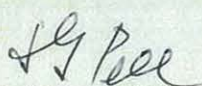


### Witness Statement

<b>Name</b>	Cardinal George Pell
<b>Address</b>	Level 16, 133 Liverpool Street, Sydney, NSW, 2000
<b>Occupation</b>	Prefect for the Secretariat for the Economy, Holy See
<b>Date</b>	24 February 2014

- 1 My name is George Pell.
- 2 I was born on 8 June 1941 in Ballarat, Victoria. I was Archbishop of Sydney from 2001 until my appointment today as the Prefect for the Secretariat for the Economy of the Holy See.
- 3 I have been asked to provide this statement in connection with a *Towards Healing* complaint made by Mr John Ellis (**Mr Ellis**) and subsequent litigation commenced by Mr Ellis in respect of his complaint. I was the Archbishop of Sydney at the time Mr Ellis made his complaint in 2002 and remained Archbishop of Sydney until my new appointment was made today. In this statement, I describe my role as Archbishop of Sydney and the Archdiocese's response to Mr Ellis. Although I have signed this statement after my new appointment, I finalised it just prior to my appointment and it accurately describes my role as Archbishop of Sydney up to the signing of this statement. In preparing this statement, I have reviewed documents relating to the *Towards Healing* complaint of Mr John Ellis and the legal proceedings brought by Mr Ellis in the Supreme Court of New South Wales. Where I refer to a document in this statement, I have used the document reference number which appears in the top right-hand corner of the document to which I refer. I have not independently reviewed the files of the Archdiocese or the other entities from which these documents have been drawn.
- 4 The documents I have reviewed for the purpose of preparing this statement have assisted me in refreshing my memory of some of these events. Where a document is neither a communication to me nor from me, and I recollect the document, I have set out my recollection in this statement. Otherwise I comment on a document if I believe it is relevant to my statement.
- 5 This statement has been prepared in response to and in compliance with a Notice to Produce. It is produced to the Royal Commission on the basis that it will be tendered and received in evidence by the Royal Commission and on the basis that the use of the statement will be governed by section 6DD of the *Royal Commissions Act 1902* (Cth) and section 17(2) and 17(3)(b) of the *Royal Commissions Act 1923* (NSW).





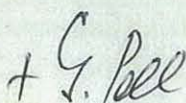

## Introduction

- 6 I have been asked by the Royal Commission to provide a statement regarding my involvement in responding to a complaint lodged by Mr Ellis in the Church's *Towards Healing* process and in relation to the subsequent litigation commenced by Mr Ellis. As I have said before, I am committed to cooperating fully with the Royal Commission.
- 7 I acknowledge and apologise to Mr Ellis for the gross violation and abuse committed by Aidan Duggan, a now deceased priest of the Sydney Archdiocese. I deeply regret the pain, trauma and emotional damage that this abuse caused to Mr Ellis.
- 8 I met with Mr Ellis and his wife in 2009. I acknowledged to him then, and I repeat now, that in responding to his *Towards Healing* complaint, mistakes were made by me and by others in the Church that resulted in driving Mr Ellis and the Archdiocese apart rather than bringing healing. I acknowledge and regret those mistakes, particularly the unacceptable delay from the date of his complaint to assessment. Also, certain steps were taken in the litigation that now cause me concern and that I would not repeat.
- 9 Once the litigation was over, Msgr Usher, the Chancellor of the Archdiocese, with my full support, sought to assist Mr Ellis, by meeting counselling costs and, over time, making payments to Mr Ellis amounting so far to some \$570,365. I am pleased that we have been able to provide this assistance to Mr Ellis, which in the case of the counselling costs is ongoing, and hope it has brought him some measure of comfort.
- 10 Lessons have been learned. Following the conclusion of Mr Ellis' court case, I commissioned a review of the Archdiocese's *Towards Healing* files to see whether processes had been followed appropriately. As a result of that review, I made a submission in 2009 to the review of *Towards Healing* and made another submission regarding *Towards Healing* in 2011, suggesting improvements I thought could be made to address issues such as delay, an improved pastoral response to victims of abuse and the quality of investigations.
- 11 In addition, at my direction, the Archdiocese of Sydney has taken steps to improve its own response to victims of abuse. I am committed to continual review and improvement in the way we deal with these matters. The present practices of the Archdiocese are outlined in the 2012 document "Sexual Abuse: The Response of the Sydney Archdiocese" (a copy of which is annexed to this statement and marked "A").
- 12 I abhor any abuse and mistreatment of children. Sexual abuse of children by clergy is particularly abhorrent. I acknowledge again with shame and great sadness the immense pain and sometimes life-long harm to those who are abused. Battling this evil has always been a major priority in my time as archbishop in two cities. I endorse what is set out in the document "Our Commitment" found in the submissions on *Towards Healing* dated 30 September 2013 of the Truth, Justice and Healing Council to the Royal Commission.





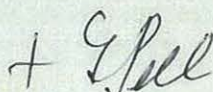

- 13 I have apologised a number of times for these terrible crimes and I apologise to victims again with all my heart. I do believe, as I have said before, that actions speak louder than words. As I said at the time of the establishment of the Melbourne Response, we cannot change what has happened in the past or undo the wrongs and the hurt. In seeking to do what is possible, our major goals must be: truth, humility, healing for victims, assistance to other persons affected, an adequate response to those accused and to offenders and prevention of any such offences in the future.
  
- 14 The crimes that were committed against Mr Ellis and others by priests and others in the community should never have occurred. The Catholic community should be one of the safest places for children and young people and it is a completely unacceptable failure whenever a child has been hurt by a sexual predator in the church. There is always more to be done and better ways of doing things. I am serious about preventing these crimes and our efforts have already had a good measure of success.
  
- 15 I am committed to working with the Royal Commission and government and non-governmental agencies to do everything possible to remove this evil scourge from our community. I will continue my efforts to offer practical help and support, respectfully and compassionately, to those who are suffering because of these crimes. First and foremost I am on the side of people who have been hurt by sexual abuse. I always have been.
  
- 16 As an Archbishop for 18 years since 1996, I have been regularly involved as the bishops of Australia worked to deal with this scandal, these crimes. There were also discussions of the Australian Catholic Bishops' Conference (ACBC) on this issue during my nine years as auxiliary bishop in the Archdiocese of Melbourne (from 1987).
  
- 17 From 1996 I have regularly evaluated the procedures in place and worked constructively to improve them in the light of experience, with the aim that justice would be done. As the pre-1996 procedures were clearly inadequate in the Melbourne Archdiocese (and I say more on this below), I instituted the Melbourne Response in 1996, after taking expert advice, with an Independent Commission, Compensation Panel and Counselling. I remain proud of the contribution this response has made, while expressing no claim that the procedures were or are perfect.
  
- 18 Awareness of this terrible crime and public encouragement to report are probably at the highest levels they have ever been in our community and this is a good thing.
  
- 19 When I became Archbishop of Sydney in 2001, I decided to follow the *Towards Healing* procedures already in place, reassured by their basic adequacy as well as the New South Wales requirement that cases be reported to the police and that cases where those accused were still working with children had to be reported to the Ombudsman, and the practices followed had to be reviewed by the Ombudsman.
  
- 20 I made a detailed proposal in the Parkinson review in 2009 and again in 2011 for improvements to *Towards Healing*. These proposals were written after I had asked our lawyers to identify areas for






improvement following an examination of Sydney Archdiocese files. I will welcome implementing reform from governments after the Royal Commission reports, and I am involved in the Church's consideration of interim measures that might be adopted in the meantime.

- 21 As Archbishop of Sydney, I have continued to evaluate procedures and improve them in the light of experience. In mid-2012, the Archdiocese of Sydney issued a document, "Sexual Abuse: The Response of the Sydney Archdiocese" (Annexure A) which summarizes the current practices and procedures the Archdiocese follows in responding to the problem of child sexual abuse. This document confirms, among other matters, that victims are my priority and that the preference of the Archdiocese is to resolve claims whenever possible pastorally and in a non-adversarial manner so that victims can avoid the costs and stress of litigation. The document also clarified that the Archdiocese no longer uses deeds of release in *Towards Healing* matters or other pastoral responses (except where the victim wishes to do so).
- 22 For victims who prefer the litigation option, the Archdiocese respects their right to do so.
- 23 In the light of early experiences and wise advice over the years, I have always required those dealing directly with these matters to follow the relevant procedures. "Follow the book" was my regular reply to those seeking advice. I believe in this way justice can be best achieved.
- 24 In other words, justice should be the aim and justice should prevail, with the interests of the victims paramount (but not cancelling the rights of the accused), over for example the assets or good name of the Church or any other organisation to which the perpetrator belonged. The priority of the victims was recognised more explicitly by the Church in Australia in 1996-7 when the protocols of the Melbourne Response and *Towards Healing* were implemented.
- 25 I have worked conscientiously for the past 17 years (since first becoming Archbishop of Melbourne and subsequently as Archbishop of Sydney) to help victims of abuse and to establish procedures and protocols not only to support victims but also to do all that we can to ensure church personnel are never again involved in abuse. The measures taken by the Melbourne Response and *Towards Healing* demonstrate clearly my intention and that of the broader church in Australia to face up to the crime of sexual abuse and to act constructively to improve the situation and diminish the suffering of victims of abuse.
- 26 The establishment of the Melbourne Response and *Towards Healing* were a watershed. I refer in this regard, for example, to the submission of the Truth, Justice and Healing Council (in response to the Royal Commission's Issues Paper on *Towards Healing*) dated 30 September 2013, especially at sections 1.3, 5.4 and 6.2, the latter section discussing the Wood Royal Commission which, in its Final Report, commented that the *Towards Healing* Protocol indicated that the "Catholic Church is aware of its past deficiencies in dealing with allegations of sexual abuse and is making a concerted effort to overcome them". I discuss my establishment of the Melbourne Response in more detail below.






- 27 As the figures provided on behalf of Church bodies to the Victorian Parliamentary Inquiry demonstrate, the number of incidents involving priests, religious and officials of the Catholic Church in Australia has fallen significantly from earlier scandalous levels. The experience of the Archdiocese of Sydney seems to parallel broadly that of Church bodies in Victoria, in terms of the reduction in incidents over the decades.
- 28 To continue this introduction, I believe it would be useful to explain my basic approach to the vexed question of the Church's use of money.
- 29 For decades I have believed, and I have expressed this belief, that the justification for the money the Church possesses is found in the good works this money enables the dioceses/religious orders/parishes to perform. These good works certainly include, but they are not limited to, compensation or reparation or ex gratia payments to victims of child sexual abuse. Each bishop has an obligation, first of all to meet obligations, but also to maintain the patrimony his diocese possesses at the time he takes office, and to hand it on to his successor. A bishop has no warrant to expend the patrimony on his generation, unless forced to do so by circumstances beyond his control.
- 30 Catholic dioceses pay their debts and every court award has always been met from the different assets of the dioceses. Trustees of real property do not need to be sued to access church money. I also believe, and have stated this publicly on other occasions, that the Catholic Church should be treated like any other organisation and pay damages comparable to those paid by government and other non-government institutions.

#### *Mr Ellis' complaint*

- 31 The treatment of Mr Ellis' complaint can be divided into three phases:
- (a) *Towards Healing* procedures;
  - (b) litigation; and
  - (c) pastoral help

#### *Towards Healing Procedures*

- 32 Truth compels me to acknowledge that mistakes were made which drove John Ellis and the Sydney Archdiocese further apart, an unusual development in most cases.
- 33 In fairness, it must also be acknowledged that Mr John Davoren, the then Director of the NSW Professional Standards Office, was ill and absent from work from a by-pass operation for some weeks around the time Mr Ellis lodged his complaint and when it should have been progressed more quickly.

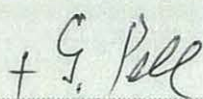





- 34 Mr Ellis' *Towards Healing* complaint was progressed too slowly, although it continued. I did not at the time realise, but have more recently learned, that it was often only activated by Mr Ellis' requests for information and action. Nor did I then advert to the fact that Mr Davoren had not appointed an assessor independent of himself, as required by the *Towards Healing* protocol.
- 35 His early preliminary conclusion that Mr Ellis' complaint could not be proved was made without the help of an appointed assessor. It was not upheld by Mr Eccleston's subsequent investigation. As a matter of principle and practice I never attempted to intervene in, or influence, assessments, which I believe should be at least one remove from the bishop. I did accept Mr Davoren's initial recommendations, relying on his advice as Director of the Professional Standards Office, but never believed the *Towards Healing* case was closed, until litigation commenced.

### *Litigation*

- 36 The legal battle was hard fought, perhaps too well fought by our legal representatives who won a significant legal victory. I would now say, looking back, that these legal measures, although effective, were disproportionate to the objective and to the psychological state of Mr Ellis as I now better understand it.
- 37 It is easier, I find, to be regularly wise in hindsight. After recently having various correspondence, and the transcripts of the hearing, drawn to my attention, I realise I should have exercised more regular and stringent oversight through my chancellor(s). The Sydney Archdiocese now has an in-house lawyer who attends hearings in the courtroom to observe the progress of significant cases. I am not suggesting that the Sydney lawyers who conducted the defence of the Ellis case were out of control, as I explicitly endorsed the major strategies of the defence, but I was not involved in the day to day running of the case. After initial doubts, I was convinced by my legal advice, and remain convinced, that the Trustees of the Roman Catholic Archdiocese of Sydney (**Trustees**) were not an appropriate defendant.
- 38 Litigation can be an ugly business. As a priest there are times when I view matters differently from the way lawyers would generally, perhaps almost universally, view such situations.
- 39 On the one hand, all victims of child sexual abuse must be treated with compassion and justice. On the other, when litigation is commenced against the Church there can be legitimate positions to defend, such as whether the events occurred as alleged, whether the amounts of compensation sought are reasonable and appropriate, and who it is that should be liable to compensate the victim. The litigation process does not well accommodate these tensions, and with the benefit of hindsight the Church may better manage them so as to respect the proper needs of victims.
- 40 My fundamental belief is that where a person such as Mr Ellis has been abused by a priest, then he or she should be treated consistently with the requirements of justice and compassion, including among other things with an appropriate financial response in the circumstances of that person's case, either by way of ex gratia payments or reparation or compensation or damages.

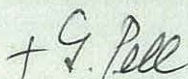
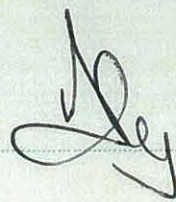





- 41 In this vein I regret that I did not see the psychiatrist's report (Dr Phillips) during the hearing in 2005, which detailed the woundedness of Mr Ellis. I would not have intervened to change the major strategy of the legal case (because I believe that when a person or group, such as expert lawyers, is given a task they should be allowed to get on with the job without inexpert interference), but I would have requested, indeed insisted, that Mr Ellis be treated in a manner which took greater account of the injury he had suffered.
- 42 I did endorse the decision not to enter mediation at the start of the legal proceedings, but now believe that was a mistake. I do not believe that I ever endorsed the view that the Trustees or I could deny that violations took place.
- 43 A major part in my decision to defend the legal claim brought by Mr Ellis was my conviction that he was now seeking exorbitant damages of millions of dollars by way of an ambit claim, where he had lost his \$300,000 a year position and lost the probability of promotion to a position earning \$500,000 to \$750,000 a year. A recent "strapping case" in 2001 with the appeal decision in 2003 (*Trustees of the Roman Catholic Church for the Archdiocese of Sydney v Hogan*) where damages of \$2.5 million were initially awarded to a school student who had been strapped, and then reduced to \$1.27 million (plus costs, a portion of which were indemnity costs), was an important consideration in my mind.
- 44 Although I now understand that the nature of Mr Ellis' damages claim was not new, at the time I believed he was seeking to introduce new ways of seeking very large damages for loss of high level earnings. I was certainly concerned about what I considered to be an excessive claim for damages. The Archdiocese appealed to a general principle of law, namely that a body cannot be forced to take legal responsibility for those matters which it did not authorise or oversee. This commonsense axiom when applied to the Trustees was eventually and unanimously upheld by the Appeal Court of New South Wales, and the High Court refused leave to appeal this decision. The Trustees did not appoint or supervise the priest who grossly violated Mr Ellis.
- 45 When Mr Ellis's case was over, the Archdiocese took positive steps to help answer his needs.

#### ***Post-Trial Pastoral Response***

- 46 I would like to acknowledge the fine work Monsignor John Usher does with many people who are suffering. I was moved by the messages he brought me about Mr Ellis' health, and fully supported the payments which were made. Like him I was surprised by what turned out to be the cost of the house renovations and believed we needed to take extra care to balance individual needs (the basis of the payments) and some broad standards of comparability.
- 47 I support the recent submission of the Truth, Justice and Healing Council (in response to the Royal Commission's Issues Paper on *Towards Healing*) dated 30 September 2013 that it may be appropriate for governments to institute a single compensation or reparation fund, financed by all relevant institutions and bodies, both government and non-government. I welcome the development of law reform initiatives to reduce the heartburn and confusion.



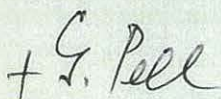
- 48 While I believe the Catholic Church, like every other community organisation, must retain the right to defend itself legally, I believe these suggestions would bring about a closer alignment of morality and the law, of justice and compassion, by separating the pastoral response (the role of the Church) from monetary considerations.
- 49 I was a strong supporter within the ACBC of the proposal that each diocese, or a group of dioceses, appoint a senior advisory panel to advise on how *Towards Healing* and *Integrity in Ministry* provisions are to be handled. I proceeded to establish such a group in Sydney, which I have used and which is headed by a retired Judge from the Supreme Court of New South Wales.

### My background

- 50 I was ordained a Catholic priest for the Diocese of Ballarat on 16 December 1966 at St Peter's Basilica in Rome. I was subsequently appointed as an assistant priest in the parishes of Swan Hill (1971-72) and Ballarat East (1973-83) and as Administrator of the Bungaree parish (1984). I was appointed as the parish priest of Mentone in 1985 and I held this position until 1996.
- 51 On 16 July 1987, I was ordained an Auxiliary Bishop of the Archdiocese of Melbourne and Titular Bishop of Scala at St Patrick's Cathedral in Melbourne. I was installed as Archbishop of Melbourne on 16 August 1996.
- 52 On 10 May 2001, I was installed as the Archbishop of Sydney at St Mary's Cathedral in Sydney. I was elevated to the Sacred College of Cardinals by announcement of Pope John Paul II made on 28 September 2003. I have today been appointed by Pope Francis to the role of Prefect for the Secretariat for the Economy, Holy See.
- 53 I hold a Licentiate in Theology from Urban University, Rome (1967), a Masters Degree in Education from Monash University, Melbourne (1982) and a Doctorate of Philosophy in Church History from the University of Oxford (1971). In 2010, the University of Notre Dame Australia conferred upon me the honorary degree of Doctor of Laws. I am a fellow of the Australian College of Educators.
- 54 A copy of my curriculum vitae is annexed to this statement and marked "B".

### Role as Archbishop of Melbourne and the Melbourne Response

- 55 When I was installed as the Archbishop of Melbourne on 16 August 1996, I was determined to ensure that processes were in place to respond to victims of abuse and that these processes were independent from the church. While the police are clearly best placed to investigate crimes and protect abusers, victims were also coming forward to church authorities. For this reason, it seemed to me that the problem also required an institutional response, with clear procedures that provided assistance and certainty to victims.
- 56 At this time, the media was full of accounts detailing sex abuse in the Catholic community. This was sufficient to make it clear to me that this was an issue which needed urgent attention and that we






needed to do much better in our response. It was my job when I became Archbishop to address this problem within the Archdiocese of Melbourne.

57 In light of the urgent need for an effective system to respond to victims of abuse and the uncertainty at that stage about initiatives for a national response, one of the first initiatives I undertook in my first 100 days as the Archbishop of Melbourne was to establish the role of the Independent Commissioner and the Melbourne Response. A copy of the Melbourne Response document is annexed to this statement and marked "C". The Melbourne Response involves three separate elements:

- (a) an Independent Commissioner responsible for investigating complaints and making findings;
- (b) an Independent Compensation Panel responsible for awarding compensation to victims; and
- (c) an independent counselling service established to assist victims at no cost to them.

58 The intention behind the Melbourne Response was to make it easier for victims to seek financial assistance and counselling without the need for legal representation or to establish legal liability, and where the findings of the Independent Commissioner would not be contested by the Archdiocese. Critically, all three arms of the Melbourne Response are independent of the Archdiocese, and independent of each other. I considered this to be vital in establishing a system of responding to victims.


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

60 The Melbourne Response was initiated prior to the adoption by the ACBC of *Towards Healing*. After the adoption of *Towards Healing* in late 1996 by the other dioceses in Australia, claims of child sexual abuse relating to the Archdiocese of Melbourne continued to be responded to under the Melbourne Response. Like *Towards Healing*, the Melbourne Response is an alternative to a legal claim.

#### Archbishop of Sydney

61 As Archbishop of Sydney, I am responsible for exercising pastoral leadership in the Archdiocese of Sydney. The Archdiocese of Sydney is autonomous and independent of all of the other dioceses in Australia. Generally speaking, I do not have any specific canonical authority outside of the Archdiocese of Sydney although I do have some very limited powers in extreme situations as the Metropolitan of the Province of New South Wales.

62 As mentioned above, on 28 September 2003 I was elevated to the Sacred College of Cardinals by announcement of Pope John Paul II, as the Cardinal Priest of the Church of Saint Maria Domenica Mazzarello in Rome. I am the only active Australian Catholic bishop who is also a cardinal. A



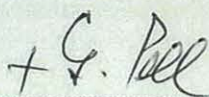



cardinal does not rank higher than a bishop, but does have more responsibilities (including as an adviser to the Pope). The key role of the cardinals is to elect a new pope when the current Pope dies or retires.

- 63 Like other bishops in Australia, I am answerable only to the Holy Father. However, I am the Archbishop of the oldest Australian diocese and of the most significant Australian city, and I am the only active bishop in Australia who is a cardinal. I appreciate that, for those reasons, there is a perception that I lead the Church in Australia, but that is wrong. I do recognise that whoever is Archbishop of Sydney and Australia's only active cardinal is generally afforded a particular respect and stature both within the Australian Church and within the broader Australian community.

### The Chancery of the Archdiocese of Sydney

- 64 The Chancery Office is the administrative office of the Archdiocese and provides administrative and accounting support to the parishes and agencies of the Archdiocese. It is comprised of the Chancellor (currently Msgr John Usher), the Business Manager, Danny Casey, and the Financial Controller, Michael Moore, along with various accountants and other staff that assist in the day-to-day conduct of the business of the Archdiocese.
- 65 My office (located on the same floor as the Chancery Office at the Polding Centre in Liverpool Street) is comprised of my Personal Secretary, Dr Michael Casey and two personal assistants.
- 66 In some dioceses the Chancery Office is also known as the Curia or Chancellery. Under canon law the Chancery Office is established to assist the Archbishop in governing the entire Archdiocese, especially in directing pastoral action and providing for the administration of the Archdiocese.
- 67 In the Archdiocese of Sydney, the Chancellor (Msgr Usher) is a Vicar General (ie representative of the Archbishop), provides pastoral planning advice and assistance, is a permanent member of several key Archdiocesan committees, an ex-officio member of many other Archdiocesan committees, Notary (assisting in the writing and witnessing of Archdiocesan decrees and certain documents) and is responsible for the safe-keeping of Archdiocesan records and the Archdiocesan Archives.
- 68 The Chancellor in the Archdiocese of Sydney also manages the response of the Archdiocese to *Towards Healing* complaints and other professional standards matters, and attends to those matters as representative of me as Church Authority. For that reason, from an administrative perspective, those matters are managed from the Chancery.
- 69 The Chancellor works closely with the Business Manager (Danny Casey) and my Private Secretary (Dr Michael Casey) to manage the Chancery Office.
- 70 The Business Manager is responsible for all financial matters. The Business Manager holds the canonical position of Diocesan Financial Administrator, who is responsible for the administration of



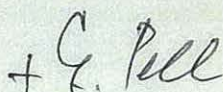



the goods of the Archdiocese. The Business Manager assists me with policy development and a number of Archdiocesan projects and initiatives.

- 71 My Private Secretary, as the name implies, is my private secretary who among other things liaises with Archdiocesan parishes and agencies and other Catholic dioceses, religious congregations and other religions, in relation to matters pertaining to me as Archbishop, assists with research and policy development, and is also a Notary.
- 72 The Financial Controller reports to the Business Manager and is responsible for the management of the finances, investments and major projects of the Catholic Archdiocese of Sydney together with the Business Manager. The Financial Controller is responsible for the establishment and maintenance of appropriate accounting systems, policies, procedures and controls. The Financial Controller is a member of several key Archdiocesan committees.

### ***Towards Healing complaints***

- 73 For *Towards Healing* complaints concerning the Archdiocese of Sydney, I am the Church Authority. I delegate much of the responsibility for dealing with any complaints to the Chancellor, who manages the day to day progress of those matters. The Chancellor from time to time raises more significant issues with me. It is typically the Chancellor who attends a facilitation meeting with a victim who has brought a complaint. If the victim also requests a meeting with me, that meeting will usually occur after the facilitation. Over the course of Mr Ellis' complaint and subsequent litigation between about 2002 and 2009, the successive Chancellors were Father John Doherty, Monsignor Brian Rayner, and Monsignor John Usher.
- 74 As at the present time, when I am in Sydney, I usually meet with the Chancellor about once a week, and *Towards Healing* matters are discussed where necessary. In addition, informal or verbal updates are provided to me on an ad hoc basis from time to time. The extent to which I am kept informed about the progress of *Towards Healing* matters has increased considerably since I was first appointed to Sydney in 2001.
- 75 My experience in Melbourne with the Melbourne Response had highlighted for me the importance of an independent assessment of complaints made by victims of abuse. The *Towards Healing* protocol of course had and has a different structure. However, in my mind it has always been very important under *Towards Healing* that the Director of Professional Standards have and maintain responsibility for dealing with complaints, independently of the relevant Church Authority. The Director of Professional Standards arranges the assessments of complaints where he considers it necessary if there are disputes or uncertainty as to the facts, and then also arranges the facilitations which typically follow. The Church Authority, in this case the Archdiocese of Sydney, would ordinarily act in accordance with those arrangements as made by the Director. I proceed on the assumption that the Director is undertaking the process in a manner that is consistent with the *Towards Healing* document. Unless a recommendation from the Director appeared to me to be plainly wrong, I would accept it.

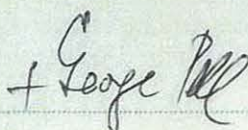





- 76 John Davoren was the Director of Professional Standards for NSW at the time Mr Ellis made his complaint. Subsequently in about May 2003, Michael Salmon took over this role when Mr Davoren resigned.


***Towards Healing complaint made by Mr Ellis***

- 77 On or about 5 June 2002, I received a letter from Mr Davoren enclosing a copy of the Statement of Complaint made by Mr Ellis on 3 June 2002 (CTJH.400.01001.0288 and CTJH.300.01005.0109). I read the Statement of Complaint on 7 June 2002 as appears on my handwritten note on Mr Davoren's letter. The nature of the complaint raised by Mr Ellis was plainly very serious. As set out above, my expectation was that the Professional Standards Office (PSO) would manage the response to the complaint and ensure compliance with the *Towards Healing* protocol. Thereafter, in general, my understanding was that the PSO was doing so, and I was not involved in the detail or day to day aspects of the handling of the complaint, with some exceptions to which I refer in the following paragraphs.
- 78 I refer to an email from Mr Davoren to Fr Doherty and Dr Casey dated 7 June 2002 (CTJH.400.01001.0323). I do not recall seeing this email until preparing this statement. I would not expect that an email such as this one would have been shown to me or discussed with me. On reading it now, I note that in respect of paragraph 38.7 of the *Towards Healing* protocol, Mr Davoren recommended that an independent assessor be appointed, "whether or not the priest is in a fit state to respond". With my present knowledge and understanding of the procedures, that appears to have been what was required. As referred to below, Mr Davoren subsequently appears to have adopted a different attitude to this question, and that in turn now seems to me to have contributed to the delays and complications which arose in the handling of Mr Ellis' complaint.
- 79 I refer to a letter from Mr Davoren to Mr Ellis dated 15 July 2002 (CTJH.400.01001.2986). I do not recall having seen this letter until preparing this statement. Mr Davoren says in his letter that he has discussed the complaint with me. I do not recall such a discussion with Mr Davoren at this time, although I do not doubt that it occurred. I note that Mr Davoren states in the letter that "the next step is usually to appoint an assessor", but that he "would like to discuss" with Mr Ellis what might be done "now that it appears pointless to have Fr Duggan interviewed". As noted in the preceding paragraph, this now seems to me to reflect a misunderstanding by Mr Davoren as to what *Towards Healing* required where a response from the accused could not be obtained. I was relying on Mr Davoren to ensure compliance with *Towards Healing*. Although I was familiar with *Towards Healing* in general terms, I was not familiar with the practical implementation of all of its procedures.
- 80 I refer to an email from Mr Davoren to Mr Ellis dated 22 August 2002 (CTJH.400.01001.0322). In that email, Mr Davoren says that I had agreed to a meeting between Mr Ellis and Fr Duggan, provided Fr Duggan was reasonably able to participate. I do not dispute this. I was certainly in favour of such a meeting taking place if possible and if desired by Mr Ellis.






- 81 I was on a period of leave from 20 August 2002 to 13 October 2002, during which time an Administrator was appointed to run the Archdiocese of Sydney in my absence. I had voluntarily stood myself down for this period because allegations had been made against me, and an investigation process was to occur. Although I knew that the allegations were unfounded, I considered that I should step down during the investigation period just as I had required other priests to do in comparable circumstances.
- 82 During the period of leave, I was kept apprised of important developments in the Archdiocese. This may have included being informed of the progress of Mr Ellis' complaint, although I have no actual recollection of that. My general understanding was that the PSO was continuing to progress the complaint, and I do not recall having received any indication at that stage of any problem or difficulty with that process.
- 83 I refer to an email from Mr Davoren to Mr Ellis dated 13 September 2002 (CTJH.402.01001.0020). In the email, Mr Davoren provides Mr Ellis with information concerning Fr Duggan's mental state as described by Bishop Cremin (who is noted as having visited Fr Duggan). Mr Davoren states that because a meeting between Fr Duggan and Mr Ellis is unlikely to be satisfactory for Mr Ellis, Mr Davoren is not sure what the next step should be. I do not recall being aware at the time of this email from Mr Davoren to Mr Ellis. Again, as with Mr Davoren's letter of 15 July 2002 referred to in paragraph [79] above, Mr Davoren now appears to me to have misunderstood what *Towards Healing* required in such circumstances. It also now seems unsatisfactory to me that Mr Davoren, as the Director of Professional Standards, should have written to Mr Ellis in terms which seemed to expect Mr Ellis to suggest what should happen next.
- 84 I refer to a handwritten file note dated 1 November 2002 of a meeting between Mr Davoren and Fr Doherty (CTJH.400.01001.0320). The note records that I would like Mr Davoren's advice "here". The subject matter of the note is that Mr Ellis still wanted to see Fr Duggan "despite the dementia". As stated above, I was open to the idea of a meeting between Mr Ellis and Fr Duggan, but I was also keen for the PSO to manage the process and make those sorts of decisions independently of the Archdiocese.
- 85 I refer to an email from Fr Doherty to Mr Davoren dated 19 November 2002 (CTJH.400.01001.0317). Fr Doherty refers to a bishops' meeting at which the complaint by Mr Ellis had been discussed. I do not recall the discussion at that meeting but I do not doubt it took place. However, by this time I was probably aware that this complaint process seemed to be taking more time than usual, and that the incapacity of Fr Duggan was contributing to that. I am not sure whether Fr Doherty's reference to "facilitation" in the email is to the facilitation of a meeting between Mr Ellis and Fr Duggan, or to a facilitation within the meaning of that expression in *Towards Healing*. Nor am I sure whether at this point I appreciated that no assessment in the *Towards Healing* sense had actually yet taken place. I did not appreciate that Mr Davoren's activities were insufficient according to the *Towards Healing* protocol.






- 86 On or about 10 December 2002, I received a letter from Mr Davoren, which I read (CTJH.402.01001.0018). In that letter, Mr Davoren sets out his view that "the facts of this case can never be satisfactorily clarified". He then recommends that the suggested meeting between Mr Ellis and Fr Duggan not take place (unless Mr Ellis chose to arrange such a meeting himself). He suggests that if I agreed with that advice, it would be better if the message were communicated to Mr Ellis by me. Mr Davoren attached a suggested draft letter in that regard (CTJH.402.01001.0017). My recollection is that my understanding was that the reference to "this advice" in the third paragraph of Mr Davoren's letter was to his advice that a supervised Ellis/Duggan meeting not take place. I was willing to accept that advice. I did not understand Mr Davoren to be suggesting, and I did not myself have any wish, that the *Towards Healing* process be brought to an end. My letter to Mr Ellis was in due course sent on 23 December 2002 (CTJH.402.01001.0022). It is in slightly different terms to the draft provided by Mr Davoren. I do not now recall how those changes came about. Typically, Dr Michael Casey and I would agree on the wording of a letter such as this. I do not remember this particular occasion. However, I always read letters which I sign and I am sure I did so with this one. Such a letter would be read closely by me.
- 87 In the first paragraph of my letter, I say among other things that "the facts of the matter cannot be established". In expressing myself that way, I believe I was referring simply to the impossibility of obtaining a response from Fr Duggan. I did not intend that the *Towards Healing* process could not continue (and indeed it did continue in early 2003 as referred to below).
- 88 In the second paragraph of my letter, I followed the advice that Mr Davoren had given me, to the effect that a "formal meeting" between Mr Ellis and Fr Duggan, involving Church personnel, should not go ahead.
- 89 In the third paragraph of my letter, I expressed my regret "that a clear resolution of this matter is not possible". It was not my intention to convey to Mr Ellis that there was nothing the Archdiocese could do about resolving his complaint overall. I expected that the PSO would continue to take whatever steps still needed to be taken under *Towards Healing* notwithstanding that there would be no formal meeting between Mr Ellis and Fr Duggan. I did not appreciate then that Mr Davoren's opinion did not constitute an assessment for the purposes of *Towards Healing* and that therefore no assessment had yet been carried out. In hindsight it seems to me that this paragraph of my letter could have been better expressed.
- 90 I refer to an email from Mr Davoren to Fr Doherty and Dr Casey dated 3 February 2003 (CTJH.400.01001.4904). I note that it is annotated "OK" and signed by me on 4 February 2003. My best recollection now is that in making the annotation "OK" I was agreeing primarily with the recommendation for action contained in the last paragraph of the email. Much of what appears in the first four paragraphs of Mr Davoren's email appears to me now to have been rather muddled. To my mind, as best I recall, the last paragraph at least contained some suggested next steps which seemed sensible to me. I was never opposed to a meeting between Mr Ellis and Fr Duggan.