

A few months later Father Glennon took me to stay overnight at Lancefield. By that time the Peaceful Hand

Foundation had built a hall on the Lancefield camp, which had a private room for Father Glennon. That night I slept in Father Glennon's double bed with him, and he again fondled me.

Impact on my life. After Father Glennon abused me I felt ashamed and I felt down. It affected my self-worth and I suffered from psychological problems, including anxiety and depression. It also affected my schooling and HSC.

About one year after the abuse occurred I told a friend of mine what had happened to me. That was the only person I ever told until I was 40 years old. I felt that I could not tell my family at the time as I felt it was my fault.

When I was in my early 40s I was very depressed and suffering from serious self-worth issues. I could not work for about three years. I was drinking heavily and my marriage was on shaky ground. I sought psychiatric help. I eventually told my counsellor about the abuse.

Melbourne Response. In 2011 I was feeling on top of my depression. I looked back on my life and thought the next step, if I was going to get well, was to face up as to what happened to me. I had also followed Father Glennon's trials in the media. I knew that he was in prison and that he would be out of prison in about 2016. I wanted to keep him in prison because I thought that he would reoffend and I did not want this happening to other kids.

I saw a pamphlet for the Melbourne Response in my local church. I rang the number listed there and spoke to Peter O'Callaghan QC, the Independent Commissioner under the Melbourne Response. We arranged a time for me to come to his chambers and speak to him.

I met with Mr O'Callaghan on 18 February 2011 in his chambers. He interviewed me about Father Glennon's abuse. He was the first person in a position of authority that I told of my abuse.

During this interview I said to Mr O'Callaghan, "If there is any chance of putting Father Glennon back in prison, I think I would go to the police because I just know that he will reoffend." Mr O'Callaghan told me that

I had the right to take my matter to the police. He said that it would not be difficult for me to satisfy him that I had been a victim and he would then refer me to Carelink for free counselling and I could apply for compensation up to $75,000. He also said that if I went to the police, then this application would be postponed.

Mr O'Callaghan said that the police process might take a couple of years and that he was not able to investigate my matter during this time. He also said that it was very unlikely Father Glennon would get much more of a sentence even if he was convicted again. I was taken aback by these comments. I felt that Mr O'Callaghan was trying to discourage me from going to the police. I did not go to the police at the time.

After my meeting with Mr O'Callaghan I received a letter from him dated 21 February 2011. The letter set out a list of matters for me to consider about whether I should go to the police with my complaint. The letter included a transcript of our interview. The letter also referred to a second letter that he had forwarded to me which I was to disregard if I went to the police.

The second letter was also dated 21 February 2011. This letter said that Mr O'Callaghan was satisfied that I was a victim of sexual abuse by Father Glennon and that I could be referred to Carelink and to the Compensation Panel.

Some time after my meeting with Mr O'Callaghan I met with Susan Sharkey at Carelink in East Melbourne. She referred me to a psychiatrist, Sue Brann, for a psychiatric assessment. On 15 February 2011 I met with Sue Brann and Susan Sharkey at Sue Brann's office. My wife came with me as a support person. I found this meeting pretty confronting. I had to again revisit Father Glennon's abuse and the impact this had had on my life. I have not received professional services from Carelink since this meeting, but I did continue to forward Carelink receipts for my ongoing medical costs which they reimbursed me for.

In May 2011 I received a letter from David Curtain QC which said that Mr O'Callaghan had accepted my story and proposed to meet me on 30 May 2011.

I met the Compensation Panel, which was chaired by

Mr Curtain, on 30 May 2011 at Carelink. There were four panel members. I did not take a support person with me. The panel introduced themselves and explained what they were going to do in the meeting. I found it pretty daunting to go into a room with a QC and a panel of other people.

In June 2011 I received a letter from Richard Leder, the Archdiocese's lawyer, offering me $50,000 in compensation. The Archdiocese also offered to pay for any counselling, medication or hospitalisation related to the abuse. I knew that the compensation payments were capped at $75,000. I was not given any explanation of how the offer to me of $50,000 was calculated.

I did not think that this was adequate compensation for the effect the abuse had had on my life. On 27 June 2011 I wrote to Richard Leder and told him that as well as the physical, emotional and mental suffering I had endured since the abuse, I had lost about $250,000 in wages due to a major depressive disorder. I also told him that I was rejecting the Archdiocese's offer because it was not satisfactory and that I may commence legal proceedings.

Mr Leder wrote to me on 30 June 2011 and said that the offer was not a starting point for negotiations, that he was not in a position to make a higher offer, and that the original offer would remain open for acceptance.

A few days later, after speaking with a friend's brother who was a barrister, I decided to accept the offer. At the time I was not functioning very well and I wanted to get this over and done with. I wrote to Mr Leder on 5 July 2011 accepting the offer and sent him a signed deed of release.

With the letter offering compensation I also received a letter of apology from Archbishop Denis Hart. I think this should have been a personal apology in a face-to-face meeting. No member of the clergy has ever attempted to contact me or to apologise about the abuse of Father Glennon.

In about June 2011, after the Melbourne Response compensation tribunal meeting, I reported my abuse to the Faulkner Police Station. The police were fantastic. They were very empathetic and told me they were very keen to

progress the matter. The police reassured me that I was preyed on and that the abuse was not my fault at all.

The Office of Public Prosecutions ended up laying charges against Father Glennon. The trial of my case was set down for June 2014, however Father Glennon died in prison on New Year's Day in 2014.

Soon after I had spoken with the Office of Public Prosecutions, I got a phone call from Mr O'Callaghan. He said he understood that I had gone to the police and asked me what was happening. I told him that the matter was with the police and the Office of Public Prosecutions and I could not say anything further.

Also in 2011 I made an application to the Victims of Crime Assistance Tribunal. I had an initial interview. I told them I had reached a settlement and received compensation from the Catholic Church and detailed my medical costs. After this interview, the tribunal obtained the transcript of my police interview.

On 14 August 2013 the tribunal offered me $12,128.45 as reimbursement of medical expenses, which I accepted.

Reflections on the Melbourne Response. The Melbourne Response did not meet my expectations. I felt pressure to go through the Melbourne Response because I had followed John Ellis's case against the Church in New South Wales about his own child sexual abuse, and I thought the Church would rely on the defence if I tried to take them to court. I did not think I had any other options for seeking compensation.

I think I should have been offered independent legal advice about my options of suing the Church and reporting to the police when I first contacted the Melbourne Response.

I also think that the police should have been involved straight away, and that it is important that allegations of criminal behaviour be investigated by an outside, independent organisation. I do not think institutions should investigate themselves. I understand that the Independent Commissioner is appointed and paid by the Church.

I have never been asked for feedback on the Melbourne Response process or how it could be improved.

Q. Thank you. Can I take you back to paragraph 18 of your statement. You say in paragraph 18 that during the interview with Mr O'Callaghan you felt that he was trying to discourage you from going to the police; do you see that?
A. Yes.

Q. And then in the next paragraph you refer to the letter you received, and perhaps we could have that tab 269 on the screen. Now, that's a copy of the letter you were referring to?
A. Yes, it is.

Q. And if we can just scroll down the document. If we can just stop there. Do you see that last full paragraph:

> I now set out for your consideration matters that you might consider relevant to the question of whether you should go to the police.

A. Yes.

Q. And, firstly, you are told that you are under no obligation to go and many complainants do not. Secondly, he refers to your concern of Glennon being released will reoffend; that was a matter you raised with him?
A. I beg your pardon?

Q. That was a matter you raised with Mr O'Callaghan in the meeting?
A. Yes, it was.

Q. And then if we can just scroll down to the next page. There in paragraph 3 there's reference to your comment that it can't be assumed he will be convicted because of it being his word against yours; do you see that?
A. Yes, I do.

Q. And then he tells you of the years that the offences had occurred; do you see that?
A. Yes.

Q. Was that something that was discussed during the interview or was that new information to you?

A. I can't really recall.

Q. Then the next paragraph is a reference to many of the offences being similar to that of which you complained, and Mr O'Callaghan said that it would have to be considered likely that the court perhaps would not imprison him or alternatively for a relatively short period; do you see that?
A. Yes, I do.

Q. And that was something that was discussed in the interview with you?
A. It was, yes.

Q. Then if we can just scroll down further, you are then advised about the sex offenders registration and what effect that Act might have on Glennon after his release?
A. Yes.

Q. Was that something that had been discussed in the interview with you?
A. I truthfully can't recall if that was discussed.

Q. Then if we can just scroll down further to paragraph numbered 7, there is reference there to a real possibility that the police would decline to charge if of the opinion that at the end of the day he wouldn't be in prison for a significant period. Was that something raised in the interview with you?
A. Yes, it was.

Q. And then it was confirmed that if you went to the police Mr O'Callaghan would take no further steps?
A. That's correct.

Q. And that was something that was raised in the interview too, was it not?
A. Yes, it was.

Q. What did you think when you read that letter in terms of going to the police?
A. Well, my initial impression was that it would be a waste of time going to the police.

Q. Based on the matters set out by Mr O'Callaghan in his letter?
A. Yes, basically that he wouldn't get any more time in

prison.

Q. You did ultimately go to the police --
A. Yes.

Q. -- after the Compensation Panel process had completed. Why did you change your mind?
A. I changed my mind just for my own benefit. I really had to see this through. It's all about healing, and I had done the initial step, but I really had to see this through. I wanted to eyeball the person that had done the abuse to me in a court and get a conviction against him. That's why.

MS FURNESS: Thank you, sir. I have no further questions.

THE CHAIR: Does anyone at the Bar table have any questions?

MR WOODS: No, Your Honour.

MR GRAY: No, Your Honour.

MR CASH: No, Your Honour.

THE CHAIR: Very well. Thank you, sir, for coming and telling us your story. You are now excused from further attendance.

<THE WITNESS WITHDREW

MS FURNESS: Your Honour, the next witness is Peter O'Callaghan. I expect he will be giving evidence for some time. Perhaps, given the hour, it might be preferable to start his evidence at 10 in the morning, but I'm in Your Honour's and Commissioners' hands.

THE CHAIR: That's satisfactory to us. Is it satisfactory to Mr O'Callaghan?

MR WOODS: It is, Your Honour.

THE CHAIR: Very well. We will adjourn --

MR RUSKIN: Just before Your Honour adjourns may I raise a very short matter which is we are here for Mr Leder, and of course we want to be here when he gives his evidence, and

we have the transcript. But we wondered if we could be flexible with respect to attendance when other people come.

THE CHAIR: You may, and you can judge that for yourselves.

MR RUSKIN: Thank you very much.

THE CHAIR: Very well. We will adjourn until 10 o'clock in the morning.

AT 4.47PM THE COMMISSION WAS ADJOURNED TO TUESDAY, 19 AUGUST 2014 AT 10AM

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