



**Royal Commission**  
into Institutional Responses  
to Child Sexual Abuse

# REPORT OF CASE STUDY NO. 3

Anglican Diocese of Grafton's  
response to child sexual  
abuse at the North Coast  
Children's Home

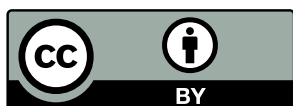
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# Report of Case Study No. 3

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Anglican Diocese of Grafton's response to child sexual  
abuse at the North Coast Children's Home

October 2014

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COMMISSIONERS

Justice Jennifer Coate  
Mr Robert Fitzgerald AM



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# Preface

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## The Royal Commission

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The Letters Patent provided to the Royal Commission require that it ‘inquire into institutional responses to allegations and incidents of child sexual abuse and related matters’.

In carrying out this task, we are directed to focus on systemic issues but be informed by an understanding of individual cases. The Royal Commission must make findings and recommendations to better protect children against sexual abuse and alleviate the impact of abuse on children when it occurs.

For a copy of the Letters Patent, see Appendix A.

We are approaching our work through three methods:

- public hearings
- private sessions
- research.

### Public hearings

A royal commission commonly does its work through public hearings. These involve intensive investigation, research and preparation by the staff and Counsel Assisting. Although a hearing might only take a few days in hearing time, the preparatory work that our staff and parties with an interest must do can be very significant.

The Royal Commission is aware that sexual abuse of children has occurred in many institutions, all of which could be investigated in a public hearing. However, to attempt that task, a great many resources would be needed over an indeterminate, but lengthy, period. For this reason, the Commissioners have accepted criteria by which Counsel Assisting will identify appropriate matters for a public hearing and bring them forward as individual ‘case studies’.

The decision to conduct a public hearing is informed by whether it will advance an understanding of systemic issues and provide an opportunity to learn from previous mistakes. This will ensure that our findings and recommendations have a secure foundation. In some cases, the relevance of the lessons learned will be confined to the institution that is the subject of the hearing. In other cases, they will be relevant to many similar institutions in different parts of Australia.

Public hearings help us understand the extent of abuse that might have occurred in particular institutions or types of institutions. This will give the Royal Commission insight into the way various institutions were managed and how they responded to allegations of child sexual abuse. Where we identify a significant concentration of abuse in one institution, it is likely that the matter will be brought forward to a public hearing.

Public hearings also tell the story of some individuals to help us all understand:

- the nature of sexual abuse and the circumstances in which it can occur
- the devastating impact it can have on people's lives.

A detailed explanation of public hearings is available in the practice notes on our website at [www.childabuseroyalcommission.gov.au](http://www.childabuseroyalcommission.gov.au). Public hearings are streamed live over the internet.

## Private sessions

The second pillar of the Royal Commission's work involves private sessions.

When the Royal Commission was appointed, it was apparent to the Australian Government that many people (possibly thousands) would wish to tell us about their personal history of child sexual abuse in an institutional setting. As a result, the Commonwealth Parliament amended the *Royal Commissions Act 1902* to create a process called a 'private session'.

A private session is conducted by one or two Commissioners and is an opportunity for a person to tell their story of abuse in a protected and supportive environment. By 5 September 2014, the Royal Commission had held 2,318 private sessions and more than 1,294 people were waiting to attend one. We are including accounts from these sessions in our interim and final reports in a de-identified form.

## Research program

The Royal Commission also has an extensive research program. Apart from the information we gain in public hearings and private sessions, the program will draw on research by consultants and the original work of our own staff. Significant issues will be considered in issues papers and discussed at roundtables.

## This case study

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### Diocese of Grafton's response to claims of abuse in Lismore

This is the report of the public hearing that examined the response of the Anglican Diocese of Grafton to claims of child sexual abuse at the North Coast Children's Home in Lismore, New South Wales. This was appropriate for a case study for several reasons.

The case highlights concerns about the way the Diocese handled claims that staff, clergy and residents had abused children when they lived at the Home between 1940 and 1985. It also highlights the structural barriers that restrict the Anglican Church's handling of complaints, especially the Primate's lack of authority over bishops in dioceses.

The claims of abuse mostly emerged after 2005 and the hearing looked at the response of the Diocese from 2005 onwards.



The Royal Commission found the Diocese's response concerning because it:

- took a legalistic approach at the expense of pastoral care, such as by denying its duty of care for the children
- changed its policy and denied financial compensation for some victims
- failed to comply with its own policies and procedures
- dealt with victims insensitively.

We also chose this case study because:

- there was a concluded criminal investigation into Reverend Allan Kitchingman, who was found guilty in 1968 and 2002 of the indecent assault of a male
- the former Bishop of Grafton, Keith Slater, has publicly acknowledged his mishandling of the claims, apologised and resigned
- one victim, Richard 'Tommy' Campion, was willing to give evidence, as were staff of the Diocese of Grafton.

## Post-hearing developments

The Diocese of Grafton contacted the Royal Commission on 23 June 2014 to tell us that Allan Kitchingman has been deposed from holy orders.

## General issues

Along with the findings and recommendations in this report, we have identified some issues of general significance (see section 8).

We will consider these issues further in other public hearings or roundtables.

## Executive summary

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### Key points

This case study looks at the North Coast Children's Home in Lismore NSW, which was set up in 1919. Former child residents of the Home told us they suffered frequent sexual, psychological and physical abuse there between 1940 and 1985.

We examine the Home's close ties with the Anglican Church, and how the Church responded when former residents revealed their experience of abuse after 2005. We consider how the Church's structure, policies and finances affected the way it managed abuse claims and how it dealt with the clergy who were accused.

The report finds that the Diocese of Grafton did not follow its own policies when responding to abuse victims. It denied responsibility for the Home and offered inconsistent support and compensation. These actions caused further distress for the victims of abuse. Further, two dioceses did not take appropriate disciplinary action against the clergy involved and did not record their conduct on the National Register of the Anglican Church.

In 2013, the Diocese of Grafton published an apology, changed its processes and revised the compensation and support it provided to the Home's former residents.

## 1 North Coast Children's Home and the Anglican Church

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The North Coast Children's Home was set up in Lismore in 1919 to house children who were orphans or wards of the state, or had been abandoned or placed there by their parents. We heard evidence of frequent sexual, psychological and physical abuse at the Home between 1940 to 1985. Former residents, Tommy Champion, CA, CB, CD, CH, CK, CN and two others, told us they were sexually abused by clergy, staff or other residents while living at the Home.

- ▶ **Finding 1:** The physical, psychological and sexual abuse suffered by the former residents of the North Coast Children's Home who gave evidence to the Royal Commission had profound, long-lasting impacts on their lives and mental health.

The Anglican Church of Australia was called the Church of England until 1981. It is divided into 23 independent dioceses. The Rector of Lismore, in the Diocese of Grafton, established the Home, which was known as the Church of England North Coast Children's Home and on land held in trust by the Diocese's Corporate Trustees.

An executive or board of management managed the Home. The Rector of St Andrew's Church was the board's president and the Home's chaplain. Under the Home's constitution, two-thirds of board members had to be members of the Church of England.

- ▶ **Finding 2:** At all relevant times, the North Coast Children's Home was:
  - strongly associated with the Anglican Church and its predecessor, the Church of England
  - controlled by the Board of Management, including the Rector of St Andrew's Church Lismore in the Diocese of Grafton.

The Diocese of Grafton, through its officers and members who were also on the Home's Board of Management, shared responsibility with the board for the Home's children.

## 2 Church policies

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To assess the way the Diocese responded to claims of abuse, it is important to understand the policies in place at the time. The Anglican Church has two main processes for responding to child sexual abuse:

- a suite of general disciplinary canons for dealing with convicted and alleged perpetrators
- professional standards ordinances for disciplining convicted and alleged perpetrators and responding to victims.

In 2004, the Church's General Synod recommended that all dioceses adopt its model Professional Standards Ordinance. The same year, the Diocese of Grafton adopted its own version, along with the Protocol for Dealing with Complaints of Child Sexual Abuse.

In 2005, the Diocese also adopted a Pastoral Care and Assistance Scheme to guide its response to sexual abuse claims. This scheme was based on the Diocese of Sydney's Pastoral Care and Assistance Scheme. The scheme says that claimants should be offered counselling, an apology and a payment in line with specified amounts.

The General Synod in 2004 and 2009 also recommended that each diocese, parish and church organisation adopt further policies and 'Guidelines for parish safety' to help screen clergy and laity, and to manage the ongoing risk posed by offenders. In 2004, the Anglican Church introduced a national register for recording allegations against bishops, clergy and other church workers.

This case study assesses the way the Anglican Church and the Diocese applied its policies to claims of abuse at the Home when they first emerged decades after the abuse occurred.

## 3 Response to the group claim

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Mr Champion first wrote to the dioceses of Sydney and Grafton in 2005 about the abuse he had suffered at the Home. Reverend Patrick Comben, then Registrar of the Diocese of Grafton, offered him counselling and sent him a copy of the Pastoral Care and Assistance Scheme. Mr Champion understood that he and his sister, CA, could each receive \$70,000 or \$80,000. He did not accept this payout because he first wanted to join other former residents in a group claim.

In 2006, over 40 former residents of the Home, led by Mr Champion, began the group claim against the Diocese of Grafton. The Diocese then responded that the clergy in fact did not run the Home. The Diocese denied it was legally liable for abuse at the Home.

- ▶ **Finding 3:** The Diocese of Grafton initially dealt with Tommy Champion's complaint by providing a copy of the Pastoral Care and Assistance Scheme adopted by the Diocese in 2005. When faced with the group claim, the Diocese changed its response to Tommy Champion's claim by stating that the Diocese and its Corporate Trustees had no legal liability for sexual or physical abuse of a child by clergy, staff or other people associated with the North Coast Children's Home.

The Diocese's Bishop-in-Council adopted a defensive legal position to the group claim, as advocated by Reverend Comben and Peter Roland, the Diocese's lawyer. The Diocese proposed two settlement options, both of which depended on the claimants first entering into a deed of release.

- ▶ **Finding 4:** The Diocese of Grafton required group claimants to sign a deed of release before counselling, acknowledgement, apology or financial settlement would be provided, except for Tommy Campion, who was already receiving some counselling. This was inconsistent with the Sydney Pastoral Care and Assistance Scheme that the Diocese of Grafton adopted in 2005.

Mr Roland said he believed there was no obligation to follow the 2004 Ordinance and Protocol for claims about the Home because the Diocese had no legal liability. The group claimants were not referred to the Diocese's Professional Standards Director and settlement negotiations held in December 2006 were hostile.

- ▶ **Finding 5:** By 10 October 2006, the Diocese of Grafton was not following its own policies in its handling of the group claim as set out in the:
  - Professional Standards Ordinance and Protocol for Dealing with Complaints of Sexual Abuse, both adopted in 2004
  - Pastoral Care and Assistance Scheme, adopted in 2005.
- ▶ **Finding 6:** Bishop Keith Slater, then Bishop of Grafton, and the Diocese of Grafton should have managed the process under the 2004 Protocol for Dealing with Complaints of Sexual Abuse when the group claim was being handled between the Diocesan and claimants' solicitors.
- ▶ **Finding 7:** The settlement negotiations on 19 and 20 December 2006 were conducted in a hostile manner, contrary to the spirit of the 2005 Pastoral Care and Assistance Scheme and the 2004 Protocol for Dealing with Complaints of Sexual Abuse.

By March 2007, after a series of offers and counter offers, an agreement categorised claimants in three bands of compensation according to the severity of their abuse:

- Band A: \$16,658.54
- Band B: \$20,658.54
- Band C: \$22,658.54

However, once Medicare and Health Insurance Commission deductions and legal fees were paid, claimants might receive around half these amounts. Mr Campion, for example, was offered a band C payment, but would have received only \$10,326.64 after deductions.

The 2004 Protocol and the scheme both emphasise the Church's commitment to responding to claimants with empathy, support and respect. Former residents told us of the further hurt and distress caused by the Church's denial of responsibility for the Home.

- ▶ **Finding 8:** The amounts offered to Tommy Campion, CA, CK, CL, CM and CN under the group claim were substantially lower than if the claim had been resolved under the 2005 Pastoral Care and Assistance Scheme that the Diocese of Grafton had adopted. The Diocese misled Tommy Campion and CA that the scheme would be followed.

- ▶ **Finding 9:** In handling the group claim, the Diocese of Grafton did not apply the 2004 Professional Standards Ordinance and Protocol for Dealing with Complaints of Sexual Abuse. As a consequence, it did not provide a sympathetic and proportionate pastoral response to the group claimants.
- ▶ **Finding 10:** By denying legal liability, on the basis that it did not control the North Coast Children's Home, and not providing a pastoral response, the Diocese of Grafton's response had a detrimental effect on abused former residents.

## 4 Response to individual claims

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After rejecting the offer under the group claim, Mr Campion sought counselling and payment in line with the Pastoral Care and Assistance Scheme. Bishop Slater suggested that Mr Campion was betraying the group claimants by renegotiating.

In June 2010, Mr Campion accepted the same offer that was being made to the group claimants. The Diocese then offered him that same settlement (with interest) plus \$5,000 for counselling and a \$7,730 Medicare reimbursement.

- ▶ **Finding 11:** Bishop Keith Slater did not follow the Pastoral Care and Assistance Scheme in responding to Tommy Campion.

Mr Campion continued to press the Church about his settlement. He sought documents such as the Home's Constitution to better understand the issue of liability. Bishop Slater resisted giving this information because he was concerned about the possibility of legal action against committee members, including one who was elderly.

- ▶ **Finding 12:** In 2012, when considering the request from Tommy Campion for information, Bishop Keith Slater acted to protect the interests of the former members of the Home's committee, including an elderly former member.

Three other former residents of the Home, who were not a part of the group claim, then came forward to the Diocese with their stories of childhood abuse. CB and CC were refused financial compensation and offered a support person, while CD received a payment but no pastoral support.

- ▶ **Finding 13:** The Diocese of Grafton received further individual claims from former residents of the North Coast Children's Home, but it did not deal with them in accordance with the Pastoral Care and Assistance Scheme or the settlement of the group claim.

These responses also differed from the way that the Diocese handled claims of child sexual abuse that were not related to the Home.

Further, the Diocese did not follow its policies related to reporting. The 2004 Ordinance requires any clergy or bishop who receives information on allegations of sexual assault to report it to the Professional Standards Committee.

- ▶ **Finding 14:** Bishop Keith Slater did not refer either CB's or CC's claims to the Professional Standards Committee, which was contrary to clause 24(1) of the Professional Standards Ordinance 2004.

It was not until 2013 that the Anglican Church significantly revised its response to former residents of the Home. In May 2013, Ms Hywood, the new acting Registrar, reported to the Primate her concerns about the Diocese of Grafton's handling of claims over the previous six years. She noted that professional standards files were not properly kept or processed, and matters had not been referred to the Professional Standards Director.

Bishop Slater resigned as Bishop of Grafton on 17 May 2013. He issued a media statement apologising for not giving abuse claimants access to the Professional Standards Director.

In September 2013, the Diocese published an apology in several newspapers for the abuse at the Home and its handling of subsequent claims. In October that year, Bishop-in-Council passed a revised Care and Assistance Scheme. This scheme is not as detailed as the Sydney Care and Assistance Scheme. The Diocese reviewed all claims that had not been investigated under the 2004 Protocol and has offered revised settlements.

- ▶ **Recommendation 1:** That the Diocese of Grafton regularly review the operation of its professional standards processes to ensure the professional standards director and professional standards committee are appraised of all outstanding claims of sexual abuse.

## 5 Role of the Primate

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The public hearing looked at how the Anglican Church's organisational structure might have constrained its initial response to victims of abuse at the Home.

The Primate is the official leader of the Anglican Church of Australia. However, the 23 dioceses that make up the Church are autonomous. The Primate from 2005 to June 2014, Archbishop Phillip Aspinall, told us he does not have the authority to command the bishop of a diocese to act in a particular way, including on professional standards matters.

Mr Champion sought help from Archbishop Aspinall from April 2007. Archbishop Aspinall wrote several times to Bishop Slater, and advised the Diocese on how it should respond to Mr Champion and other victims. The Primate stressed the issue of duty of care to past residents of the Home and the need for a pastoral response for abuse victims.

The Primate also advised the bishop to inform the police of criminal allegations arising from the Home that came to his attention. But Bishop Slater did not do this. The Primate told the police of criminal allegations he knew of relating to the Home.

- ▶ **Finding 15:** Between 2006 and 2012, the Primate advised Bishop Keith Slater that:
  - the group claimants should have their complaints properly heard and be offered counselling and pastoral support
  - he should seek out further people who had been abused at the North Coast Children's Home
  - he should inform the police of all criminal allegations which came to his attention arising out of the North Coast Children's Home.

The bishop did not follow the Primate's advice.

## 6 Financial decisions in response to claims

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The public hearing also looked at the way that financial considerations influenced the Diocese's response to claims of abuse at the Home.

We found that representatives of the Diocese, including the bishop, restricted financial settlements for former residents because of concern as to the financial position of the Diocese. Some individual claimants were denied financial compensation because the Diocese's representatives said it could no longer afford such claims.

The Diocese's net assets were relatively stable between 2005 and 2007. It reported total current assets of \$1.3 million, \$950,000 and \$1.5 million in 2005, 2006 and 2007 respectively. The Corporate Trustees' net assets reached almost \$209 million in 2007. However, the Primate told us that 'most Church property is held on charitable trusts', which would create difficulties in the use of Church properties for purposes outside the trust.

However the Diocese was able to realise assets to respond to other financial pressures, in particular the debt incurred by the Clarence Valley Anglican School. This debt was about \$10 million, to which the Diocese responded by selling assets. It also sought help from other dioceses.

- ▶ **Finding 16:** Despite its knowledge of potential claims by 2005, the Diocese of Grafton did not make provision for settling child sexual abuse claims in its annual budgets for 2006, and 2008 to 2012.
- ▶ **Finding 17:** Acknowledging that some assets might not be readily available, the Diocese of Grafton had enough assets either in its name, or in the Corporate Trustees of the Diocese of Grafton's name, to allow it to settle the claims of child sexual abuse made between 2005 and 2011 consistent with the Pastoral Care and Assistance Scheme it adopted in 2005.
- ▶ **Finding 18:** The Diocese of Grafton did not make any financial provision for professional standards matters. It prioritised the Clarence Valley Anglican School debt over its financial obligations under the Protocol for Dealing with Complaints of Sexual Abuse and the Pastoral Care and Assistance Scheme to pay abused former residents of the North Coast Children's Home between 2007 and 2012.

## 7 Response to criminal conduct and ongoing risks

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The public hearing examined how the Anglican Church applied its disciplinary ordinances when it became aware of allegations and convictions for abuse committed by clergy at the Home. This involved the Diocese of Grafton, where the abuse occurred, and the Diocese of Newcastle, where a member of clergy was living when allegations about him emerged.

Reverend Allan Kitchingman was Curate and Assistant Priest at the Home from 1969 to 1970, giving the children pastoral care and teaching them music. He then moved between

parishes in Grafton, Armidale and the Northern Territory, until he retired to the Diocese of Newcastle in 2000.

In 2002, Reverend Kitchingman was convicted of five counts of indecent assault of a male in or about 1975, and was sentenced to prison. The Diocese of Grafton could take action against the reverend because the abuse took place at the Home. However, the Diocese of Newcastle could also take action because he lived there at the time of his conviction and after his release.

Between 2002 and 2004, the dioceses of Newcastle and Grafton had only an informal agreement about who would take responsibility for disciplinary action. Archbishop Roger Herft, who was Bishop of Newcastle at the time, said he did not take any action to discipline Reverend Kitchingman because he believed he did not have the power to, and that the Diocese of Grafton would do it. However, Bishop Slater and Philip Gerber, Professional Standards Director for Grafton and Newcastle from 2002 to 2007, did not start any disciplinary proceedings against Reverend Kitchingman.

In December 2006, Mr Gerber informed the police of allegations against Reverend Campbell Brown and Reverend Winston Morgan made as part of the group claim. In January 2007, the police advised Reverend Comben that they were considering whether to investigate, and that they would prefer the Diocese not to take further action if it could interfere with their investigation.

Reverend Comben did not follow up with the police to check on the investigation's status. The Diocese of Grafton did not take disciplinary action against Reverend Brown or Reverend Morgan. It also did not report the conduct of Reverend Brown to the Professional Standards Committee of the Diocese of Newcastle.

The group claim named further alleged perpetrators of abuse at the Home, but the Diocese did not report these to the police. It also did not refer CB and CC's allegations, and Bishop Slater chose to handle those matters himself.

- ▶ **Finding 19:** The dioceses of Grafton and Newcastle could both have taken action in response to the professional standards matters concerning Reverend Allan Kitchingman, including his discipline. There was no clear system in place to determine which diocese would assume responsibility.
- ▶ **Finding 20:** From 2003 to 2013, Bishop Keith Slater was aware that Reverend Allan Kitchingman had been convicted of sexual offences against a child, and had authority to discipline him. Bishop Slater did not start disciplinary proceedings against the reverend.
- ▶ **Finding 21:** From 2004, Reverend Patrick Comben was aware that Reverend Allan Kitchingman had been convicted of sexual offences against a child but did not start disciplinary proceedings against him.
- ▶ **Finding 22:** In 2002, Archbishop Roger Herft, then Bishop of Newcastle, became aware that Reverend Allan Kitchingman had been convicted of five counts of indecent assault of a child at an Anglican home in the Diocese of Grafton. Between August 2002 and February 2004, he did not start disciplinary proceedings against the reverend.



- ▶ **Finding 23:** From 2006 to 2007, Philip Gerber, as Professional Standards Director of Grafton and Newcastle, was aware that Reverend Allan Kitchingman had been convicted of sexual offences against a child but did not start disciplinary proceedings against him.
- ▶ **Finding 24:** The General Synod recommended guidelines for parish safety in 2009. The Diocese of Newcastle did not adopt guidelines for managing people of concern until around October 2013. As a result, there were no guidelines to manage any risk posed by Reverend Allan Kitchingman's involvement in Newcastle Cathedral until October 2013.
- ▶ **Finding 25:** From September 2005 until April 2013, no disciplinary action was taken against Reverend Campbell Brown by the Diocese of Grafton or the Diocese of Newcastle. During the same period, the Diocese of Grafton took no disciplinary action against Reverend Winston Morgan.
- ▶ **Recommendation 2:** That the Diocese of Grafton determine whether to initiate disciplinary proceedings against Reverend Brown.
- ▶ **Finding 26:** From 2011 to 2013, Bishop Keith Slater did not refer allegations of criminal conduct made by CB and CC to NSW Police. This was inconsistent with the 2004 Professional Standards Ordinance and Protocol for Dealing with Complaints of Sexual Abuse.

In October 2013, we requested all information on the Anglican Church's National Register about five alleged and known offenders, including Reverend Kitchingman, Reverend Brown and Reverend Morgan. But the register had no information about any of them. We were told there were technical problems and a lack of confidence in the register.

- ▶ **Finding 27:** The establishment of the National Register of the Anglican Church is a positive initiative.
- ▶ **Finding 28:** At the time of the hearing, the National Register of the Anglican Church did not record the names of all people who might need to be registered because various dioceses have been unable to review all their files to determine whether an entry should be made.

The Royal Commission will further explore this matter in our future work.

# 1 North Coast Children's Home and the Anglican Church

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## Key points

This section introduces the North Coast Children's Home in Lismore, New South Wales, which housed children who were often orphaned or abandoned. We look at how these children experienced frequent abuse between 1940 and 1985, and examine the Home's close ties to the Anglican Church's Diocese of Grafton. We outline how the Church responded when allegations of abuse at the Home emerged.

## 1.1 Abuse at the North Coast Children's Home

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### Children lived in 'horrific' conditions and experienced frequent abuse

Set up in 1919, the North Coast Children's Home housed children who were orphans or wards of the state, or had been abandoned or placed there by their parents.

Former residents told us that the Home was poorly funded in the 1950s and 1960s, and food and clothing were limited.<sup>1</sup> We heard that the physical conditions were unsanitary.<sup>2</sup> CN, a resident from 1959 to 1969, described arriving there for the first time:

It smelt terrible, like faeces, and there was vomit on the ground. I could see about twenty-odd children, all dirty. It was horrific.<sup>3</sup>

We also heard evidence of frequent physical, psychological and sexual abuse at the Home between 1940 and 1985.<sup>4</sup>

### Physical discipline was rigorous and combined with psychological abuse

We heard that physical discipline at the Home was extremely rigorous and often combined with psychological abuse.

All seven former child residents who gave evidence reported being physically abused, or witnessing others being abused, by staff. The perpetrators used their fists or implements such as:

- a pony whip or riding crop made of steel and covered in leather
- a strap or an electrical cord
- a cane or tree branch
- the leather belt and buckle from a member of clergy's cassock.<sup>5</sup>

At least three witnesses also described what would happen if children soiled their sheets. The sheets would be wrapped around the child's head with the urine and excrement still on them. The child would then be paraded in front of the other children on the way to the laundry where they had to wash the sheets themselves, or to take a cold shower.<sup>6</sup>

Witnesses Tommy Campion, CB and CD, all former residents of the Home, described punishment involving standing in awkward positions for long periods and being beaten if they moved.<sup>7</sup> CB spoke of being forced to stand naked for hours with his arms outstretched

and a bible in each hand. Staff and older girls took shifts to watch him, and he was hit if he bent his elbows or dropped his arms below his shoulders.<sup>8</sup>

### Staff, clergy and other children sexually abused the residents

Former residents also gave evidence of sexual abuse at the Home. This was perpetrated by members of clergy, by staff and their relatives, and by other child residents.

Resident	Years at Home	Description of sexual abuse
Tommy Campion	1949 to 1962	From 'time to time' he was invited to the minister's residence for crumpets and honey. During these visits he was taken into a separate room and sexually abused by Reverend Campbell Brown. <sup>9</sup>
CA	1951 to 1959	A minister would pull a chair beside CA's bed in the dormitory in the dark and touch her body and put his tongue in her mouth while the other children chanted their prayers. <sup>10</sup>
CB	late 1970s to 1980	At an Anglican camp, a priest from St Andrew's Church Lismore led him into a deserted kitchen. The priest took off his pants and had CB perform oral sex on him. The priest then lifted CB, bent him face down on a kitchen bench and raped him. CB was also sexually abused by older girls and a female staff member at different times. <sup>11</sup>
CD	late 1970s to 1983	At age 7 or 8, CD was taken away for a weekend by a staff member and she sexually abused him. He was also sexually abused by older boys at different times. <sup>12</sup> CD witnessed five older boys pin down and gang-rape a younger girl. <sup>13</sup>
CH	1971 to 1976	CH was sexually abused by Reverend Allan Kitchingman, a priest then based at St Andrew's Church. During a rehearsal for a play, he told Reverend Kitchingman he had hurt a leg muscle. In an area under the church hall, Reverend Kitchingman massaged CH's leg, then touched his penis.  At 13 or 14, CH was part of a group of boys Reverend Kitchingman regularly took on weekend trips to a youth conference centre in East Ballina. They slept on mattresses in the centre hall. At least four times during the night on these trips, and at many other times, Reverend Kitchingman woke CH, and masturbated and performed oral sex on him. <sup>14</sup>

Resident	Years at Home	Description of sexual abuse
CK	1949 to 1958	For a number of years, a priest would take CK up to the belltower after church on Sundays and fondle him and masturbate. On a number of occasions Canon John Robinson made him come to the rectory and lie naked on the floor. Canon Robinson would put a substance on CK's chest in the shape of a cross and lick it off down to his genitals, describing this as a 'cleansing process'. <sup>15</sup>
CN	1959 to 1969	CN was raped three times by older boys. <sup>16</sup>
Two group claimants	Unknown	They were forced to perform oral sex on adult men when they were about 5 or 6 years old. <sup>17</sup>

Reverend Kitchingman was convicted of five counts of indecent assault in 2002.

Reverend Brown and Canon Robinson have never been charged with child sexual offences, and Canon Robinson has since died. Another reverend accused of abuse, Reverend Winston Morgan, has also died.

We invited those individuals who had allegations made against them to apply for leave to appear at the public hearing. None did so.

### Child victims have experienced serious long-term effects

Many of the Home's former residents suffered long-term impacts because of the psychological, physical and sexual abuse they endured there. These include:

- difficulty forming relationships or broken family relationships
- nightmares and sleep problems
- anxiety and depression
- alcohol and drug use
- inability to keep a job.<sup>18</sup>

Some have considered taking their own lives. CN attempted suicide when she recalled the rapes and abuses.<sup>19</sup> CK too has attempted suicide.<sup>20</sup> When he was diagnosed with cancer, shortly before the public hearing, he said he thought:

That's the best news I've ever had in my whole life. The pain will stop. That's the effect that you have all your life from these events. It doesn't go away. It holds you. All you hope for is death, just to stop the pain.<sup>21</sup>

CK's brother, who also lived at the Home, committed suicide.<sup>22</sup>

#### ► Finding 1

The physical, psychological and sexual abuse suffered by the former residents of the North Coast Children's Home who gave evidence to the Royal Commission had profound, long-lasting impacts on their lives and mental health.

## 1.2 The Anglican Church and the Home

### The Anglican Church (then Church of England) set up the Home

The North Coast Children's Home was established by the Rector of Lismore for the then Church of England, together with others. From 1981, the Church of England in Australia was known as the Anglican Church of Australia.<sup>23</sup>

The Anglican Church of Australia has 5 provinces and 23 dioceses. Dioceses differ in size and organisation, and not all are incorporated.<sup>24</sup> The table below sets out the structure relevant to this case study.

	Primary leader	Management and rule making
<b>Anglican Church of Australia</b>	Primate	The national forum is the General Synod, which meets every three years. The General Synod may make model canons for dioceses to adopt.
<b>Province</b>	Metropolitan or Archbishop	Provinces do not make rules binding the dioceses. <sup>25</sup>
<b>Diocese</b>	Diocesan bishop	Two bodies manage dioceses: the Diocesan Synod and Bishop-in-Council. The Diocesan Synod makes canons and may adopt the General Synod's model canons. <sup>26</sup>
<b>Parish</b>	Rector or priest	Parishes are bound together in a diocese. A parish council makes local decisions.

### The Home was on church land, close to church buildings

From 1936, the Home was located on Keen Street in Lismore NSW, part of the Parish of Lismore in the Diocese of Grafton. The land the Home occupied was held in trust by the Corporate Trustees of the Diocese of Grafton for a children's home.<sup>27</sup>

The Home was physically close to several buildings that the Church owned or used. On one side were church offices, a residence for clergy and then St Andrew's Church.<sup>28</sup> On the other side were gardens, grounds and then the Archdeacon's Residence, which sometimes operated as the Rectory.<sup>29</sup>

Archdeacon Greg Ezzy was the Rector of Lismore in 1985 and based at St Andrew's Church. He told us that the children moved freely between the various buildings that comprised the Home and the church to the south, but did not have access to the Rectory to the north.<sup>30</sup>

Mr Champion said the children attended St Andrew's Church.<sup>31</sup> They were also taken to the clergy's residential quarters<sup>32</sup> or away for conferences, excursions and camps.<sup>33</sup> The clergy ministered in the Home's chapel and taught the children.<sup>34</sup> Mr Champion recalled Reverend Morgan holding chapel services and remembered Canon Robinson.<sup>35</sup> He said that '[the clergy] ran the place ... they told you what to do'.<sup>36</sup>

## 1951 Constitution tied the Anglican Church to the Home

The Home operated in line with licences issued each year under the *Child Welfare Act 1923* (NSW) and later the *Child Welfare Act 1939* (NSW).<sup>37</sup> Its 1951 Constitution also detailed the way it was to run.<sup>38</sup>

The first object was to ‘provide and carry on a home within the Diocese of Grafton in connection with the Church of England’ for children without homes or parental control, where they could be ‘trained spiritually, morally, mentally and physically’.<sup>39</sup>

An executive or board of management managed the Home.<sup>40</sup> Its president and the Home’s chaplain was to be the Rector of St Andrew’s Church.<sup>41</sup> Archdeacon Ezzy explained that when he was Rector, he became the board’s president because it was ‘part and parcel of becoming the Rector of the Parish of Lismore’.<sup>42</sup> Under the constitution, two-thirds of board members were to be members of the Church of England.<sup>43</sup>

Licence applications for the Home variously describe those in control as:

- the Church of England
- a ‘Committee of gentlemen members of the Church of England’
- an ‘Executive Committee which consists of Rector of Lismore and 11 Executive’
- an ‘Executive Committee [including] Chairman the Rector of St Andrew’s’
- a ‘board of management’
- the ‘Local Church of England Committee’.<sup>44</sup>

The few licences we were able to review were issued in the name of the Home or its matron.<sup>45</sup>

## Children and the community perceived a link with the Church

The 1951 Constitution prevented any amendment that undid the Home’s connection with the Anglican Church.<sup>46</sup>

Archdeacon Ezzy said there was, in his mind, ‘a very close connection between the North Coast Children’s Home and the Church’.<sup>47</sup> He also agreed that the community of Lismore thought there was a strong association between the two when he lived there.<sup>48</sup>

Mr Champion told us that he remembered swinging on a gate bearing the name ‘Church of England North Coast Children’s Home’ when he was there from 1949 to 1962.<sup>49</sup> There is a photo of this gate with the name in large letters.<sup>50</sup> Other former residents have used the same name to refer to the Home.<sup>51</sup>

## Funding came from the government and the Church

The connection was also financial. While most of the Home’s funding came from the government, the Anglican Church provided funds as well.<sup>52</sup> The few financial records provided in the public hearing show that:

Year	Evidence from financial records <sup>53</sup>
1946	One-sixth of the Home's receipts came from 'Church of England Homes'
1964	Diocese of Grafton provided 187 pounds a month to the Home
1972	Diocese provided 12.5% of the Home's funds
1973	Home's working account received \$3,000 from the Diocesan Investment Fund
1979	Home asked for an increase in its 'annual allocation' from the Diocese to \$10,000
1983	Annual Diocesan grant was noted as \$10,000

The Home reported every year to the Synod of the Diocese of Grafton about its operations, and its funding featured yearly in the Diocese's financial statements.<sup>54</sup>

### Diocese of Grafton shared responsibility for the Home's children

Based on these ties between the Anglican Church and the Home, Counsel Assisting submitted that the Diocese of Grafton had responsibility for the Home's children.<sup>55</sup> The Primate submitted that the Royal Commission needs to be explicit about what the term 'had responsibility' means.<sup>56</sup>

Counsel Assisting replied that the term should take its ordinary English meaning as the Royal Commission is not the forum for determining legal responsibility. He submitted that most members of the public would readily accept that the Diocese 'had responsibility' for the Home's children because:

- the Home was on land owned by the Diocese
- the local Rector led the Home's governing body and most committee members had to be from the Church
- the Church's clerics ministered there and had free access to the Home.

Counsel Assisting added that whether the responsibility was purely moral or something more need not be determined to make the finding.<sup>57</sup>

We do not need to resolve the question of whether the Diocese of Grafton had legal responsibility for the Home. It is clear the Diocese had a dominant role in its management and effective control over it. A member of the public would have assumed that the Church was responsible for the Home.

#### ► Finding 2

At all relevant times, the North Coast Children's Home was:

- strongly associated with the Anglican Church and its predecessor, the Church of England
- controlled by the Board of Management, including the Rector of St Andrew's Church Lismore in the Diocese of Grafton.

The Diocese of Grafton, through its officers and members who were also on the Home's Board of Management, shared responsibility with the board for the Home's children.

## 2 Church policies

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### Key points

This section outlines the policies in place in the Diocese, and the Anglican Church more broadly, to respond to claims of abuse and to protect children from future abuse. We examine the professional standards ordinances and protocols for investigating and reporting claims. We also look at the scheme that sought to offer victims counselling and financial aid. Finally, we describe the National Register for sharing information on alleged and convicted offenders.

### 2.1 Policies for responding to abuse

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#### Sexual abuse working group recommended policy changes in 2003

To understand the way that the Diocese of Grafton and the Anglican Church responded to allegations of abuse at the Home, it is important to understand the Church's policies and practices relating to child sexual abuse from 2004.

On 15 March 2002, the General Synod Standing Committee of the Anglican Church publicly apologised to all those who had suffered child sexual abuse. Its apology was general and did not mention the North Coast Children's Home or specific institutions. The committee then established a sexual abuse working group.<sup>58</sup>

In a 2003 report, the working group referred to the Anglican Church's failings in handling child sexual abuse claims and recommended changes. It stated that the Church should:

- deal empathetically, professionally, respectfully, fairly and in a timely way with the needs of complainants and respondents
- be open, transparent and accountable
- be consistent from diocese to diocese
- report all allegations of misconduct to the police
- adequately resource Church processes for dealing with complaints
- take all reasonable steps to protect the public from abuse
- ensure bishops do not exercise conflicting roles, such as providing pastoral care as well as determining compensation, handling litigation and disciplining clergy.<sup>59</sup>

Many of the Anglican Church's current policies for responding to and preventing abuse arose from the report's recommendations.

#### Disciplinary canons set out disgraceful conduct by clergy

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

The first process is set out in a suite of general disciplinary canons, which relate to dealing with alleged perpetrators. The canons describe the type of conduct that can lead to disciplinary action, such as 'conduct disgraceful in a member of the clergy'.<sup>60</sup>



Matters of discipline may be referred to tribunals established in each diocese or to a board of enquiry.<sup>61</sup>

We look in more detail at the way the Church disciplines offending clergy in section 7.

### Professional standards ordinances cover the response to victims

The second process is set out in professional standards ordinances. These describe how to discipline alleged perpetrators and respond to victims. Importantly, they discuss the issue of compensation for victims.

In 2004, the General Synod urged all dioceses to adopt its model Professional Standards Ordinance. The model ordinance:

- is the main instrument for addressing child sexual abuse in the Anglican Church
- establishes a professional standards committee, director and board<sup>62</sup>
- is supplemented by a national protocol with procedures for people dealing with a complainant, disclosure, financial aid and compensation.<sup>63</sup>

Grafton, and some other dioceses, adopted their own version of the ordinance. Bishop Slater gave evidence that the Synod in Grafton adopted the ordinance before the General Synod's recommendation but its version was based on the model.<sup>64</sup> The Diocese also adopted the Protocol for Dealing with Complaints of Sexual Abuse in 2004.

### Diocese of Grafton's 2004 Ordinance and Protocol define responsibilities

The Diocese of Grafton's 2004 Professional Standards Ordinance set up a professional standards committee, director and board in the diocese. The 2004 Protocol for Dealing with Complaints of Sexual Abuse then describes their duties and responsibilities, and those of the registrar and the bishop.

	<b>Role in responding to child sexual abuse claims</b>
<b>Clergy</b>	<p>All clergy, including the bishop, must refer any information they receive to a committee member.<sup>65</sup></p> <p>Under the 2004 Ordinance, 'information' includes alleged conduct involving 'sexual harassment or assault or sexually inappropriate behaviour'.</p> <p>It covers a church worker who knows about such conduct by another church worker yet does not act or acts inappropriately or unreasonably.<sup>66</sup></p>

	<b>Role in responding to child sexual abuse claims</b>
<b>Committee</b>	<p>The committee receives and processes complaints.</p> <p>It must investigate information about what it considers to be ‘examinable conduct’,<sup>67</sup> which might call into question a church worker’s fitness to hold a particular office, licence or position of responsibility, to remain in holy orders or to be employed by an Anglican Church body.<sup>68</sup></p> <p>The committee also:</p> <ul style="list-style-type: none"> <li>• arranges conciliation or mediation</li> <li>• authorises spending to implement the 2004 Ordinance and Protocol</li> <li>• refers information to the police or a child protection authority.<sup>69</sup></li> </ul>
<b>Director</b>	<p>The director makes recommendations to the committee and:</p> <ul style="list-style-type: none"> <li>• liaises with complainants</li> <li>• reports sexual abuse to the police</li> <li>• appoints a pastoral person, on receiving a complaint, to make contact and provide pastoral support</li> <li>• determines whether the church has a ‘moral duty’ to pay for victim counselling.</li> </ul>
<b>Board</b>	<p>The board determines disciplinary questions the committee refers to it. These questions might include the fitness of the person concerned to hold a position of responsibility in the Anglican Church.</p> <p>The board is engaged after an investigation has ended and the claim has been resolved.<sup>70</sup></p>

We discuss the Diocese of Grafton’s application of the 2004 Ordinance and Protocol in sections 3 and 4.

### Pastoral Care and Assistance Scheme offers counselling and financial aid

Some Anglican dioceses have a third level of procedures to help process sexual abuse claims. As well as the 2004 Ordinance and Protocol, the Diocese of Sydney adopted a ‘Pastoral Care and Assistance Scheme’ for responding to claimants.<sup>71</sup> In November 2005, Bishop-in-Council of the Diocese of Grafton did so as well.<sup>72</sup>

The scheme says that once a person informs the Church of sexual abuse, the Church will:

- offer counselling with an independent practitioner
- immediately give a general acknowledgement that ‘all child abuse or sexual misconduct is grossly wrong’.<sup>73</sup>

‘If the substance of the allegation has been established’, a senior office holder must give a specific apology, without qualification.<sup>74</sup>

If a claim includes financial aid, the claimant and a claims counsellor will try to reach an agreement.<sup>75</sup> If they do not, the claimant may apply for ‘Pastoral Care and Assistance’. These applications are referred to a panel of a senior psychiatrist or clinical psychologist, and a senior legal practitioner.<sup>76</sup>

The panel assesses which of the following categories of financial assistance the person might be eligible for, based on the particular acts of abuse:<sup>77</sup>

Category	Example of abuse covered
1 – up to \$15,000	Harassment and indecent assault
2 – up to \$35,000	Unlawful act of sexual intercourse
3 – up to \$75,000	Sustained pattern of child abuse with sustained Category 1 or 2 acts

In determining the amount, the panel considers the:

- facts surrounding the abuse
- victim’s needs, age and any disabilities
- relationship between the perpetrator and victim
- impact of the abuse on the victim.<sup>78</sup>

The scheme is seen as ‘an alternative to litigation’ and the claimant is asked to sign a deed releasing the Diocese from liability.<sup>79</sup> We look at the Church’s application of the scheme in more detail in sections 3 and 4.

## 2.2 Policies for preventing abuse

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### General Synod recommended several policies to dioceses in 2004 and 2009

From 2004, the Anglican Church’s policies also aimed to prevent child sexual abuse by managing risks relating to alleged and convicted offenders. These policies sought to ensure that offenders were not at risk of reoffending in Church-related activities.<sup>80</sup>

When the General Synod passed the Professional Standards Ordinance and Protocol in 2004, it recommended that each diocese, parish and church organisation adopt a Safe Ministry Policy Statement to address issues of risk management for:

- screening clergy and laity
- managing those who have offended but wish to stay involved in Church activities.<sup>81</sup>

The General Synod also urged all dioceses to approve ‘Faithfulness in Service’ as the code of conduct for clergy and bishops.<sup>82</sup> This code requires that clergy who know, or reasonably suspect, a child is at risk must report it to the appropriate civil authorities. It excludes some cases where the information is obtained during confession.<sup>83</sup>

In 2009, the General Synod Standing Committee recommended a further set of guidelines: ‘Guidelines for parish safety where there is a risk of sexual abuse by a person of concern’.<sup>84</sup> These were sent to the dioceses on 26 October 2009.<sup>85</sup>

The guidelines set out how a parish can safely manage the involvement of a person of concern in parish activities. For example, they include a draft memorandum of understanding between the parish and the person. This can specify conditions, such as when the person is permitted on church grounds and whether the person must be accompanied to the bathroom.<sup>86</sup>

We examine the Diocese of Newcastle's approach to its safety policy in section 7.

## A national register formalised and centralised reporting in the Anglican Church

Another key policy development in 2004 was the introduction of a national register for recording allegations against bishops, clergy and other church workers. The register aims to share information about complaints of sexual abuse.

The register was recommended by the General Synod Standing Committee's working group on sexual abuse in 2003.<sup>87</sup> It was then established by the National Register Canon 2004, and updated by a 2007 canon that began on 1 June 2009.<sup>88</sup>

Philip Gerber, the former Professional Standards Director of Sydney, told us that bishops had historically written to each other to share concerns about a member of clergy.<sup>89</sup> The receiving bishop would then take appropriate action and store the information in either an informal register or a sealed file.

The Archbishop of Perth, Roger Herft, the Bishop of Newcastle from 1993 to 2005, said that bishops would discuss whether a person was 'safe to receive'.<sup>90</sup> When he was in Newcastle, he kept files sealed with wax and marked 'Concern' next to the person's name.<sup>91</sup>

## Information about abuse and misconduct is meant to be recorded

The National Register contains information on child abuse and the sexual misconduct of clergy or laity.<sup>92</sup> Martin Drevikovsky, General Secretary, leads the General Synod office, which oversees the register.

To record information:

- A diocese's professional standards director must notify the General Secretary of any relevant information within one month of receiving it.<sup>93</sup>
- The General Secretary must then write back to verify the information.
- Once verified, the General Secretary enters the information on the register.<sup>94</sup>
- The subject of the entry is notified.<sup>95</sup>

The register's information is meant to be available to authorised people, such as bishops or professional standards directors. It can help them determine whether to license or employ a person.<sup>96</sup>

Reports are also sought from the National Register for candidates for:

- the role of Primate or General Secretary of the General Synod
- membership of the Appellate Tribunal, Special Tribunal or Episcopal Standards Board.<sup>97</sup>

We discuss the register's effectiveness in section 7.

## 3 Response to the group claim

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### Key points

This section looks at how the Diocese of Grafton responded to a group claim by former residents of the Home. We consider the Diocese's defensive legal approach, what support it offered the victims, and if it applied the relevant scheme, ordinance and protocol. We conclude that the Diocese's denial of legal liability and responsibility for the Home, and the lack of pastoral care for former residents, had a further detrimental effect on victims.

### 3.1 Diocese of Grafton's legal response to the group claim

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#### Tommy Campion prompted the group claim

Tommy Campion, a former resident of the North Coast Children's Home, wrote to the Anglican dioceses of Sydney and Grafton on 29 August 2005. His letter described physical, psychological and sexual abuse at the Home. He named Ada Martin, a matron there from about 1945 to 1960, and Reverend Campbell Brown as physical abusers.<sup>98</sup>

The then Reverend Patrick Comben,<sup>99</sup> who was Registrar of the Diocese of Grafton until his resignation in September 2010, replied:

I am unable to adequately express my personal feelings of revulsion, sorrow and helplessness which the letter raises in me ... I have no hesitation in speaking on behalf of the Diocese in saying that we will do all that we can to assist you to move beyond the pain that was caused in an Anglican place that should have been safe, but was clearly not.<sup>100</sup>

He said that the professional staff of the Diocese of Sydney would respond to Mr Campion on the Diocese of Grafton's behalf.

Reverend Comben also offered Mr Campion counselling support and \$500 to help him travel to counselling appointments. He sent Mr Campion a copy of the Diocese of Sydney's Pastoral Care and Assistance Scheme, explaining that 'the Diocese of Grafton follows these guidelines'.<sup>101</sup> And he suggested taking a detailed statement so that 'at least internal discipline towards one of the clergy' could begin.<sup>102</sup>

Mr Campion said he was 'ecstatic' at the news of the scheme being offered and that he and his sister, CA, might each receive between \$70,000 and \$80,000.<sup>103</sup> He said he 'knew so many other children who were abused in the Home ... [and he] felt that everyone who was abused should receive something'.<sup>104</sup>

Between November 2005 and January 2006, Mr Campion spoke to the media about his experiences at the Home and advertised to find other former residents.<sup>105</sup>

## Group's lawyer initiated the claim against the Diocese

In 2006, over 40 former residents began a group claim against the Diocese of Grafton. They claimed to have suffered physical, psychological and sexual abuse at the Home between 1940 and 1985. Twenty of those claims involved child sexual abuse by clergy, staff, foster parents and others.<sup>106</sup>

On 5 January 2006, Simon Harrison, from the law firm Nicol Robinson Halletts, wrote to Reverend Comben about the claim. Mr Harrison advised that he had instructions to represent 20 former residents who had been abused.<sup>107</sup> He asked for help identifying some former staff and for some documents related to the Home. Reverend Comben opposed giving this information. He said that he did not want to give the claimants' solicitors 'honorary research assistance'.<sup>108</sup>

On 16 January 2006, Reverend Comben wrote to Peter Roland, from the law firm Foott Law & Co, with instructions to act in the matter for the Church. He asked Mr Roland about raising 'legal cases which deny the liability of an employer for the criminal acts of employees'.<sup>109</sup> Reverend Comben said that he thought Bishop-in-Council was influenced by a potential claim for \$4 million that had been mentioned in the media.<sup>110</sup> He said that Bishop-in-Council's position was: 'defend it'.<sup>111</sup>

Reverend Comben said he felt 'disappointed' that the matter was proceeding through lawyers.<sup>112</sup> He asked Mr Roland to seek further details so they could give 'a Christian response' along with the legal response.<sup>113</sup>

Mr Roland replied to Mr Harrison seeking more details about the assaults and perpetrators, and said that the Diocese was not a legal entity. He asked which people they proposed to hold liable for the assaults, and on what basis 'given the time which has elapsed'.<sup>114</sup> He also mentioned that a professional standards committee had been set up to deal with such matters.<sup>115</sup>

Mr Harrison and Mr Roland continued to correspond over the next six months to clarify claim details, possible defendants and questions of liability. Mr Roland told Mr Harrison that the claims were not covered by insurance<sup>116</sup> and refused to engage in an informal settlement conference 'until the matters alleged [were] better particularised'.<sup>117</sup>

Mr Roland gave evidence that, through 2006 and early 2007, he was in frequent contact with Reverend Comben who gave instructions for the Diocese over the group claim.<sup>118</sup>

## Diocese denied responsibility for the Home

On 10 May 2006, Mr Roland wrote to Mr Harrison questioning how the Corporate Trustees of the Diocese of Grafton could be liable for the actions of people at the Home.<sup>119</sup>

In a phone call with Mr Harrison on 12 May, Mr Roland said:

... the Diocese had a professional standards protocol and was prepared to deal with any matters where the Church could be deemed responsible in respect of Counselling and Pastoral Care etc ...<sup>120</sup>

He also said that, on the question of liability, the Church did not supervise or control the Home and did not employ the Home's staff.

On 1 June, Mr Roland wrote to Mr Harrison setting out the Diocese's position. Mr Roland said he was instructed that the Home was never run by clergymen and the staff were not employed by the Anglican Church.<sup>121</sup> He also said there was no evidence that the Home was known as the 'Church of England North Coast Children's Home'.<sup>122</sup>

However, Archdeacon Ezzy, Administrator of the Diocese of Grafton and member of Bishop-in-Council from 2005 to 2013, told us otherwise. He gave evidence that he knew of the four-by-four metre sign with that title when he was Rector of Lismore and President of the Home from 1985 to 1995.<sup>123</sup>

### ► Finding 3

The Diocese of Grafton initially dealt with Tommy Campion's complaint by providing a copy of the Pastoral Care and Assistance Scheme adopted by the Diocese in 2005. When faced with the group claim, the Diocese changed its response to Tommy Campion's claims by stating that the Diocese and its Corporate Trustees had no legal liability for sexual or physical abuse of a child by clergy, staff or other people associated with the North Coast Children's Home.

On 27 July 2006, Bishop-in-Council considered a report that the claimants' solicitors were yet to provide 'any meaningful details of the claims or actions proposed'. Bishop-in-Council resolved that the Professional Standards Committee continue to work on the group claim with Reverend Comben and others.<sup>124</sup>

## Diocese took a defensive legal position

On 15 September 2006, Mr Harrison gave Mr Roland a 14-page letter with many attachments.<sup>125</sup> He also provided statutory declarations from all the claimants, with associated medical reports. This letter:

- set out the evidence of an association between the Home and the Diocese of Grafton
- made submissions on the issue of liability
- suggested the group claim be settled informally.

Bishop-in-Council referred to this material at its meeting on 21 September 2006. The meeting minutes note that no resolution was passed, but that Mr Roland reported:

The Diocesan Advocate is considering the position but it is likely that the Church will maintain its position of resisting and defending the allegations on the basis of:

- The Statute of Limitations.
- No vicarious liability for the illegal acts of a servant or officer.
- The Home was not in law our responsibility.
- Who in legal terms is the responsible legal entity.

Legal and historical responses are being prepared by the Advocate and the Registrar.<sup>126</sup>

Bishop Slater gave evidence that the legal position adopted was advocated by Reverend Comben and accepted by Bishop-in-Council.<sup>127</sup>

On receiving the extensive documentation from Mr Harrison on 15 September 2006, Reverend Comben summarised it by listing:

- members of the group claim
- identities of known perpetrators
- dates of residence of each victim
- the nature of the abuse – whether it was physical, psychological or sexual.<sup>128</sup>

The summary document lists 40 victims, with 20 claims involving sexual matters. The alleged abusers listed include:

- Reverend Campbell Brown
- Reverend Winston Morgan
- Canon John Robinson
- Matron Ada Martin
- Matron Jean O’Neill
- some residents.

The summary document was given to Mr Roland on 26 September 2006,<sup>129</sup> and to Bishop Slater some time later.<sup>130</sup>

On 10 October 2006, Mr Roland sent a detailed reply to Mr Harrison with the defensive approach indicated to Bishop-in-Council. Mr Roland asserted that ‘the Anglican Church has never been vested with care control and management of the Home’.<sup>131</sup> He stated that ‘our client remains of the opinion that your clients face insurmountable obstacles in the prosecution of litigation in this matter.’<sup>132</sup>

### Professional Standards Committee considered the claim

On 21 November 2006, the Professional Standards Committee met and considered the group claim. This is the first time that committee minutes show any detailed consideration of the claim.

The minutes note that the committee dealt only with disciplinary matters arising from the group claim and police reports.<sup>133</sup> The committee did not take any steps to ensure group claimants would receive pastoral care and assistance. Disciplinary action was considered for Reverend Morgan, Reverend Brown, and Canon Robinson. We discuss this further in section 7.

At the end of November 2006, Mr Harrison approached the Primate of the Anglican Church seeking his help to resolve the claim. From 2005 to June 2014, the Primate was the Archbishop of Brisbane, Phillip Aspinall. Rod McLary, the Professional Standards Director who helped the Primate, spoke with Reverend Comben about the claim. He said that the reverend indicated:

- the claim had no chance of legal success<sup>134</sup>
- there was no responsibility coming back to the Diocese<sup>135</sup>
- nobody else needed to be involved in the matter – ‘it was all under control’.<sup>136</sup>



## Diocese offered claimants limited pastoral care

Reverend Comben also sought legal advice from Garth Blake SC. On 7 December 2006, Mr Blake sent two draft letters to Reverend Comben and Mr Roland. One letter denied that the Diocese or its Corporate Trustees were 'liable to the alleged victims'. The other letter was a 'without prejudice' letter, inviting claimants to participate 'in the Pastoral Care and Assistance Scheme of the Diocese of Grafton'.<sup>137</sup>

On 8 December 2006, the Primate wrote to Bishop Slater suggesting that the bishop consider offering the claimants:<sup>138</sup>

- counselling and a pastoral response
- an opportunity to share their experiences with the bishop or senior clergy
- assurance that they would be heard
- assurance of recourse to legal advice and court processes without obstruction by the Diocese
- assurance that the Church is open to mediation and reconciliation processes
- a formal apology, where appropriate, for harm done.

On instructions from Reverend Comben,<sup>139</sup> Mr Roland wrote to Mr Harrison on 14 December 2006. Unlike the draft prepared by Mr Blake SC, Mr Roland's letter did not mention the Pastoral Care and Assistance Scheme. He included the Primate's suggestions in the letter, but added that the Church was willing:

... to consider providing some limited pastoral care and assistance to your clients to assist them on their journey through the hurt that they feel ... [but] this pastoral care and assistance will of necessity be limited in scope as the Church has limited resources.<sup>140</sup>

## Diocese asked claimants to enter a deed of release

In this letter to Mr Harrison, Mr Roland suggested two options as a structure for settlement discussions.

The first option asked claimants to accept:

- counselling
- acknowledgment of hurt
- payment of past medical expenses
- payment of reasonable legal costs
- a modest ex gratia payment.

The second option was a 'pastoral care and assistance proposal to be developed over the coming months' that 'may include':

- counselling
- payment of past medical expenses
- payment of reasonable legal costs
- a 'constrained' financial settlement.<sup>141</sup>

Both options depended on the claimants first entering into a deed of release for ‘all Church persons in any way connected with the operation of the North Coast Children’s Home other than the alleged perpetrator of abuse’.

This was contrary to the scheme the Diocese adopted in 2005, which describes giving an acknowledgment and counselling as a first response to a complaint, as we noted in section 2.1. A deed of release only applies once the scheme panel recommends an amount of financial help.<sup>142</sup>

The scheme says that:

As far as possible we want to ensure that the person is properly cared for from the initial point of contact ... As a first response the claimant will be contacted by the Diocesan Chaplain for victims, who has been given responsibility for ensuring that victims of child abuse or sexual misconduct receive ongoing pastoral care and support.<sup>143</sup>

#### ► Finding 4

The Diocese of Grafton required group claimants to sign a deed of release before counselling, acknowledgement, apology or financial settlement would be provided, except for Tommy Campion, who was already receiving some counselling. This was inconsistent with the Sydney Pastoral Care and Assistance Scheme that the Diocese of Grafton adopted in 2005.

## 3.2 Application of the scheme, ordinance and protocol

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### Diocese did not apply the scheme as it did not accept legal liability

Bishop-in-Council had adopted the Sydney Pastoral Care and Assistance Scheme in November 2005.<sup>144</sup> But the Diocese did not apply the scheme during the group claim.<sup>145</sup>

From 2005, Reverend Comben suggested to claimants that the Professional Standards Committee would be involved. However, Philip Gerber, the Professional Standards Director of Sydney who also acted as the Professional Standards Director of Grafton from 2002 to 2007,<sup>146</sup> gave evidence that some matters were never referred to him.<sup>147</sup>

In a letter of 10 October 2006, Mr Roland said:

Our client does not consider that the protocols set up by the Anglican Church are an appropriate procedure in the present case given the large number of allegations made by some 42 claimants as well as the highly complex evidentiary and legal issues involved.<sup>148</sup>

Mr Roland gave evidence that the Diocese considered that the scheme applied only where the Diocese had legal liability for the conduct.<sup>149</sup>

## Diocese also felt no obligation to follow the ordinance and protocol

As we outlined in section 2.1, the Diocese of Grafton adopted the Professional Standards Ordinance and the Protocol for Dealing with Complaints of Sexual Abuse in 2004.

But Mr Roland said he believed there was no obligation to follow the 2004 Ordinance and Protocol for claims about the Home because the Diocese had no legal liability.<sup>150</sup>

Mr Harrison agreed that Mr Roland had not invited him to apply to the Professional Standards Director for any of his clients.<sup>151</sup>

The lack of engagement with the 2004 Ordinance and Protocol is evident from other matters:

- None of the claims was ever referred to the Professional Standards Director for the Diocese of Grafton, Mr Gerber.<sup>152</sup>
- No pastoral person or ‘contact person’ was appointed to any of the claimants, other than Mr Champion.
- No acknowledgement or counselling was offered, except for some money to cover counselling as part of the negotiated settlement.

### ► Finding 5

By 10 October 2006, the Diocese of Grafton was not following its own policies in its handling of the group claim as set out in the:

- Professional Standards Ordinance and Protocol for Dealing with Complaints of Sexual Abuse, both adopted in 2004
- Pastoral Care and Assistance Scheme, adopted in 2005.

The bishop addressed the fact that the claim was not managed under the 2004 Ordinance and Protocol in a 2013 media release in which he said:

As the claimants were represented by a solicitor the Diocese engaged a solicitor to facilitate the process. This set a precedent of responding to all subsequent claims with the support and advice of a Diocesan solicitor. This does not excuse the failings I have detailed as, even though the financial settlements were being negotiated through solicitors, those claims alleging sexual abuse, should have been concurrently managed in accordance with the Professional Standards Ordinance and Protocol.<sup>153</sup>

### ► Finding 6

Bishop Keith Slater, then Bishop of Grafton, and the Diocese of Grafton should have managed the process under the 2004 Protocol for Dealing with Complaints of Sexual Abuse when the group claim was being handled between the Diocesan and claimants’ solicitors.

## Settlement negotiations were not in the spirit of the scheme and protocol

An informal settlement conference between the lawyers was arranged for 19 and 20 December 2006 at the Diocesan Centre. Reverend Comben and Mr Roland were joined by Mr Harrison and a junior lawyer. Mr Harrison described the start of the negotiations:

The Reverend Comben, as I recall, when I walked into the room, was sitting on a chair with his hands behind his head and with his feet up, which I interpreted as being something of a machismo role that he was trying to play out.<sup>154</sup>

Reverend Comben agreed that there was a ‘considerable degree of antipathy’ between himself and Mr Harrison.<sup>155</sup>

Bishop Slater revealed that the Diocese’s approach was to negotiate an amount at the conference and then put it to Bishop-in-Council for approval. During the conference, Bishop Slater was in touch with the Diocese’s negotiators. At one stage, he encouraged them to move from \$500,000 to \$600,000.<sup>156</sup> In the end, the claimants offered \$1.2 million to settle all claims, and the Diocese moved up to \$750,000. The parties did not reach an agreement.<sup>157</sup>

On 9 January 2007, Mr Harrison wrote to his clients about the hostile and combative nature of the negotiations:<sup>158</sup>

During the course of the second day of conferencing we were appalled at two offensive remarks that were made both by the Reverend and his lawyer ... The comments related to the nature of ‘discipline in those days’ and a suggestion that implied that any abuses that occurred had to be placed in the context of the fact that at least the children were given a home.

The 2004 Protocol and the scheme emphasise the Anglican Church’s commitment to responding to claimants with empathy, support, dignity and respect.<sup>159</sup>

#### ► Finding 7

The settlement negotiations on 19 and 20 December 2006 were conducted in a hostile manner, contrary to the spirit of the 2005 Pastoral Care and Assistance Scheme and the 2004 Protocol for Dealing with Complaints of Sexual Abuse.

### Negotiated settlement amounts were much lower than in the scheme

Negotiations continued into March 2007:

Date	Negotiation
24 January	Mr Harrison dropped the claimants’ offer to \$950,000, but the Diocese rejected this. <sup>160</sup>
26 February	Mr Roland, on Reverend Comben’s instructions, withdrew all financial offers. <sup>161</sup> This was a commercial tactic aimed at forcing agreement. <sup>162</sup>
19 March	After several offers and counter offers, an agreement was reached at \$825,000 for the group. <sup>163</sup>

Mr Harrison communicated the final agreement to his clients on or about 19 March. By then, the initial nine categories had been reduced to three bands:

Band	Amount offered to each claimant before deducting legal fees
A	\$16,658.54
B	\$20,658.54
C	\$22,658.54

Mr Campion and 12 other clients were offered band C payments. After deducting outlays and Health Insurance Commission refunds, and paying 50 per cent of the balance in legal fees, Mr Campion would receive only \$10,326.64.<sup>164</sup> Other group claimants would receive similar amounts.

In his oral evidence, CK recalled he ultimately received around \$10,000.<sup>165</sup> CN signed a deed of release settling for around \$22,000 but, after legal fees, received around \$11,000.<sup>166</sup> CM was offered \$7,000 through the group claim.<sup>167</sup> Each settlement offer included both legal fees and Medicare or Health Insurance Commission payments.

The group claim was settled in March 2007 for all claimants except Mr Campion and his sister, CA, who did not accept the amount offered. The scheme document that Reverend Comben sent to Mr Campion in 2005 listed payment of up to \$75,000 for sustained child abuse. Mr Campion still believed he and CA were entitled to that.<sup>168</sup>

#### ► Finding 8

The amounts offered to Tommy Campion, CA, CK, CL, CM and CN under the group claim were substantially lower than if the claim had been resolved under the 2005 Pastoral Care and Assistance Scheme that the Diocese of Grafton had adopted. The Diocese misled Tommy Campion and CA that the scheme would be followed.

### Failure to apply the ordinance and protocol led to an inadequate response

The Diocese's approach meant that the Professional Standards Committee was not performing its functions under section 20(1) of the 2004 Ordinance to:

- investigate
- arrange conciliation or mediation
- authorise spending to implement the ordinance or protocol, including for counselling
- refer matters to the police.

Reverend Comben accepted that he did not give the list of claimants and their abuse to the Professional Standards Director at the time, Mr Gerber.<sup>169</sup> As the director was not involved, he could not:

- contact and provide pastoral support to each claimant
- advise the Professional Standards Committee
- determine whether the church had a moral duty to pay for counselling
- recommend whether to offer redress, including financial help, an acknowledgement or an apology.<sup>170</sup>

### ► Finding 9

In handling the group claim, the Diocese of Grafton did not apply the 2004 Professional Standards Ordinance and Protocol for Dealing with Complaints of Sexual Abuse. As a consequence, it did not provide a sympathetic and proportionate pastoral response to the group claimants.

## Diocese failed to meet its moral obligations to claimants

Leaving aside the 2004 Ordinance and Protocol, we also received evidence that questioned whether the Diocese's approach was appropriate from a moral perspective.

Mr Harrison was convinced that the Diocese did not meet its moral obligation to the claimants. Counsel Assisting asked him if 'any question of moral obligation' was discussed. He replied:

None whatsoever. Quite the opposite, as I think we'll see in the course of the mediation. This was a thorn in their side that they wanted to go away. There was no intention by the Diocese to do good in these matters. I was absolutely convinced of that.<sup>171</sup>

Mr Roland said that, although the Diocese was denying legal liability, it was accepting some form of moral responsibility by proposing to settle the claim.<sup>172</sup> However, he agreed that, early on, both sides should have been frank and open about their positions on legal responsibility and moral obligation.<sup>173</sup>

Bishop Slater indicated in his evidence that there was no acknowledgement of moral issues when negotiating the settlement:

Q Did it strike you at the time – that is, in those first three months of 2007 – that the commercial approach that was being taken to negotiations might be at odds with a moral approach to respond to the claims?

A No, but I can see, on reflection, yes.

Q You can see why some people might now say that the approach taken was unduly harsh, given the nature of the abuse that these people had sustained?

A True.<sup>174</sup>

## 3.3 Impact of the diocese's denial of responsibility

### Diocese's denial of responsibility caused victims more hurt

On or about 12 April 2007, Mr Champion told the media of his disappointment with the offer of financial settlement. *The Australian* newspaper covered the story under the headline 'Anglican abuse payout "an insult"'.<sup>175</sup> The article quotes Reverend Comben as saying:

We have made that offer on the basis that the church is a church of compassion and wants to make a passable [sic] approach to people who had apparently been damaged in a place that had some sort of connections with some church people.

CK stated that in denying responsibility, the Anglican Church caused much hurt because the residents knew the truth. He said that the Church taking responsibility and ownership was important to him and other former residents.<sup>176</sup>

CN was disappointed with the group claim settlement and the Diocese's denial of liability. She stated:

I was advised through letters from Mr Harrison that the Church denied that they were responsible for the Children's Home. I thought this was odd because it was always named the 'Church of England North Coast Children's Home'. For some reason, the Church rejected that they were responsible at all. The Church said the Home was not a part of the Church ... I just couldn't believe they were denying that they were liable, and I felt like the amount we were offered was a pittance.<sup>177</sup>

### Church's offer and settlement conditions were unacceptable to some

CN said that she 'felt that it wasn't worth fighting on' and decided to take the settlement of about \$11,000 after paying legal fees.<sup>178</sup> She described the legal process overall as being very distressing:

At the end of that case, it was like being raped all over again. So it made me feel just like I felt when I was in the Home, like I was lying and worthless.<sup>179</sup>

Mr Campion gave evidence about his legal fees and the amount offered by the Diocese:

I was upset. I mean, the amount of abuse that I suffered was pretty bad. I just thought that settlement was – the church had schemed a bit to get out of paying the correct amount of money. I was pretty heartbroken that he only offered that much ... All these people had gone through hell and then you get the situation where you have the lawyers telling you what to have, without asking beforehand, and knowing that [the claimants] had to pay half of what they got. I just didn't think that was fair.<sup>180</sup>

CA said:

I felt the offer and conditions were unacceptable, and did not feel that what they called the 'compassionate payment' was genuine. I was devastated. Other people decided to take what they could get. I couldn't believe people could take the money for what was done to their life. I felt they wanted it all wrapped up and forgotten about.<sup>181</sup>

Mr Campion and CA rejected the offer made as part of the group claim. The other members of the group claim accepted the offer in early 2007.

#### ► Finding 10

By denying legal liability, on the basis that it did not control the North Coast Children's Home, and not providing a pastoral response, the Diocese of Grafton's response had a detrimental effect on abused former residents.

## 4 Response to individual claims

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### Key points

This section examines how the Diocese of Grafton handled individual claims of sexual abuse from former residents of the Home and other claimants. We consider how it responded to those claims, compared with its response to the group claim, and how it applied the scheme, ordinance and protocol. We conclude that claims were handled inconsistently, and that Bishop Slater did not report abuse allegations through proper channels.

### 4.1 Diocese's handling of Tommy Campion's claim

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#### Tommy Campion pursued an individual claim after rejecting the group offer

Tommy Campion was part of the group claim that he began in 2006. But in March 2007, he rejected the Diocese's offer for all group claimants. In April 2007, he appeared in newspaper articles criticising the offer. With his sister, CA, he continued to negotiate his claim with the Diocese.

In a meeting on 3 July 2007, Mr Campion told Bishop Slater that he wanted the Anglican Church to acknowledge that it was involved in running the Home and owed a duty of care to the children who lived there.<sup>182</sup>

Mr Campion's claim was not settled until 2010, and CA's not until the time of the public hearing. He estimated that, by May 2010, he had written over 250 letters to the various parties.<sup>183</sup>

#### Mr Campion sought compensation and counselling

On 10 July 2007, Bishop Slater wrote to Mr Campion and CA asking, 'What would be helpful for you to move on from these things of the past?'<sup>184</sup> Mr Campion replied that he needed more extensive counselling and he wanted compensation of \$75,000 in line with the Pastoral Care and Assistance Scheme.<sup>185</sup>

On 14 August, Bishop Slater wrote again to both claimants about Mr Campion's request for compensation, reminding them of the group claim process:

It seems to me that what you are now asking in relation to a Care Package would actually be a betrayal of all of those whom you encouraged to make a claim with you through your lawyer. If the Diocese now proceeded to renegotiate with you at a significantly higher level of recompense then it would actually impinge upon your integrity, and be viewed by others as a betrayal.<sup>186</sup>

Bishop Slater repeated the offer that had been given to the group claimants: \$22,000 plus continued payment for 10 counselling sessions.



Mr Campion was shocked by the bishop's letter: 'I could not believe it. I thought it was a shocking thing to say that I would betray the other children. I thought it was despicable'.<sup>187</sup> CA responded in similar terms on 16 October 2007.<sup>188</sup>

Bishop Slater acknowledged to the Royal Commission that the letter was an inappropriate reply to Mr Campion.<sup>189</sup> He agreed that it confused the interests of the complainant, the bishop, the Diocese and other members of the group claim.<sup>190</sup>

### Bishop Slater and Reverend Comben apologised to Mr Campion

Mr Campion negotiated an apology from Bishop Slater and Reverend Comben in his final settlement, accepting the bishop's apology.<sup>191</sup> Reverend Comben's apology said:

I apologise sincerely for treating Richard 'Tommy' Campion and CA with contempt in respect to the aftermath of the abuse they suffered as children while living in an Anglican place ... As I am a member of the Anglican Clergy and you a victim of abuse I should not have made the many accusations of deceit that I did.

Mr Campion said Reverend Comben had 'treated us like rubbish'<sup>192</sup> but thought the apology 'wasn't too bad actually'.<sup>193</sup> He explained he understood that the 'accusations of deceit' related to 'these lies, that the church had nothing to do with the home ...'.<sup>194</sup>

While giving evidence, Reverend Comben said about his apology:

Does it mean in my heart that I believe I made any accusations of deceit? No, I do not. ... I could have argued a point. I chose to give Mr Campion some comfort and I hope some closure. If that is my crime, I plead guilty ... I lied in that.<sup>195</sup>

### Mr Campion's settlement

Throughout 2008 and 2009, Mr Campion continued to correspond with Bishop Slater, and occasionally the Primate, on:

- issues of responsibility for the residents in the Home
- terms of a deed of release proposed by the bishop.<sup>196</sup>

On 14 June 2010, Mr Campion yielded to the Diocese's offer:

Due to a desperate need to regain my sanity, my health, pay the rent and electricity and purchase decent food to keep that health, I will now accept every cent due to me for the physical, sexual and psychological abuse I suffered [at the Home].<sup>197</sup>

On 17 June 2010, the Diocese's solicitor, Peter Roland, wrote back to Mr Campion offering :

- the same settlement amount as for the group claim (with interest)
- a \$5,000 lump sum for counselling
- Medicare reimbursement of \$7,730.<sup>198</sup>

#### ► Finding 11

Bishop Keith Slater did not follow the Pastoral Care and Assistance Scheme in responding to Tommy Campion.

## Bishop Slater was concerned about further legal action

By March 2012, Mr Campion was continuing to press the Anglican Church about his settlement. Bishop Slater was concerned that Mr Campion would take further legal action. This included potential action against members of the Home's executive.<sup>199</sup>

Mr Campion was seeking the Constitution and other documents to better understand the question of liability for the Home. He was also in contact with the Primate about his difficulties getting a response from Bishop Slater. The Primate wrote to the bishop and asked him to give Mr Campion 'the fullest possible explanation of the issues involved' and to make relevant documents available, including the Home's Constitution.<sup>200</sup>

Bishop Slater told the Primate he was concerned that giving Mr Campion this material would help him take legal action against former committee members, including one who was elderly.<sup>201</sup> When asked in the public hearing if he was putting the members of the committee's interests above Mr Campion's, Bishop Slater replied, 'In the reading of it, yes'.<sup>202</sup>

### ► Finding 12

In 2012, when considering the request from Tommy Campion for information, Bishop Keith Slater acted to protect the interests of the former members of the Home's committee, including an elderly former member.

## 4.2 Diocese's handling of other individual claims

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### New claimants came forward after the group settlement

After the group claim was settled in 2007, several new claimants came forward. Some contacted Mr Harrison, who wrote to Mr Roland about three new claimants and asked the Diocese to follow the same process as for the group claim.<sup>203</sup>

Mr Roland rejected that approach and indicated neither the Diocese nor the Corporate Trustees were responsible for the Home's management. He relied on the decision of the NSW Court of Appeal in *Trustees of the Roman Catholic Church v Ellis* [2007] NSWCA 117.<sup>204</sup>

### CD's claim was handled differently from the group claim

CD contacted Mr Campion in early 2007 and later wrote to him about the abuse he had suffered in the Home. Mr Campion informed the Primate of the abuse suffered by CD.<sup>205</sup> On 30 May, the Primate wrote back saying that he had:

- asked the Professional Standards Director of Brisbane to tell the police about the allegations
- written to Bishop Slater encouraging him to take appropriate action.<sup>206</sup>

In August 2007, Mr Campion sent Bishop Slater letters written by CD describing the abuse.<sup>207</sup> On 29 January 2008, the Bishop's Commissary, who represents the bishop, wrote back saying the church was reluctant to 'enter this area' without a direct request from

CD.<sup>208</sup> On 5 February 2008, CD wrote to the bishop and his commissary authorising Mr Campion to communicate with the Church for him:

I have waited eight months for you to answer my letter of complaint and I am deeply hurt that you have not acknowledged me. Please act in the appropriate manner.<sup>209</sup>

On 21 February 2008, the bishop wrote back to CD. The bishop acknowledged CD's anger towards the Church and indicated that he was 'deeply sorry for all the hurt you have been through'.<sup>210</sup>

CD had said he did not want counselling.<sup>211</sup> The bishop indicated he therefore would not refer the matter to the Professional Standards Director. The bishop offered CD the three levels of payment negotiated during the group claim, subject to CD entering into a deed of release. CD accepted the offer of \$22,658 (the highest category).<sup>212</sup>

CD told us he accepted this because he needed the money. But he did not feel the amount was fair compared to the impact the abuse had on him for nearly 30 years. CD wanted 'someone to be held responsible for it, to be accountable'.<sup>213</sup> He felt 'like the Church has given me money and told me to shut up and go away, and it's not good enough'.<sup>214</sup>

### CB and CC were refused financial compensation

In February 2011, CC sent two letters to the Diocese describing the sexual abuse she had suffered at the Home.<sup>215</sup> The bishop wrote back to acknowledge her letters and express his sadness.<sup>216</sup> He suggested that he could put her in touch with a priest in the area where she lived. CC replied: 'Thank you for your advice, but a Priest abused and molested me. I wouldn't have one anywhere near me.'<sup>217</sup>

In March that year, CB also wrote to Bishop Slater describing the sexual abuse he experienced in the Home and its impact on his life.<sup>218</sup>

On 4 April 2011, Mr Roland wrote to both CB and CC denying any liability of the Diocese and refusing any financial compensation. He offered a 'pastoral support package' with a support person 'to meet with you and seek to assist you to move towards wholeness'.<sup>219</sup> Mr Roland said the bishop instructed him to do this.<sup>220</sup>

Bishop Slater said to us that he agreed that the letters of 4 April 2011 were an unduly harsh way to respond to a person who had complained of sexual abuse.<sup>221</sup>

#### ► Finding 13

The Diocese of Grafton received further individual claims from former residents of the North Coast Children's Home, but it did not deal with them in accordance with the Pastoral Care and Assistance Scheme or the settlement of the group claim.

### CA's claim for an earlier settlement offer was denied

On 21 February 2012, CA decided, like her brother Mr Campion, to accept the compensation offered in 2007.<sup>222</sup> Mr Roland wrote to her saying that no settlement had been agreed for

her 'former claim' and that her file had been closed.<sup>223</sup> This approach followed instructions from Reverend Comben on 28 March 2007.<sup>224</sup>

CA wrote back to Mr Roland objecting to his 'dismissive tone'. She stated that no time limit had been set for acceptance and asked that the church honour its commitment.<sup>225</sup>

On 27 April 2012, Mr Roland replied with similar terms as for CB and CC. He denied liability of the Diocese and Corporate Trustees and said that the Diocese was prepared to appoint a support person to 'meet with you and seek to assist you to move towards wholeness'.<sup>226</sup>

### Bishop Slater acknowledged different handling of group and individual claims

CB later discovered that former residents had received a financial settlement package through the group claim. On 14 July 2011, he wrote to Bishop Slater:

I am appalled at your behaviour towards me concerning the abuse I suffered in the Church of England North Coast Children's Home. I have become aware that the Diocese of Grafton supported 41 victims of abuse with a compassionate payout as part of 'the support package' ... Even though you haven't advised me, it appears that you do not intend to support me with the financial component that other victims of abuse from the same home have received in the past.<sup>227</sup>

In a media statement in 2013, the bishop acknowledged the different position taken for the group and individual claims:

I acknowledge that the Diocese of Grafton should have received and investigated each new claim put before it and that there was no justification for the decision that new claims would not have access to the same financial settlement process made available to the earlier claimants.<sup>228</sup>

## 4.3 Application of the scheme, ordinance and protocol

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### Four individual claims were settled before the group claim

Three other individual claims, not related to the Home, were resolved under the Pastoral Care and Assistance Scheme before the group claim was resolved. Negotiations and approval took place through Reverend Comben, Bishop Slater and Bishop-in-Council.

Claimant	Outcome under the scheme
1	The Professional Standards Committee investigated and referred the matter to the Professional Standards Board. The board recommended the member of clergy concerned be deposed from holy orders. <sup>229</sup> The claimant requested that settlement be negotiated outside the scheme. Reverend Comben recommended and Bishop Slater approved a payment of \$54,500, because the person was in Category 2 on the scheme's schedule. <sup>230</sup> The claimant accepted the payment. <sup>231</sup>

Claimant	Outcome under the scheme
2	The Diocese reached a financial settlement in June 2006 with a woman who claimed a member of clergy sexually assaulted her when she was 17. <sup>232</sup> The draft deed of release shows the claimant received \$37,500 in return for releasing the Diocese from any further action. <sup>233</sup>
3	This claim was resolved in October 2006 when Bishop-in-Council agreed to a financial settlement of \$45,000. <sup>234</sup>

A fourth claim was processed between 2005 and 2007. CH, a resident at the Home in 1975, filed personal injury proceedings in the NSW Supreme Court for Reverend Kitchingman's assaults on him.<sup>235</sup> The Diocese was able to claim this matter on an insurance policy that had expired by the time of the group claim.<sup>236</sup> In September 2007, the insurer settled CH's claim for \$250,000, including legal costs.<sup>237</sup> CH also settled with Reverend Kitchingman for a further \$40,000.<sup>238</sup>

### Abuse allegations were not reported to the Professional Standards Committee

When Bishop Slater responded to CC's letters from February 2011 describing her abuse at the Home, he did not refer her to the new Professional Standards Director, Michael Elliott. Nor did he draw her attention to the scheme.<sup>239</sup>

Clause 24(1) of the 2004 Ordinance requires any clergy or bishop to report to the Professional Standards Committee any information they receive about sexual assault allegations. Under the 2004 Protocol, the bishop must ensure all allegations of sexual abuse are reported 'immediately' to the Professional Standards Director.<sup>240</sup>

Neither CB nor CC's letters was referred to the committee or the director. Bishop Slater agreed during his oral evidence that he should have referred both CB and CC to the director for pastoral support, including counselling, claim facilitation and proper redress.<sup>241</sup>

#### ► Finding 14

Bishop Keith Slater did not refer either CB's or CC's claims to the Professional Standards Committee, which was contrary to clause 24(1) of the Professional Standards Ordinance 2004.

### Professional Standard Director did not have access to relevant files

An audit into complaints of child sexual abuse was initiated by Bishop-in-Council in November 2012. Anne Hywood, who was appointed Acting Registrar of the Diocese in January 2013, followed up on the audit. She discovered that the Professional Standards Director did not have access to relevant professional standards files.<sup>242</sup>

Ms Hywood forwarded the letters from CB and CC to Mr Elliott. He confirmed they had not previously been referred to him.<sup>243</sup>

Ms Hywood said:

I was particularly furious. I had worked very hard in my role as executive officer in the Diocese of Adelaide on a number of sexual abuse claims and matters and working with others to develop Healing Steps. I had been elected as a member of the general standing committee on the national church, the Anglican Church of Australia, and had dedicated a lot of my time, effort and energy to ensuring that the Anglican Church in Australia had appropriate protocols. And I really believed after 2004, when the dioceses throughout Australia adopted these ordinances and protocols, that this type of problem wouldn't happen again.<sup>244</sup>

Ms Hywood told us that the whole process for handling such claims had been compromised:

It's not just that we didn't follow our own process, but these people did not have the benefit of the support that a professional standards director is there to provide.

We talked before about their ability to set up counselling, to provide immediate financial assistance and support, to appoint a support person to them. So the diocese had known of these claims for 18 months and these people did not have the benefit of being referred to the Professional Standards Director and having that support and assistance.<sup>245</sup>

CA, CB and CC's claims were not progressed until February 2013 when Ms Hywood referred CB and CC's claims to the Professional Standards Director. By the start of the public hearing, CA and CC had received emergency payments of \$5,000.<sup>246</sup>

### Bishop Slater did not refer allegations to the Professional Standards Director

In May 2013, Ms Hywood gave the Primate a report outlining the Diocese's handling of child sexual abuse claims over the last six years. She observed with concern that:

- professional standard's files were not properly kept
- files did not show how claims were processed in line with current protocols or if the police were informed
- post-group claimants were told the Diocese was not prepared to offer settlements on the same basis as earlier settlements
- pastoral care offered to CB and CC in 2011 did not include counselling, mediation or financial help
- matters had not been referred to the Professional Standards Director
- negotiations with Mr Champion were poorly run and caused him further distress.<sup>247</sup>

In a meeting with Bishop Slater and Martin Drevikovsky about this report, the Primate suggested that if the report was true, it was 'untenable' for Bishop Slater to continue as Bishop of Grafton.<sup>248</sup>

Bishop Slater resigned on 17 May 2013.<sup>249</sup> He issued a media statement on the Diocese's management of claims that said:

I acknowledge that I was responsible for ensuring full compliance with the Protocol and that I failed in this duty. Some matters dealing with sexual abuse at the North Coast Children's Home were not referred to the Professional Standards Director as they should have been ...

I apologise to those complainants who were not given access to the Professional Standards Director. I also acknowledge that, by not referring these matters, the Professional Standards Director was not provided with information that could have assisted ongoing internal and Police Investigations.<sup>250</sup>

► **Recommendation 1**

That the Diocese of Grafton regularly review the operation of its professional standards processes to ensure the professional standards director and professional standards committee are appraised of all outstanding claims of sexual abuse.

### Church reviewed claims under a revised scheme

Ms Hywood was unaware that Bishop-in-Council had adopted the Sydney Pastoral Care and Assistance Scheme in November 2005.<sup>251</sup> On 27 June 2013, Ms Hywood proposed a revised pastoral and care assistance package, adapted from the Diocese of Sydney's package. This new package was adopted at the Bishop-in-Council meeting in around October 2013.<sup>252</sup>

In 2013, the Professional Standards Director and Committee reviewed all abuse claims that were not investigated through the 2004 Protocol, including those from the group claim.<sup>253</sup> They recommended the Diocese pay each claimant at the level the committee requested.<sup>254</sup> Archdeacon Ezzy told the Royal Commission that the new scheme will apply retrospectively to all 41 group claimants.<sup>255</sup>

On 16 November 2013, the new chair of the Professional Standards Committee, Reverend David Hanger, wrote to CA, CB and CC and offered each of them a financial settlement of \$75,000.<sup>256</sup> Archdeacon Ezzy informed us that the Diocese would take out a commercial loan to pay for any financial settlements until saleable assets could be found.<sup>257</sup>

### Diocese publicly apologised to victims

On 5 September 2013, several newspapers published an apology from the Diocese to the North Coast Children's Home abuse victims:

The Anglican Diocese of Grafton apologises unreservedly to children who, in the past, suffered from sexual abuse, harsh punishment or a lack of appropriate and nurturing care while resident at the North Coast Children's Home, Lismore.

We also apologise, and ask forgiveness, for the unacceptable manner in which those who in recent years reported their abuse were hindered by church leaders.

Our Diocese acknowledges with sadness the serious and long term effects of such abuse. We are committed to assist in the provision of appropriate support and assistance for those who were harmed and who continue to suffer.

Survivors of abuse from the North Coast Children's Home are invited and encouraged to make contact with the Diocese's independent Director of Professional Standards, to enable the church to assist in providing support that might facilitate healing and to deal fairly and appropriately with those accused of causing harm.<sup>258</sup>

Mr Campion said of the public apology:

Yes, they apologised, but, yes, the duty of care went out the door. They say, you know, 'people who suffered from sexual abuse, harsh punishment', and all that, but of course they won't admit themselves that the church were to blame and in having the duty of care or the responsibility to protect the children. However, that's already been done.<sup>259</sup>



## 5 Role of the Primate

### Key points

This section looks at how the Primate was involved in the group and post-group claim processes, but constrained by the Anglican Church's structure. It considers how the Primate advised the Bishop of Grafton, and how the bishop responded to that advice. It concludes that the Primate holds a position of influence, not authority, and that the Church's structure impacts on its handling of abuse complaints.

### 5.1 Primate's involvement in the claim process

#### Primate holds a position of influence, not authority

The Primate of the Anglican Church, Archbishop Phillip Aspinall, gave the Royal Commission a detailed statement that set out his recollection of his involvement in the Diocese of Grafton's handling of claims. He was involved at various stages and levels of intensity during the group and post-group claims.

The Primate told us that he did not have the power to command a bishop to act in a particular way. This included on professional standards matters. He said this was due to the autonomy of each of the Church's 23 dioceses.<sup>260</sup>

In November 2006, Simon Harrison, the group claimants' solicitor, contacted the Primate about the settlement offered by the Diocese of Grafton for the group claim. The Primate responded by calling Bishop Slater on 24 November.<sup>261</sup> He asked the bishop to make sure Reverend Comben had not 'dug his toes in' and was not 'playing hard ball' with the claim.<sup>262</sup>

Prompted by a further letter from Mr Harrison, the Primate wrote to Bishop Slater. He suggested the bishop consider the timely provision of counselling and pastoral support as part of the Diocese's response to victims of child abuse.<sup>263</sup>

In a letter of 21 December 2006, the Primate told Mr Harrison that he did 'not have jurisdiction or authority to intervene in a matter which is the proper responsibility of the Diocese of Grafton'.<sup>264</sup>

#### Tommy Campion sought help from the Primate

By April 2007, Mr Campion began forwarding to the Primate any correspondence he had with the then Archbishop of Sydney, Peter Jensen, and Reverend Comben. In a letter on 3 April, Mr Campion told the archbishop of his concerns about Reverend Comben's involvement in his negotiations.<sup>265</sup>

In response to these letters, the Primate emphasised the importance of:

- victims sharing their stories with senior clergy members
- victims receiving personal apologies
- the Diocese actively seeking out other victims to properly hear their complaints.<sup>266</sup>

He also encouraged Reverend Comben to separate the Diocese's pastoral response from the settlement negotiations.<sup>267</sup>

On 6 May 2007, Mr Campion wrote again to the Primate outlining his 'desperate' need for counselling, and questioning why the Diocese had taken it away.<sup>268</sup> In response, the Primate wrote to Bishop Slater expressing his concern about the withdrawal of counselling.<sup>269</sup> The Primate offered the services of the Professional Standards Director in Brisbane, Rod McLary, to help with counselling.<sup>270</sup>

By the end of May 2007, CD had contacted Mr Campion. Mr Campion wrote to the Primate describing the 'appalling happenings' of CD's abuse.<sup>271</sup> Mr Campion was mainly concerned about the treatment of the group claimants and asked the Primate for help with their claim.<sup>272</sup>

### Bishop Slater did not follow the Primate's advice

On 29 May 2007, in response to Mr Campion's letter, the Primate wrote to Bishop Slater. He emphasised for the second time that the Diocese should be proactively seeking out 'other victims of abuse in the Children's Home'. He stressed that the Diocese should invite victims 'to come forward so that they can be given the opportunity to have their complaints properly heard and be offered counselling and pastoral support.'<sup>273</sup>

The Primate strongly encouraged Bishop Slater and the Diocese of Grafton to 'appoint an independent professional mediator' to help resolve the claims. He indicated that he thought a mediator could properly consider victims' concerns about the Diocese's past processes.<sup>274</sup>

On 22 February 2012, the Primate met with Mr Campion<sup>275</sup> and promised to 'try to get to the bottom' of his questions about duty of care.<sup>276</sup> The Primate wrote to Bishop Slater and, even though he accepted the limitations of his position as Primate,<sup>277</sup> he stressed the issue of duty of care.<sup>278</sup> He asked Bishop Slater to provide a copy of the Home's Constitution and other such documents.<sup>279</sup> The Primate told us that Bishop Slater did not provide the information.<sup>280</sup>

Even though the Primate regretted his actions and considered them 'tantamount to interposing' himself in the situation,<sup>281</sup> he wrote to Bishop Slater again on 29 March 2012.<sup>282</sup> The Primate thanked the bishop for the continuing discussions even though their 'views [were] at odds'.<sup>283</sup> He also indicated that in his mind 'the home was closely, publicly and at times explicitly identified with the Diocese of Grafton'. He believed this was enough to establish 'a continuing pastoral obligation ... to assist Tommy'.<sup>284</sup>

#### ► Finding 15

Between 2006 and 2012, the Primate advised Bishop Keith Slater that:

- the group claimants should have their complaints properly heard and be offered counselling and pastoral support
- he should seek out further people who had been abused at the North Coast Children's Home
- he should inform the police of all criminal allegations which came to his attention arising out of the North Coast Children's Home.

The bishop did not follow the Primate's advice.

## Primate reported the abuse to the police

The Primate identified the abuse described by Mr Campion as ‘criminal offences of a most serious kind’ and told Bishop Slater they should be reported to the police immediately.<sup>285</sup> On 31 May 2007, Mr McLary, the Professional Standards Director at Brisbane, forwarded a letter to the Queensland Police Service describing the abuse.<sup>286</sup>

Mr McLary told us they were obliged to do this because the information was raised in a letter to the Primate and therefore in their office. He said that ‘there was an obligation, consistent with [their] policy that all allegations of child sexual abuse which come to [their] attention are referred to the police’.<sup>287</sup>

## 5.2 Church’s structural constraints

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### Church structure affects its handling of abuse complaints

The Primate’s statement also addressed structural issues in the Anglican Church that might impede the handling of claims.<sup>288</sup>

He acknowledged that the Church represents itself as a unified national body, but said it does not operate in a unified way. It does not have a corporate-like board with a chief executive officer who can make decisions about restructuring.<sup>289</sup> He said that he:

- chairs the General Synod and its Standing Committee
- may appoint people to certain national commissions
- may pronounce a sentence of a bishop
- may implement Episcopal Standards Board recommendations.

However, the Primate also said:

A primate has no power to direct the bishop of a diocese or a diocesan council in a diocese to do anything. In effect, what that means is that when the primate makes a request or makes a suggestion or a proposal or extends an invitation, effectively another bishop can tell the primate, ‘Thank you very much, but get lost.’

The protocols operating in the dioceses of Grafton, Newcastle and Sydney have been different. The Pastoral Care and Assistance Scheme in Sydney was also different from that adopted (at least formally) in Grafton in 2005 and 2013. In the Diocese of Adelaide, Healing Steps had some major differences from the procedure used in Sydney and Grafton.<sup>290</sup>

The Primate also noted inconsistencies in the reporting of sexual abuse allegations to the police. In some dioceses, such as Brisbane, it is a procedural requirement. In others, to protect against further trauma, the victim must agree to report the matter.<sup>291</sup>

## Church could benefit from mediators and internal audit

The Primate said that some measures the Anglican Church could implement within current constraints are:

- greater use of mediators
- internal audit of professional standards procedures.

The Primate said he had tried to encourage both Bishop Slater and Mr Harrison to use an experienced, independent and professional mediator.<sup>292</sup>

The Primate also considered that an auditing scheme might help dioceses apply professional standards more effectively and uniformly.<sup>293</sup> He did not think that all dioceses would accept such a proposal, but that enough would as long as the audit body reported to the diocese.<sup>294</sup>

## 6 Financial decisions in response to claims

### Key points

This section looks at the Diocese's overall financial position for the period of the group and individual claims, and how it prioritised its spending. It considers how the Diocese did not budget for compensating victims of sexual abuse, and was concerned about the potential cost of claims. We conclude that the Diocese prioritised funding the Clarence Valley Anglican School debt over abuse victims' claims.

### 6.1 Diocesan finances

#### Responsibility for the Diocese's finances lies with the Registrar

We received evidence about the Diocese's finances from:

- Bishop Slater
- Reverend Comben, who resigned as Registrar in September 2010
- Anthony Newby, Registrar from September 2010
- Anne Hywood, Acting Registrar from January to October 2013.

The registrar has primary responsibility for the Diocese's finances.

The Diocese's finances in Grafton are held by two separate bodies:

- Diocese of Grafton (an unincorporated association)
- Corporate Trustees of the Diocese of Grafton (a corporation).<sup>295</sup>

The Corporate Trustees hold assets on trust for the Diocese. The Synod of the Diocese can direct that property held in trust be sold, exchanged or mortgaged where it is 'expedient by reason of circumstances subsequent to the creation of the trust'.<sup>296</sup>

#### Diocese said it could not afford to pay victims' claims

Diocese representatives, including the bishop and registrar, restricted financial settlements for former residents of the Home because of concern as to the financial position of the Diocese.

The Diocese agreed to the group claim settlement amount because it wanted to minimise the financial impost.<sup>297</sup> But individual claimants were denied financial compensation because the Diocese's representatives said it could no longer afford such claims.<sup>298</sup> For example, early in 2006, Mr Campion was told that there was no 'open ended' commitment to provide for his counselling due to the Diocese of Grafton's 'total lack of money'.<sup>299</sup>

The following tables summarise the financial position of the Diocese and Corporate Trustees during and after the group claim.<sup>300</sup>

**Financial position of the Diocese of Grafton (in \$ millions)**

	2005	2006	2007	2008	2009	2010	2011	2012
<b>Net profit/loss</b>	-0.09	0.84	0.15	-	-	-	-	0.28
<b>Total current assets</b>	1.33	0.95	1.49	0.78	0.70	1.53	0.61	0.84
<b>Total non-current assets</b>	1.86	2.70	2.04	3.16	5.38	5.52	5.11	5.13
<b>Net assets (total equity)</b>	2.83	2.43	2.68	3.21	5.05	5.03	4.92	4.41

**Financial position of the Corporate Trustees (in \$ millions)**<sup>301</sup>

	2005	2006	2007	2008	2009	2010	2011	2012
<b>Total current assets</b>	12.08	13.03	6.36	7.43	9.63	-	-	13.34
<b>Total non-current assets</b>	5.23	196.21	229.75	191.21	158.53	-	-	187.08
<b>Net assets (total equity)</b>	11.63	181.73	208.96	178.07	140.86	-	-	154.94

The Diocese's net assets were relatively stable between 2005 and 2007. It reported total current assets of \$1.3 million, \$950,000 and \$1.5 million in 2005, 2006 and 2007 respectively.<sup>302</sup> The Corporate Trustees' net assets reached almost \$209 million in 2007.<sup>303</sup>

Reverend Comben gave evidence that by 2005 the Diocese had cash reserves of a 'couple of million dollars'.<sup>304</sup> However, in mid-February 2006, he told Mr Campion that the Diocese was in a tight financial position affecting its ability to pay claims or provide financial help.<sup>305</sup> Reverend Comben explained that the Diocese was 'asset rich and cash poor'.<sup>306</sup>

Counsel Assisting submitted that the Diocese had enough assets either in its name, or the Corporate Trustees' name, to allow it to settle the claims.<sup>307</sup>

The Primate submitted:

[This] does not sufficiently acknowledge the fact that most Church property is held on charitable trusts ... The constraints upon varying such trusts are illustrated by section 32 of the *Anglican Church of Australia Trust Property Act 1917* (NSW).<sup>308</sup>

We accept that the fact that property was held in trust would create difficulties in the use of the Church property for purposes outside the trust.

► **Finding 16**

Despite its knowledge of potential claims by 2005, the Diocese of Grafton did not make provision for settling child sexual abuse claims in its annual budgets for 2006, and 2008 to 2012.

► **Finding 17**

Acknowledging that some assets might not be readily available, the Diocese of Grafton had enough assets either in its name, or in the Corporate Trustees of the Diocese of Grafton's name, to allow it to settle the claims of child sexual abuse made between 2005 and 2011 consistent with the Pastoral Care and Assistance Scheme it adopted in 2005.

## 6.2 Diocese's financial priorities and concerns

### Diocese gave priority to paying the Clarence Valley Anglican School debt

We heard that the Diocese was able to realise assets to respond to other financial pressures, most notably to pay debts for an Anglican school run by the Diocese of Grafton that ran into financial difficulties. Mr Newby told us the Clarence Valley Anglican School's debt was incurred in the 1990s.<sup>309</sup> By 2007, this debt of around \$12 million was causing the Diocese financial strain. Bishop-in-Council gave an 'irrevocable guarantee' to the Board of the Grafton Diocese Investment Fund for the money it had loaned to the school.<sup>310</sup> The debt was reduced by about \$2 million through mortgaging some of the Diocese's assets.<sup>311</sup>

Mr Newby reported that, in 2010, the Diocese's financial troubles were largely due to the school's debt. He said this debt was then about \$10 million, which would mean selling Diocesan assets.<sup>312</sup>

Mr Newby developed a strategy for the Diocese to sell assets, including forming an oversight committee with members from major dioceses with corporate backgrounds.<sup>313</sup> This committee had the support and resources of three of the largest dioceses in Australia. Mr Newby said the Diocese was determined to pay the debt, and prioritised this over claims from the Home's former residents.<sup>314</sup>

Bishop Slater said that by April or May 2010, the Diocese knew it was in 'deep trouble, financial trouble'.<sup>315</sup> The bishop considered there to be 'no money left' for the claimants as 'all of our financial resources, cash resources ... had been drained'.<sup>316</sup>

In the public hearing, he was asked why a similar approach to the school debt was not taken with the Home claims. He said, 'We were totally distracted and focused upon the school situation.'<sup>317</sup> He agreed they prioritised the school situation over claims for professional standards matters.<sup>318</sup>

No assets were sold or lines of credit established between 2006 and 2012 to service the claims of those who had come forward about sexual abuse at the Home.

#### ► Finding 18

The Diocese of Grafton did not make any financial provision for professional standards matters. It prioritised the Clarence Valley Anglican School debt over its financial obligations under the Protocol for Dealing with Complaints of Sexual Abuse and the Pastoral Care and Assistance Scheme to pay abused former residents of the North Coast Children's Home between 2007 and 2012.

### Diocese was concerned about the cost of group and individual claims

While denying liability for the Home, lawyers for the Diocese of Grafton suggested that in any event the claimants would fail in any attempt to sue. This is because, amongst other reasons, the Diocese is not a 'juridical person'.<sup>319</sup>

We are satisfied that Bishop Slater, Bishop-in-Council and Reverend Comben adopted a legalistic and 'hard line' approach to the group claim.

We are also satisfied that the evidence suggests that this approach was to manage the potentially 'calamitous'<sup>320</sup> financial impact that they perceived that successful claims might have on the Diocese.<sup>321</sup>

The bishop was also concerned about the cost of responding to individual claimants, including CA, CB and CC. He told Mr Newby that the Diocese had no money to meet additional ex gratia payments.<sup>322</sup> Mr Newby said that the attitude to the claims was influenced by financial considerations, and the budget had no provisions for those claims.<sup>323</sup>



## 7 Response to criminal conduct and ongoing risks

### Key points

This section examines the way two dioceses responded to claims and convictions of child sexual abuse associated with the Home. It also looks at the effectiveness of the national measures in place to manage the risk these men posed. We conclude that neither diocese took appropriate disciplinary action, despite having authority and being aware of the allegations. Nor was the conduct recorded on the National Register that sought to prevent future abuse.

### 7.1 Policies for disciplining clergy

#### Disciplinary action is set out in various ordinances

Processes for disciplining clergy are described in the Anglican Church's professional standards ordinances and clergy discipline ordinances.

Under clergy discipline ordinances, the process generally follows these stages:

- The bishop decides whether to charge an offence under the ordinance or under the Offences Canon 1962.<sup>324</sup>
- A 'board of enquiry' is set up.<sup>325</sup>
- If the accused does not admit to the charge, the matter is referred to the Diocesan tribunal.<sup>326</sup>
- The tribunal then tries the case in a similar way to a trial, applying rules of evidence, and makes recommendations about discipline.<sup>327</sup>
- The bishop may adopt the recommendations or, in some situations, choose to mitigate or suspend the recommended sanction.<sup>328</sup>

Diocesan tribunals have jurisdiction to hear a 'charge' against a member of clergy for an offence involving sexual misconduct if the member:

- lives in the diocese<sup>329</sup>
- lived in the diocese within the two years before the charge was laid or<sup>330</sup>
- committed the offence within the diocese.<sup>331</sup>

During this public hearing, we examined how two Anglican Church dioceses applied these ordinances to convictions and allegations of abuse committed by clergy at the Home. Our review involved the Diocese of Grafton, where the abuse took place. But it also involved the Diocese of Newcastle because a member of clergy lived there when allegations against him emerged.

#### Dioceses of Grafton and Newcastle adopted similar ordinances

Both the Grafton and Newcastle dioceses had adopted the Anglican Church's professional standards and clergy discipline ordinances.

Section 20(2) of the Diocese of Grafton's Professional Standards Ordinance 2004 imposes both a power and a duty on the Professional Standards Committee to exercise the functions that fall within its jurisdiction. These functions include referring on disciplinary questions, such as the fitness of a church worker to hold a position of responsibility, to the Professional Standards Board.<sup>332</sup>

The Diocese of Newcastle adopted its Professional Standards Ordinance in 2005, and replaced it in 2012.<sup>333</sup> Although not identical to Grafton's ordinance, it gives the Diocese powers to start disciplinary proceedings against a member of clergy who lived there.

Philip Gerber, former Professional Standards Director of Grafton and Newcastle, explained that, between 2002 and 2004 when the ordinance was adopted, these dioceses would usually agree informally which would take responsibility for disciplinary action.<sup>334</sup>

### Diocese of Newcastle only adopted a safety policy in late 2013

As we outlined in section 2.2, the General Synod of the Anglican Church also recommended that dioceses adopt policies for managing future risks posed by alleged or convicted offenders remaining involved in the Church. It put forward its 'Guidelines for parish safety' in 2009.

It was not until around October 2013 that the Diocese of Newcastle adopted a policy for dealing with people of concern: 'Safe Ministry with persons who have been convicted of a serious sexual offence etc'.<sup>335</sup>

Michael Elliott, the current Professional Standards Director for Grafton and Newcastle, explained, 'We have safe ministry policies and professional standards ordinances and the like, but as far as a document specifically relating to management of persons of concern, this is the first one that has been implemented'.<sup>336</sup>

Mr Elliott also expressed concerns that the policy was a 'watered down' version of the General Synod's recommended policy.<sup>337</sup>

We now look at how the Dioceses applied their policies to the offending clergy.

## 7.2 Reverend Kitchingman

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### Dioceses of Grafton and Newcastle shared authority to take action for criminal conduct

Reverend Allan Kitchingman was ordained in 1963.<sup>338</sup> In 1968, he was charged with the indecent assault of a 16-year-old boy.<sup>339</sup> In December that year, he was convicted and placed on a bond for two years for \$300.<sup>340</sup>

Reverend Kitchingman was then transferred to the Parish of Lismore in the Diocese of Grafton,<sup>341</sup> to work closely with Archdeacon John Robinson, the Rector of Lismore and the president of the North Coast Children's Home.<sup>342</sup> The reverend was Curate and Assistant Priest at the Home from 1969 to 1970, giving the children pastoral care and teaching them music.<sup>343</sup>

Reverend Kitchingman then moved between parishes in the Dioceses of Grafton, Armidale and the Northern Territory.<sup>344</sup> He was Administrator of the Northern Territory until he retired to the Diocese of Newcastle in 2000.<sup>345</sup>

In 2002, Reverend Kitchingman was convicted of five counts of indecent assault of a male in or about 1975 and was sentenced to prison.<sup>346</sup> The victim, CH, lived at the Home.

As the reverend's offences took place in the Home, the Diocese of Grafton could take action to initiate his discipline.<sup>347</sup> However, he lived in the Diocese of Newcastle before his conviction in 2002, and has lived there since his release, so Newcastle could also take action.<sup>348</sup>

► **Finding 19**

The dioceses of Grafton and Newcastle could both have taken action in response to the professional standards matters concerning Reverend Allan Kitchingman, including his discipline. There was no clear system in place to determine which diocese would assume responsibility.

### Diocese of Grafton took no disciplinary action

Bishop Slater gave evidence that he knew that:

- Reverend Kitchingman had been jailed for child sexual abuse<sup>349</sup>
- the Diocese of Grafton could take action in response to Reverend Kitchingman's conduct as it had occurred in the diocese.<sup>350</sup>

He conceded he did not start any disciplinary proceedings against the reverend between 2003, when he became the bishop, and 2013, when he resigned.<sup>351</sup> He said that his failure to do so was 'an oversight'.<sup>352</sup>

Reverend Comben also gave evidence that he did not pursue any disciplinary charges against Reverend Kitchingham between 2004 and 2009 (when he left the role of registrar), although he knew of the conviction from the end of 2004.<sup>353</sup>

However, he said that he did mention the matter to Bishop Slater when he noticed that Reverend Kitchingman's name still appeared (as clergy) in the Anglican directory.<sup>354</sup>

► **Finding 20**

From 2003 to 2013, Bishop Keith Slater was aware that Reverend Allan Kitchingman had been convicted of sexual offences against a child, and had authority to discipline him. Bishop Slater did not start disciplinary proceedings against the reverend.

► **Finding 21**

From 2004, Reverend Patrick Comben was aware that Reverend Allan Kitchingman had been convicted of sexual offences against a child but did not start disciplinary proceedings against him.

During the public hearing, Mr Elliott told us that Reverend Kitchingman had been referred to the Grafton Professional Standards Committee for disciplinary action.<sup>355</sup>

The Diocese of Grafton contacted the Royal Commission on 23 June 2014 to tell us that Allan Kitchingman has been deposed from holy orders.

### Diocese of Newcastle took no disciplinary action

By August 2002, Archbishop Herft became aware of Reverend Kitchingman's conviction.<sup>356</sup> Archbishop Herft explained that he did not take any action to discipline the reverend because he believed the Diocese of Grafton was doing so and he did not have the power to act.<sup>357</sup>

The archbishop said he contacted the then Bishop of Grafton, Philip Huggins, who told him that the matter related to a home in Lismore and was 'proceeding to compensation'.<sup>358</sup> The archbishop said they did not discuss what should be done given Reverend Kitchingman was ordained, but he had thought Bishop Huggins would take action.<sup>359</sup>

Archbishop Herft said that, in his understanding:

- deposing a person from holy orders was rarely, if ever, done in 2002
- he could not do it on his own as the matter would have had to go through a disciplinary tribunal, which might have then recommended he depose the person.<sup>360</sup>

However, he agreed that:

- he could have initiated the process in 2002 but did not<sup>361</sup>
- he could have sought advice about his power to discipline Reverend Kitchingman but did not<sup>362</sup>
- he did not confirm that the Diocese of Grafton would start disciplinary action.<sup>363</sup>

Mr Gerber gave similar evidence about his time as Professional Standards Director for the two dioceses (2000 to 2009).<sup>364</sup> He did not start disciplinary action against Reverend Kitchingman.<sup>365</sup> Mr Gerber knew of the reverend's criminal offences because CH filed personal injury proceedings in the NSW Supreme Court in July 2006 that referred to the 2002 conviction.<sup>366</sup> But he took no action even after receiving the pleadings in that case.<sup>367</sup>

In November 2013, Dr Peter Stuart, the Bishop Administrator of the Diocese of Newcastle, confirmed that no disciplinary proceedings relating to Reverend Kitchingman had been started there at any time after 2002.<sup>368</sup>

Archbishop Herft accepted responsibility for his failure to start disciplinary proceedings. He went on to say that if the conviction was brought to his attention now, he would seek a way of 'deposing' Reverend Kitchingman.<sup>369</sup> However, we accept his evidence that the failure to take disciplinary action did not stem from any attempt to cover up or minimise the significance of Reverend Kitchingman's conduct.<sup>370</sup>

► **Finding 22**

In 2002, Archbishop Roger Herft, then Bishop of Newcastle, became aware that Reverend Allan Kitchingman had been convicted of five counts of indecent assault of a child at an Anglican home in the Diocese of Grafton. Between August 2002 and February 2004, he did not start disciplinary proceedings against the reverend.

► **Finding 23**

From 2006 to 2007, Philip Gerber, as Professional Standards Director of Grafton and Newcastle, was aware that Reverend Allan Kitchingman had been convicted of sexual offences against a child but did not start disciplinary proceedings against him.

### Newcastle did not manage the ongoing risk posed by Reverend Kitchingman

When asked why he did not refer Reverend Kitchingman to the Professional Standards Board for discipline, Mr Gerber said that, in his mind, Reverend Kitchingman had been convicted and was no longer practising. As they were focusing on protecting children, he felt the case did not need proactive action at that time.<sup>371</sup>

However, the Royal Commission received evidence that Reverend Kitchingman was actively involved with the cathedral at Newcastle.<sup>372</sup>

Mr Gerber agreed that he was hampered by being in Sydney and not being in daily contact with people in the Diocese to understand the nature of the reverend's involvement with the Diocese during that time.<sup>373</sup>

The Diocese did nothing to manage this ongoing risk until several years later. In about July 2013, the new director, Mr Elliott, met with Bishop Stuart, the Acting Bishop of Newcastle. The bishop told him that Reverend Kitchingman was living in the Diocese and was an active parishioner in the cathedral, but did not indicate any risk management plan was in place for him there.<sup>374</sup>

On 25 October 2013, Bishop Stuart directed the Dean of the Newcastle Cathedral to apply the new 'Safe ministry' policy to Reverend Kitchingman.<sup>375</sup> This was some five years after the General Synod had recommended its 'Guidelines for parish safety'.

However, on 14 November 2013, Bishop Stuart confirmed there was no memorandum of understanding between the Diocese of Newcastle and Reverend Kitchingman about his attendance at the cathedral.<sup>376</sup>

► **Finding 24**

The General Synod recommended guidelines for parish safety in 2009. The Diocese of Newcastle did not adopt guidelines for managing people of concern until around October 2013. As a result, there were no guidelines to manage any risk posed by Reverend Allan Kitchingman's involvement in Newcastle Cathedral until October 2013.

## 7.3 Reverend Brown, Reverend Morgan and others

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### Diocese of Grafton planned to investigate Tommy Campion's complaint

On 29 August 2005, Tommy Campion wrote to the Anglican Church in Sydney naming two other reverends as perpetrators who had abused him at the North Coast Children's Home. He said:

- Reverend Campbell Brown sexually abused him
- Reverend Winston Morgan physically abused him.<sup>377</sup>

In 2006, Reverend Comben named both men as sexual offenders in his summary of the allegations made as a part of the group claim.<sup>378</sup>

The minutes of a meeting of Grafton's Professional Standards Committee on 20 September 2005 noted Mr Campion's complaint and stated that 'Further investigation of the generalised complaints against a cleric will be made'.<sup>379</sup>

### Diocese referred matters to NSW Police but took no disciplinary action

When referred to those minutes in evidence, Mr Gerber said he put Mr Campion in touch with one of the contact people in Sydney but did not investigate the matter.<sup>380</sup> Mr Campion said he has heard nothing further from Reverend Comben or the Anglican Church about disciplining Reverend Brown or Reverend Morgan.<sup>381</sup>

The Professional Standards Committee was briefed on the group claim in November 2006 and noted that:<sup>382</sup>

- Reverend Brown had recently moved to the Newcastle Diocese and had resigned his licence in Grafton.
- Reverend Morgan had had no involvement with the Church since the ordination of women, was nearly 80 and visually impaired, and had no licence from the Bishop.

The committee decided it would refer the matters to the Sex Crimes Squad in Sydney. It asked the police to notify it about whether any police action would occur, so that the committee could start disciplinary action if needed.

In December 2006, Mr Gerber wrote to the NSW Child Protection and State Sex Crimes Squad enclosing statutory declarations from:

- Mr Campion about allegations against Reverend Brown<sup>383</sup>
- former Home residents CL and CM about allegations against Reverend Morgan.<sup>384</sup>

Both letters stated:

It is the intention of the Church to continue to investigate and deal with these matters as a matter of church discipline. However, we would not want to continue the investigation if it would in any way interfere with any potential Police investigation. Accordingly, could you please indicate within thirty (30) days whether you wish to take any further action in relation to the matter. If we have not heard anything within thirty days we will continue to undertake our investigations with a view to finalising the matter under church disciplinary procedures.

### Diocese did not follow up on police investigation

On 16 January 2007, Reverend Comben received an email from Wayne Armstrong of NSW Police. It said that the police were still considering whether they should investigate, and would prefer the Diocese not to take further action if it could interfere with this potential investigation.<sup>385</sup>

Mr Gerber confirmed that:

- any contemplated disciplinary proceedings in the Diocese of Grafton were suspended because of this email<sup>386</sup>
- no disciplinary action has been started against Reverend Brown or Reverend Morgan since January 2007.<sup>387</sup>

Reverend Comben gave evidence that he did not follow up the NSW Police to check the investigation's status.<sup>388</sup> He had a conversation with Reverend Brown where Reverend Brown made statements that he took to be an implied admission of guilt.<sup>389</sup> However, he did not inform the police or make a file note of the conversation.<sup>390</sup>

Reverend Comben also said that he did not think about further contact with NSW Police about Reverend Morgan because he had been told Reverend Morgan had Alzheimer's disease.<sup>391</sup>

Bishop Slater was approached by Reverend Brown on 26 March 2006 and asked about the status of the allegations against him.<sup>392</sup> The bishop agreed in oral evidence that no steps were taken to discipline Reverend Brown after the police had asked the Diocese to suspend its investigation.<sup>393</sup> Archdeacon Ezzy gave similar evidence.<sup>394</sup>

Bishop Slater said, 'We were distracted in other ways.'<sup>395</sup>

On 14 November 2013, Dr Stuart, the Newcastle Administrator, confirmed that:

- there was no record of Mr Gerber communicating Reverend Brown's conduct to the Professional Standards Committee of the Diocese of Newcastle
- it was not clear whether the information the Diocese had would be enough to start disciplinary action.<sup>396</sup>

► **Finding 25**

From September 2005 until April 2013, no disciplinary action was taken against Reverend Campbell Brown by the Diocese of Grafton or the Diocese of Newcastle. During the same period, the Diocese of Grafton took no disciplinary action against Reverend Winston Morgan.

► **Recommendation 2**

That the Diocese of Grafton determine whether to initiate disciplinary proceedings against Reverend Brown.

Reverend Morgan died in February 2014.<sup>397</sup>

### Other allegations of criminal conduct were not referred to NSW Police

Reverend Comben's 2006 schedule that summarised the allegations in the group claim contained a number of acts that could be characterised as criminal offences. But only some of these were referred to NSW Police.

Mr Gerber referred allegations of assault against Reverend Brown, Reverend Morgan and CL (who has been named as both a victim and a perpetrator of abuse).

Reverend Comben could not explain why he did not refer all allegations of criminal conduct relating to former residents of the North Coast Children's Home to the police. When asked why, he said he had 'no idea'.<sup>398</sup>

Similarly, Bishop Slater did not refer allegations of criminal conduct relating to victims CB and CC to NSW Police. He chose to handle their matters himself and this meant that the Grafton Diocese's Professional Standards Director, who would refer matters to the police under the 2004 Ordinance and Protocol, was not involved.

► **Finding 26**

From 2011 to 2013, Bishop Keith Slater did not refer allegations of criminal conduct made by CB and CC to NSW Police. This was inconsistent with the 2004 Professional Standards Ordinance and Protocol for Dealing with Complaints of Sexual Abuse.

After Mr Elliott received relevant material from Anne Hywood, the former Acting Registrar, including files for CB and CC and the schedule of 41 claims from the Home, he gave scanned copies of the files to the police.<sup>399</sup>

## 7.4 National Register of allegations

### National Register had no information about the known offender in this case

On 17 October 2013, the Royal Commission requested all information on the Anglican Church's National Register about Reverend Kitchingman, Reverend Brown, Reverend Morgan, Canon Robinson and one other.<sup>400</sup> As we noted in section 2.2, this register records



allegations against bishops, clergy and other church workers to share information about complaints and prevent future abuse.

On 23 October, Martin Drevikovsky, General Secretary of the General Synod, responded to our summons and informed us that the register had no information about any of these known or alleged offenders.<sup>401</sup> The public hearing explored why this was the case.

Mr Elliott said that, in his experience, there was a general lack of confidence in the register among professional standards directors.<sup>402</sup> He described technical difficulties with the current system, including the:

- need to enter several lengthy computer-generated passwords<sup>403</sup>
- difficulty interpreting what data is needed<sup>404</sup>
- difficulty using the separate netbook laptop<sup>405</sup>
- difficulty searching names, as the exact name is needed and partial names are not accepted.<sup>406</sup>

Other directors said they were concerned about the National Register compromising police investigations.<sup>407</sup> The General Secretary must notify the subject of an entry,<sup>408</sup> but the police might not wish to put people being investigated on notice.<sup>409</sup>

In 2011, Mr Drevikovsky offered the professional standards directors help to clear any backlog of entries of information to the register but nobody accepted his offer.<sup>410</sup> That year, the Anglican Church also began looking at ways to improve the system. An upgrade to simplify its use was expected to be launched in February 2014.<sup>411</sup>

### A significant backlog of files means the register is not up to date

A significant backlog of historical files to be reviewed means the National Register is not up to date.<sup>412</sup> Mr Elliott said it is sometimes hard to work out whether alleged perpetrators in these files fit the register's criteria, particularly where:

- procedural fairness has not been afforded
- the matter has not been investigated properly
- the file is compromised or incomplete.<sup>413</sup>

In April 2013, the General Synod Standing Committee asked Mr Drevikovsky to identify dioceses that had outstanding information for the register. In his statement, he included a table (later amended) reporting:

- 145 to 210 files to be reviewed
- 41 to 46 people to be notified
- 10 or more people in a position to apply for a licence.<sup>414</sup>

There were inconsistencies between Mr Drevikovsky's table and other sources. For example, the table indicated that the Diocese of Sydney had 70 to 100 files to review when his statement indicated there were around 600.<sup>415</sup> The table showed that the Diocese of Brisbane had no files to review but the Primate indicated there were just under 300.<sup>416</sup>

Whatever the exact figure, there are many files to be reviewed in a number of dioceses before the National Register can be complete and up to date.

In a letter to the Royal Commission dated 14 November 2013, Dr Stuart, the Bishop Administrator of the Diocese of Newcastle, stated that it was ‘a matter of deep regret’ and only due to the Royal Commission that current office bearers knew the facts relating to Reverend Kitchingman and Reverend Brown.<sup>417</sup>

He indicated that Reverend Kitchingman’s name had been sent for entry on the register.<sup>418</sup> However, at the time of the public hearing, some two weeks later, this had not happened. Mr Drevikovsky thought it might have been because the Diocese of Newcastle had not verified the information.<sup>419</sup>

► **Finding 27**

The establishment of the National Register of the Anglican Church is a positive initiative.

► **Finding 28**

At the time of the hearing, the National Register of the Anglican Church did not record the names of all people who might need to be registered because various dioceses have been unable to review all their files to determine whether an entry should be made.

### ‘Red flag’ system has been proposed to enhance the register

A number of professional standards directors are disappointed by how technical and cumbersome the National Register is, making it difficult to access and enter information in a timely way. They have proposed a red flag system.<sup>420</sup> This would mean that before someone is formally entered in the register, there is a preliminary step identifying them with a red flag. The contact details for whoever raised the red flag would also be available. Anyone wishing to find out more about the person identified with a red flag would then contact the professional standards director or bishop.

Mr Drevikovsky accepted that the red flag process was a sensible suggestion but was not sure whether it would work because of issues with accuracy, consistency and procedural fairness:<sup>421</sup>

I think the advantage of something like a system like the National Register is that you have a central repository of minimum information which somebody ought to be interested in when they are considering appointing someone to a position. You have consistency and you have consistent access to it.<sup>422</sup>

Mr Elliott further explained the red flag system:

I understand that that’s a procedural fairness issue, but the directors need a flag for people who may be under current police investigation but without necessarily that respondent being made aware of that.<sup>423</sup>

Mr Elliott acknowledged that the register already allows for a ‘warning’. This is similar to the proposed red flag in that it identifies a concern without alerting someone to their entry on the register. Mr Elliott explained, however, that this warning is limited as it lasts for only 30 days, has to be continuously renewed, and is technically problematic and difficult to use.<sup>424</sup>

Mr Elliott said that a red flag system would alert other directors to concerns about a person and it would be appropriate to integrate it into the National Register.<sup>425</sup>

This matter will be addressed further in the future work of the Royal Commission.

## 8 Systemic issues

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### 8.1 Our focus on systemic issues

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#### Key points

The Royal Commission focuses on systemic issues, but our work is informed by an understanding of individual cases. This section discusses how we are building an evidence base about systemic issues to help shape our final findings and recommendations.

The Royal Commission must make findings and recommendations to better protect children against sexual abuse and alleviate the impact of abuse when it occurs. In carrying out our work, we are directed to:

- focus on systemic issues
- be informed by an understanding of individual cases.

All our work is contributing to our understanding of the systemic issues, including public hearings, private sessions, written accounts and research. Our research includes dedicated projects, roundtables and submissions on issues papers.

#### Systemic issues guide public hearings and consultation

When deciding whether to hold a public hearing such as this one, we consider whether it will help us to understand systemic issues and give us an opportunity to learn from previous mistakes. This provides our findings and recommendations a secure evidence base.

As the Royal Commission moves forward, our public hearings and consultation processes must focus on systemic issues that affect how institutions respond to child sexual abuse. We will address the following issues to fulfill our Terms of Reference:

- the scope and impact of child sexual abuse
- prevention of abuse
- reporting and responding to abuse
- regulation and oversight of institutions working with children
- compensation and redress schemes
- the criminal justice system.

The Royal Commission must also examine systemic issues across the full range of institutions. This includes both the different types of institutions and the different entities that operate them.

## 8.2 Issues emerging from this case study

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This case study highlights:

- redress schemes
- rules of civil litigation
- compensation handling policies and procedures
- record keeping.

Our understanding of these systemic issues will be further informed by:

- public hearings
- submissions to issues papers
- roundtables and consultation with experts
- research projects
- private sessions and written accounts.

In further case studies, roundtables and our research program, the Royal Commission will review the options for redress for survivors.

## APPENDIX A: Terms of Reference

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### Letters Patent

ELIZABETH THE SECOND, by the Grace of God Queen of Australia and Her other Realms and Territories, Head of the Commonwealth:

TO

The Honourable Justice Peter David McClellan AM,  
Mr Robert Atkinson,  
The Honourable Justice Jennifer Ann Coate,  
Mr Robert William Fitzgerald AM,  
Dr Helen Mary Milroy, and  
Mr Andrew James Marshall Murray

GREETING

WHEREAS all children deserve a safe and happy childhood.

AND Australia has undertaken international obligations to take all appropriate legislative, administrative, social and educational measures to protect children from sexual abuse and other forms of abuse, including measures for the prevention, identification, reporting, referral, investigation, treatment and follow up of incidents of child abuse.

AND all forms of child sexual abuse are a gross violation of a child's right to this protection and a crime under Australian law and may be accompanied by other unlawful or improper treatment of children, including physical assault, exploitation, deprivation and neglect.

AND child sexual abuse and other related unlawful or improper treatment of children have a long-term cost to individuals, the economy and society.

AND public and private institutions, including child-care, cultural, educational, religious, sporting and other institutions, provide important services and support for children and their families that are beneficial to children's development.

AND it is important that claims of systemic failures by institutions in relation to allegations and incidents of child sexual abuse and any related unlawful or improper treatment of children be fully explored, and that best practice is identified so that it may be followed in the future both to protect against the occurrence of child sexual abuse and to respond appropriately when any allegations and incidents of child sexual abuse occur, including holding perpetrators to account and providing justice to victims.

AND it is important that those sexually abused as a child in an Australian institution can share their experiences to assist with healing and to inform the development of strategies and reforms that your inquiry will seek to identify.

AND noting that, without diminishing its criminality or seriousness, your inquiry will not specifically examine the issue of child sexual abuse and related matters outside institutional contexts, but that any recommendations you make are likely to improve the response to all forms of child sexual abuse in all contexts.

AND all Australian Governments have expressed their support for, and undertaken to cooperate with, your inquiry.

NOW THEREFORE We do, by these Our Letters Patent issued in Our name by Our Governor-General of the Commonwealth of Australia on the advice of the Federal Executive Counsel and under the Constitution of the Commonwealth of Australia, the *Royal Commissions Act 1902* and every other enabling power, appoint you to be a Commission of inquiry, and require and authorise you, to inquire into institutional responses to allegations and incidents of child sexual abuse and related matters, and in particular, without limiting the scope of your inquiry, the following matters:

- a. what institutions and governments should do to better protect children against child sexual abuse and related matters in institutional contexts in the future;
- b. what institutions and governments should do to achieve best practice in encouraging the reporting of, and responding to reports or information about, allegations, incidents or risks of child sexual abuse and related matters in institutional contexts;
- c. what should be done to eliminate or reduce impediments that currently exist for responding appropriately to child sexual abuse and related matters in institutional contexts, including addressing failures in, and impediments to, reporting, investigating and responding to allegations and incidents of abuse;
- d. what institutions and governments should do to address, or alleviate the impact of, past and future child sexual abuse and related matters in institutional contexts, including, in particular, in ensuring justice for victims through the provision of redress by institutions, processes for referral for investigation and prosecution and support services.

AND We direct you to make any recommendations arising out of your inquiry that you consider appropriate, including recommendations about any policy, legislative, administrative or structural reforms.

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, We direct you, for the purposes of your inquiry and recommendations, to have regard to the following matters:

- e. the experience of people directly or indirectly affected by child sexual abuse and related matters in institutional contexts, and the provision of opportunities for them to share their experiences in appropriate ways while recognising that many of them will be severely traumatised or will have special support needs;
- f. the need to focus your inquiry and recommendations on systemic issues, recognising nevertheless that you will be informed by individual cases and may need to make referrals to appropriate authorities in individual cases;
- g. the adequacy and appropriateness of the responses by institutions, and their officials, to reports and information about allegations, incidents or risks of child sexual abuse and related matters in institutional contexts;
- h. changes to laws, policies, practices and systems that have improved over time the ability of institutions and governments to better protect against and respond to child sexual abuse and related matters in institutional contexts.

AND We further declare that you are not required by these Our Letters Patent to inquire, or to continue to inquire, into a particular matter to the extent that you are satisfied that the

matter has been, is being, or will be, sufficiently and appropriately dealt with by another inquiry or investigation or a criminal or civil proceeding.

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, We direct you, for the purposes of your inquiry and recommendations, to consider the following matters, and We authorise you to take (or refrain from taking) any action that you consider appropriate arising out of your consideration:

- i. the need to establish mechanisms to facilitate the timely communication of information, or the furnishing of evidence, documents or things, in accordance with section 6P of the *Royal Commissions Act 1902* or any other relevant law, including, for example, for the purpose of enabling the timely investigation and prosecution of offences;
- j. the need to establish investigation units to support your inquiry;
- k. the need to ensure that evidence that may be received by you that identifies particular individuals as having been involved in child sexual abuse or related matters is dealt with in a way that does not prejudice current or future criminal or civil proceedings or other contemporaneous inquiries;
- l. the need to establish appropriate arrangements in relation to current and previous inquiries, in Australia and elsewhere, for evidence and information to be shared with you in ways consistent with relevant obligations so that the work of those inquiries, including, with any necessary consents, the testimony of witnesses, can be taken into account by you in a way that avoids unnecessary duplication, improves efficiency and avoids unnecessary trauma to witnesses;
- m. the need to ensure that institutions and other parties are given a sufficient opportunity to respond to requests and requirements for information, documents and things, including, for example, having regard to any need to obtain archived material.

AND We appoint you, the Honourable Justice Peter David McClellan AM, to be the Chair of the Commission.

AND We declare that you are a relevant Commission for the purposes of sections 4 and 5 of the *Royal Commissions Act 1902*.

AND We declare that you are authorised to conduct your inquiry into any matter under these Our Letters Patent in combination with any inquiry into the same matter, or a matter related to that matter, that you are directed or authorised to conduct by any Commission, or under any order or appointment, made by any of Our Governors of the States or by the Government of any of Our Territories.

AND We declare that in these Our Letters Patent:

**child** means a child within the meaning of the Convention on the Rights of the Child of 20 November 1989.

**government** means the Government of the Commonwealth or of a State or Territory, and includes any non-government institution that undertakes, or has undertaken, activities on behalf of a government.



**institution** means any public or private body, agency, association, club, institution, organisation or other entity or group of entities of any kind (whether incorporated or unincorporated), and however described, and:

- i. includes, for example, an entity or group of entities (including an entity or group of entities that no longer exists) that provides, or has at any time provided, activities, facilities, programs or services of any kind that provide the means through which adults have contact with children, including through their families; and
- ii. does not include the family.

**institutional context:** child sexual abuse happens in an **institutional context** if, for example:

- i. it happens on premises of an institution, where activities of an institution take place, or in connection with the activities of an institution; or
- ii. it is engaged in by an official of an institution in circumstances (including circumstances involving settings not directly controlled by the institution) where you consider that the institution has, or its activities have, created, facilitated, increased, or in any way contributed to, (whether by act or omission) the risk of child sexual abuse or the circumstances or conditions giving rise to that risk; or
- iii. it happens in any other circumstances where you consider that an institution is, or should be treated as being, responsible for adults having contact with children.

**law** means a law of the Commonwealth or of a State or Territory.

**official**, of an institution, includes:

- i. any representative (however described) of the institution or a related entity; and
- ii. any member, officer, employee, associate, contractor or volunteer (however described) of the institution or a related entity; and
- iii. any person, or any member, officer, employee, associate, contractor or volunteer (however described) of a body or other entity, who provides services to, or for, the institution or a related entity; and
- iv. any other person who you consider is, or should be treated as if the person were, an official of the institution.

**related matters** means any unlawful or improper treatment of children that is, either generally or in any particular instance, connected or associated with child sexual abuse.

AND We:

- n. require you to begin your inquiry as soon as practicable, and
- o. require you to make your inquiry as expeditiously as possible; and
- p. require you to submit to Our Governor-General:
  - i. first and as soon as possible, and in any event not later than 30 June 2014 (or such later date as Our Prime Minister may, by notice in the *Gazette*, fix on your recommendation), an initial report of the results of your inquiry, the recommendations for early consideration you may consider appropriate to make in this initial report, and your recommendation for the date, not later than 31 December 2015, to be fixed for the submission of your final report; and

- ii. then and as soon as possible, and in any event not later than the date Our Prime Minister may, by notice in the *Gazette*, fix on your recommendation, your final report of the results of your inquiry and your recommendations; and
- q. authorise you to submit to Our Governor-General any additional interim reports that you consider appropriate.

IN WITNESS, We have caused these Our Letters to be made Patent.

WITNESS Quentin Bryce, Governor-General of the Commonwealth of Australia.

Dated 11<sup>th</sup> January 2013

Governor-General

By Her Excellency's Command

Prime Minister

## APPENDIX B: Public Hearing

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<b>The Royal Commission</b>	Justice Peter McClellan AM (Chair) Justice Jennifer Coate Mr Bob Atkinson AO APM Mr Robert Fitzgerald AM Professor Helen Milroy Mr Andrew Murray
<b>Commissioners who presided</b>	Justice Peter McClellan AM (Chair) Justice Jennifer Coate Mr Robert Fitzgerald AM
<b>Date of hearing</b>	18 to 27 November 2013
<b>Legislation</b>	<i>Royal Commissions Act 1923 (NSW)</i> <i>Royal Commissions Act 1902 (Cth)</i>
<b>Leave to appear</b>	<ul style="list-style-type: none"> <li>• Philip Gerber</li> <li>• Anglican Diocese of Sydney</li> <li>• Archdeacon Greg Ezzy</li> <li>• Rodney McLary</li> <li>• The Most Reverend Dr Phillip Aspinall</li> <li>• Bishop Keith Slater</li> <li>• Jennifer Woodhouse</li> <li>• Michael Elliott</li> <li>• Reverend Campbell William Brown</li> <li>• Bishop Roger Adrian Herft</li> </ul>
<b>Legal representation</b>	S A Beckett, Counsel Assisting the Royal Commission and G Furness SC, Senior Counsel Assisting the Royal Commission
<b>Pages of transcript</b>	2,236 pages
<b>Notices, summonses and requirements compelling documents</b>	24 summonses to attend producing over 9,244 documents, issued under the <i>Royal Commissions Act 1923</i> (NSW) 1 summons to attend producing 8 documents, issued under <i>Evidence (Miscellaneous Provisions) Act 1958</i> (Vic) 2 notices to produce producing 1,595 documents, issued under the <i>Royal Commissions Act 1902</i> (Cth)

**Number of exhibits** 25 exhibits consisting of 852 documents tendered at the hearing

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**Witnesses**

- 1 **Witness CK**
- 2 **Tommy Campion**
- 3 **Witness CA**
- 4 **Anne Hywood**  
Former Acting Registrar, Diocese of Grafton
- 5 **Simon Harrison**  
Former solicitor for group claimants
- 6 **Witness CN**
- 7 **Witness CM**
- 8 **Witness CB**
- 9 **Witness CD**
- 10 **Rodney McLary**  
Professional Standards Director, Diocese of Brisbane
- 11 **Anthony Newby**  
Former Acting Registrar, Diocese of Grafton
- 12 **Philip Gerber**  
Former Professional Standards Director, Dioceses of Sydney, Grafton and Newcastle
- 13 **Jennifer Woodhouse**  
Former Contact Person and Chaplain, Diocese of Sydney
- 14 **Peter Roland**  
Former Diocesan Advocate, Diocese of Grafton,  
Partner of Foott, Law and Co
- 15 **Pat Comben**  
Former Registrar, Diocese of Grafton
- 16 **Bishop Keith Slater**  
Former Bishop of the Diocese of Grafton
- 17 **The Venerable Gregory Ezzy**  
Administrator, Diocese of Grafton
- 18 **Michael Elliott**  
Professional Standards Director, Diocese of Grafton

- 19 **Martin Drevikovsky**  
General Secretary, General Synod of the Anglican  
Church of Australia
- 20 **Archbishop Roger Herft**  
Archbishop, Diocese of Perth
- 21 **The Most Reverend Dr Phillip Aspinall**  
Archbishop of the Diocese of Brisbane and former  
Primate of the Anglican Church of Australia

## Endnotes

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- <sup>1</sup> Exhibit 3-0001, Case Study 3, STAT.0057.001.0068 at 0072-0073; Transcript of CK, Case Study 3 at 1642:8-44; Exhibit 3-0001, Case Study 3, STAT.0059.001.0010 at 0012-0013.
- <sup>2</sup> Exhibit 3-0001, Case Study 3, STAT.0057.001.0068 at 0072.
- <sup>3</sup> Exhibit 3-0001, Case Study 3, STAT.0071.001.0001 at 0001.
- <sup>4</sup> There was also evidence that some residents had a positive experience of life at the Home: Exhibit 3-0016, Case Study 3, ANG.0031.001.0001. Tommy Campion had positive things to say about Matron O'Neill: Exhibit 3-0001, Case Study 3, STAT.0057.001.0032 at 0038-0039.
- <sup>5</sup> Exhibit 3-0001, Case Study 3, STAT.0059.001.0010 at 0012-0013; Exhibit 3-0001, Case Study 3, STAT.0057.001.0068 at 0070; Exhibit 3-0001, Case Study 3, STAT.0071.001.0001 at 0002; Exhibit 3-0001, Case Study 3, STAT.0068.001.0001 at 0001-0002; Exhibit 3-0001, Case Study 3, STAT.0070.001.0006 at 0007-0008; Exhibit 3-0001, Case Study 3, STAT.0069.001.0001 at 0001-0002; Transcript of CK, Case Study 3 at 1642:8-23; Transcript of R Campion, Case Study 3 at 1649:46-1650:15.
- <sup>6</sup> Transcript of R Campion, Case Study 3 at 1650:31-1651:8; Exhibit 3-0001, Case Study 3, STAT.0059.001.0010 at 0013; Exhibit 3-0001, Case Study 3, STAT.0070.001.0006 at 0008-0009.
- <sup>7</sup> Exhibit 3-0001, Case Study 3, STAT.0057.001.0032 at 0035; Exhibit 3-0001, Case Study 3, STAT.0069.001.0001 at 0002; Exhibit 3-0001, Case Study 3, STAT.0070.001.0006 at 0008.
- <sup>8</sup> Exhibit 3-0001, Case Study 3, STAT.0070.001.0006 at 0008.
- <sup>9</sup> Transcript of R Campion, Case Study 3 at 1655:7-31.
- <sup>10</sup> Exhibit 3-0001, Case Study 3, STAT.0059.001.0010 at 0011.
- <sup>11</sup> Exhibit 3-0001, Case Study 3, STAT.0070.001.0006 at 0009.
- <sup>12</sup> Exhibit 3-0001, Case Study 3, STAT.0057.001.0170 at 0172; Exhibit 3-0001, Case Study 3, STAT.0069.001.0001 at 0002.
- <sup>13</sup> Exhibit 3-0001, Case Study 3, STAT.0069.001.0001 at 0002.
- <sup>14</sup> Exhibit 3-0001, Case Study 3, STAT.0063.001.0070 at 0070-0071.
- <sup>15</sup> Transcript of CK, Case Study 3 at 1632:1-24, 1643:10-25.
- <sup>16</sup> Exhibit 3-0001, Case Study 3, STAT.0071.001.0001 at 0001.
- <sup>17</sup> As part of the group claim; Exhibit 3-0002, Case Study 3, ANG.9320.01802.0601; Ex 3-0002, Case Study 3, ANG.9320.01802.0602 at 0606-0607.
- <sup>18</sup> Exhibit 3-0001, Case Study 3, STAT.0059.001.0027 at 0031-0033; Ex 3-0001, Case Study 3, STAT.0068.001.0001 at 0002; Exhibit 3-0001, Case Study 3, STAT.0057.001.0068 at 0077; Exhibit 3-0001, Case Study 3, STAT.0057.001.0001 at 0004; Exhibit 3-0001, Case Study 3, STAT.0070.001.0006 at 0010; Exhibit 3-0001, Case Study 3, STAT.0072.001.0001 at 0002; Exhibit 3-0001, Case Study 3, STAT.0070.001.0001 at 0005; Exhibit 3-0001, Case Study 3, STAT.0069.001.0001 at 0003-0005.
- <sup>19</sup> Exhibit 3-0001, Case Study 3, STAT.0071.001.0001 at 0004-0005.
- <sup>20</sup> Transcript of CK, Case Study 3 at 1644:23-24; Exhibit 3-0001, Case Study 3, STAT.0072.001.0001 at 0002.
- <sup>21</sup> Transcript of CK, Case Study 3 at 1644:30-34.
- <sup>22</sup> Transcript of CK, Case Study 3 at 1640:21-23; Exhibit 3-0001, Case Study 3, STAT.0072.001.0001 at 0001.
- <sup>23</sup> Exhibit 3-0002, Case Study 3, ANG.0017.001.0001 at 0005-0006: From 1962, the Church of England was known as the Church of England in Australia. The title 'Anglican Church of Australia' was formally adopted in 1981.
- <sup>24</sup> Exhibit 3-0002, Case Study 3, ANG.0017.001.0001 at 0019.
- <sup>25</sup> Exhibit 3-0002, Case Study 3, ANG.0017.001.0001 at 0019.
- <sup>26</sup> Exhibit 3-0002, Case Study 3, ANG.0017.001.0001 at 0019.
- <sup>27</sup> Transcript of P Roland, Case Study 3 at 2051:35-43.
- <sup>28</sup> Transcript of R Campion, Case Study 3 at 1648:23-43; Transcript of CK, Case Study 3 at 1636:27-38; 1637:5-17.
- <sup>29</sup> Submissions of Archdeacon Greg Ezzy, Case Study 3, p. 1 at paras 2-3.

- 30 Transcript of G Ezzy, Case Study 3 at 2323:41–2324:03; Submissions of Archdeacon Greg Ezzy, Case Study 3, p. 1 at para. 3.
- 31 Transcript of R Campion, Case Study 3 at 1649:31–33.
- 32 Exhibit 3-0001, Case Study 3, STAT.0057.001.0032 at 0033; Transcript of R Campion, Case Study 3 at 1648:45–47, 1655:7–11.
- 33 Exhibit 3-0001, Case Study 3, STAT.0070.001.0006 at 0009.
- 34 Exhibit 3-0001, Case Study 3, STAT.0063.001.0070 at 0070–0071; Transcript of R Campion, Case Study 3 at 1649:1–11.
- 35 Transcript of R Campion, Case Study 3 at 1649:21–26.
- 36 Transcript of R Campion, Case Study 3 at 1649:5–7.
- 37 The *Child Welfare Act 1923* (NSW) was repealed by the *Child Welfare Act 1939* (NSW). The *Child Welfare Act 1939* (NSW) was repealed in 1987 and replaced by the *Children (Care and Protection) Act 1987* (NSW), which was repealed in 1998 and replaced with the *Children and Young Persons (Care and Protection) Act 1998* (NSW).
- 38 Exhibit 3-0001, Case Study 3, STAT.0066.001.0245.
- 39 Exhibit 3-0001, Case Study 3, STAT.0066.001.0245 at 0245, cl. 2(a).
- 40 Exhibit 3-0001, Case Study 3, STAT.0066.001.0245 at 0245, cl. 6(a).
- 41 Exhibit 3-0001, Case Study 3, STAT.0066.001.0245 at 0245, cl. 4, 5.
- 42 Transcript of G Ezzy, Case Study 3 at 2323:33–39.
- 43 Exhibit 3-0001, Case Study 3, STAT.0066.001.0245 at 0245, cl. 6(a)(ii).
- 44 Exhibit 3-0002, Case Study 3, ANG.9320.01103.0394; Exhibit 3-0002, Case Study 3, ANG.9320.01103.0392; Exhibit 3-0002, Case Study 3, ANG.9320.01103.0391; Exhibit 3-0002, Case Study 3, ANG.9320.01103.0401; Exhibit 3-0002, Case Study 3, ANG.9320.01103.0399; Exhibit 3-0002, Case Study 3, ANG.9320.01103.0397; Exhibit 3-0002, Case Study 3, ANG.9320.001103.0396.
- 45 License applications were made available to the Royal Commission from 1936, 1937, two from 1938, two from 1940, 1949: Exhibit 3-0002, Case Study 3, ANG.9320.01103.0394; Exhibit 3-0002, Case Study 3, ANG.9320.01103.0392; Exhibit 3-0002, Case Study 3, ANG.9320.01103.0391; Exhibit 3-0002, Case Study 3, ANG.9320.01103.0401; Exhibit 3-0002, Case Study 3, ANG.9320.01103.0399; Exhibit 3-0002, Case Study 3, ANG.9320.01103.0397; Exhibit 3-0002, Case Study 3, ANG.9320.001103.0396. The NSW Department of Family and Community Services explained that so few records are available because ‘Community Services’ predecessors routinely destroyed records’: Exhibit 3-0025, Case Study 3, EXH.0003.025.0001 at 0001.
- 46 Exhibit 3-0001, Case Study 3, STAT.0066.001.0245 at 0246, cl. 28.
- 47 Transcript of G Ezzy, Case Study 3 at 2324:36–40.
- 48 Transcript of G Ezzy, Case Study 3 at 2325:4–8.
- 49 Transcript of R Campion, Case Study 3 at 1651:10–45; Transcript of G Ezzy, Case Study 3 at 2324:5–10.
- 50 Exhibit 3-0001, Case Study 3, STAT.0057.001.0031.
- 51 Exhibit 3-0001, Case Study 3, STAT.0059.001.0001 at 0001; Exhibit 3-0001, Case Study 3, STAT.0072.001.0001 at 0003; Exhibit 3-0001, Case Study 3, STAT.0071.001.0001 at 0006; Exhibit 3-0001, Case Study 3, STAT.0070.001.0006 at 0006; Exhibit 3-0001, Case Study 3, STAT.0069.001.0001 at 0001; Transcript of CK, Case Study 3 at 1635:25–32.
- 52 Exhibit 3-0002, Case Study 3, ANG.0023.001.0001 at 0001.
- 53 Exhibit 3-0002, Case Study 3, IND.0001.019.0001 at 0001, 0003–0005, 0007, 0009.
- 54 See for example: Exhibit 3-0001, Case Study 3, STAT.0066.001.0239; Exhibit 3-0001, Case Study 3, STAT.0066.001.0253.
- 55 Submissions of Counsel Assisting the Royal Commission, Case Study 3, p. 24 at para. 67 (2A).
- 56 Submissions on behalf of Archbishop Phillip Aspinall, Martin Drevikovskiy and Rodney McLary, Case Study 3, p. 7 at paras 20–21.
- 57 Submissions in reply of Counsel Assisting the Royal Commission, Case Study 3, p. 6 at paras 26–27.
- 58 Exhibit 3-0001, Case Study 3, STAT.0063.001.0028 at 0036–0037.
- 59 Exhibit 3-0001, Case Study 3, STAT.0063.001.0028 at 0035–0036.

- <sup>60</sup> For example, the Newcastle Clergy Discipline Ordinance 1966–2003, which specifies that the Synod of Newcastle adopts in its entirety the General Synod’s Offences Canon 1962 and Offences Amendment Canon 1981 and defines an offence in clause 3: Exhibit 3-0001, Case Study 3, STAT.0073.001.0069 at 0070.
- <sup>61</sup> The Constitution establishes the diocesan tribunals in Chapter IX: Exhibit 3-0001, Case Study 3, STAT.0073.001.0087 at 0087. For an example of the establishment of a board of inquiry, see the Clergy Discipline Ordinance 1966–2003 as enacted by the Diocese of Newcastle: Exhibit 3-0001, Case Study 3, STAT.0073.001.0069 at 0073.
- <sup>62</sup> Exhibit 3-0001, Case Study 3, STAT.0063.001.0028 at 0061–0062.
- <sup>63</sup> Exhibit 3-0001, Case Study 3, STAT.0063.001.0028 at 0050–0053.
- <sup>64</sup> Transcript of K Slater, Case Study 3 at 2252:21–36.
- <sup>65</sup> Exhibit 3-0003, Case Study 3, ANG.9320.01806.0522 at 0530, cl. 24(1).
- <sup>66</sup> Exhibit 3-0003, Case Study 3, ANG.9320.01806.0522 at 0523.
- <sup>67</sup> Exhibit 3-0003, Case Study 3, ANG.9320.01806.0522 at 0530, cl.25.
- <sup>68</sup> Exhibit 3-0003, Case Study 3, ANG.9320.01806.0522 at 0523.
- <sup>69</sup> Exhibit 3-0003, Case Study 3, ANG.9320.01806.0522 at 0528–0529, cl. 20.
- <sup>70</sup> Exhibit 3-0003, Case Study 3, ANG.9320.01806.0522 at 0537–0542.
- <sup>71</sup> Exhibit 3-0003, Case Study 3, ANG.0003.003.0001.
- <sup>72</sup> Exhibit 3-0002, Case Study 3, ANG.0003.004.0002 at 0003–0004. Though the scheme was adopted in 2005 Anne Hywood, acting Registrar for the Diocese of Grafton from January to October 2013, gave evidence that she and others in the Diocese were not aware that the scheme had been adopted: Transcript of A Hywood, Case Study 3 at 1750:4–41.
- <sup>73</sup> Exhibit 3-0003, Case Study 3, ANG.0003.003.0001 at 0003–0004.
- <sup>74</sup> Exhibit 3-0003, Case Study 3, ANG.0003.003.0001 at 0004.
- <sup>75</sup> Exhibit 3-0003, Case Study 3, ANG.0003.003.0001 at 0004–0005.
- <sup>76</sup> Exhibit 3-0003, Case Study 3, ANG.0003.003.0001 at 0005.
- <sup>77</sup> Exhibit 3-0003, Case Study 3, ANG.0003.003.0001 at 0006–0008, 0011–0012; Exhibit 3-0003, Case Study 3, STAT.0057.001.0043.
- <sup>78</sup> Exhibit 3-0003, Case Study 3, ANG.0003.003.0001 at 0008.
- <sup>79</sup> Exhibit 3-0003, Case Study 3, ANG.0003.003.0001 at 0008–0009.
- <sup>80</sup> Exhibit 3-0001, Case Study 3, STAT.0062.001.0001 at 0009.
- <sup>81</sup> Anglican Church of Australia, *Proceedings of the 13th General Synod*, <http://www.anglican.org.au/general-synods/documents/proceedings2004master.pdf> (viewed 1 August 2014), Resolution 35/04, pp 48–51.
- <sup>82</sup> Exhibit 3-0001, Case Study 3, STAT.0063.001.0133; Anglican Church of Australia, *Proceedings of the 13th General Synod*, <http://www.anglican.org.au/general-synods/documents/proceedings2004master.pdf> (viewed 1 August 2014), Resolution 35/04, p. 50, Resolution 59/04, p. 53. The code was adopted by the Dioceses of Grafton and Newcastle: Exhibit 3-0003, Case Study 3, ANG.9320.01804.3546; Exhibit 3-0003, Case Study 3, ANG.0006.002.0010.
- <sup>83</sup> Exhibit 3-0001, Case Study 3, STAT.0063.001.0133 at 0150, cl. 4.14.
- <sup>84</sup> Exhibit 3-0001, Case Study 3, STAT.0062.001.0041.
- <sup>85</sup> Exhibit 3-0001, Case Study 3, STAT.0062.001.0067.
- <sup>86</sup> Exhibit 3-0001, Case Study 3, STAT.0062.001.0041 at 0062.
- <sup>87</sup> Exhibit 3-0001, Case Study 3, STAT.0063.001.0028 at 0059.
- <sup>88</sup> Exhibit 3-0003, Case Study 3, ANG.9310.01001.0579; Exhibit 3-0001, Case Study 3, STAT.0062.001.0076; Exhibit 3-0003, Case Study 3, ANG.9310.01001.0584; Exhibit 3-0001, Case Study 3, STAT.0076.001.0001 at 0003–0004.
- <sup>89</sup> Transcript of P Gerber, Case Study 3 at 1953:13–23. Archbishop Herft said he made phone calls to notify other dioceses that a member of clergy had committed an offence: Exhibit 3-0001, Case Study 3, STAT.0073.001.0001 at 0003. In 1968 letters were written between the Bishops of Newcastle and Grafton about Reverend Kitchingman: Exhibit 3-0002, Case Study 3, ANG.9340.01002.0007 at 0008; Exhibit 3-0002, Case Study 3, ANG.9340.01002.0009; Exhibit 3-0002, Case Study 3, ANG.9340.01001.0007.
- <sup>90</sup> Exhibit 3-0001, Case Study 3, STAT.0073.001.0001 at 0003.



- 91 Exhibit 3-0001, Case Study 3, STAT.0073.001.0001 at 0003.
- 92 Exhibit 3-0001, Case Study 3, STAT.0076.001.0001 at 0002.
- 93 Exhibit 3-0003, Case Study 3, ANG.9310.01001.0584 at 0588, cl. 9.
- 94 Exhibit 3-0001, Case Study 3, STAT.0076.001.0001 at 0003.
- 95 Exhibit 3-0001, Case Study 3, STAT.0076.001.0001 at 0003; Exhibit 3-0003, Case Study 3, ANG.9310.01001.0584 at 0588, cl. 9.
- 96 But also the General Secretary, the bishop to the Defence Force or delegate, any person assisting the General Secretary and other persons as determined by the Standing Committee of the General Synod: Exhibit 3-0001, Case Study 3, STAT.0076.001.0001 at 0004–0005.
- 97 Exhibit 3-0002, Case Study 3, ANG.0017.001.0001 at 0035.
- 98 Exhibit 3-0001, Case Study 3, STAT.0057.001.0032 at 0033.
- 99 Mr Comben told us he signed letters of deposition and holy orders relinquishment during the public hearing and so no longer holds the title ‘Reverend’: Transcript of P Comben, Case Study 3 at 2238:3–7.
- 100 Exhibit 3-0001, Case Study 3, STAT.0057.001.0040 at 0040.
- 101 Exhibit 3-0001, Case Study 3, STAT.0057.001.0042 at 0042.
- 102 Exhibit 3-0001, Case Study 3, STAT.0057.001.0042 at 0042.
- 103 Exhibit 3-0001, Case Study 3, STAT.0057.001.0001 at 0005–0006.
- 104 Exhibit 3-0001, Case Study 3, STAT.0057.001.0001 at 0006–0007.
- 105 Exhibit 3-0002, Case Study 3, MED.0001.0055; Exhibit 3-0001, Case Study 3, STAT.0057.001.0060; Exhibit 3-0001, Case Study 3, STAT.0057.001.0001 at 0007.
- 106 Exhibit 3-0002, Case Study 3, ANG.9320.01802.0601; Exhibit 3-0002, Case Study 3, ANG.9320.01802.0602 at 0608.
- 107 Exhibit 3-0001, Case Study 3, STAT.0066.001.0027 at 0027.
- 108 Exhibit 3-0002, Case Study 3, ANG.9320.01802.0289 at 0289.
- 109 Exhibit 3-0002, Case Study 3, ANG.9320.01802.0289 at 0289.
- 110 Transcript of P Comben, Case Study 3 at 2134:12–21.
- 111 Transcript of P Comben, Case Study 3 at 2134:6.
- 112 Transcript of P Comben, Case Study 3 at 2132:25–36.
- 113 Exhibit 3-0002, Case Study 3, ANG.9320.01802.0289 at 0289.
- 114 Exhibit 3-0001, Case Study 3, STAT.0066.001.0030 at 0030.
- 115 Exhibit 3-0001, Case Study 3, STAT.0066.001.0030 at 0030.
- 116 Exhibit 3-0001, Case Study 3, STAT.0066.001.0045 at 0045.
- 117 Exhibit 3-0001, Case Study 3, STAT.0066.001.0033 at 0034; Transcript of P Roland, Case Study 3 at 2030:1–8.
- 118 Bishop Slater also provided instructions at various parts of the negotiations particularly in December 2006 to March 2007: Transcript of P Roland, Case Study 3 at 2099:39–2100:5; Transcript of K Slater, Case Study 3 at 2277:2–27.
- 119 Exhibit 3-0001, Case Study 3, STAT.0066.001.0043.
- 120 Exhibit 3-0001, Case Study 3, STAT.0066.001.0044 at 0044.
- 121 Exhibit 3-0001, Case Study 3, STAT.0066.001.0049 at 0049.
- 122 Exhibit 3-0001, Case Study 3, STAT.0066.001.0049 at 0049.
- 123 Transcript of G Ezzy, Case Study 3 at 2324:5–10.
- 124 Exhibit 3-0002, Case Study 3, ANG.9320.01804.0849 at 0849.
- 125 Exhibit 3-0001, Case Study 3, STAT.0066.001.0052.
- 126 Exhibit 3-0002, Case Study 3, ANG.9320.01804.0808 at 0811.
- 127 Transcript of K Slater, Case Study 3 at 2265:25–46.
- 128 Exhibit 3-0002, Case Study 3, ANG.9320.01802.0602.
- 129 Exhibit 3-0002, Case Study 3, ANG.9320.01802.0601; Exhibit 3-0002, Case Study 3, ANG.9320.01802.0602.

- 130 Transcript of K Slater, Case Study 3 at 2284:23–29. Bishop Slater could not recall when he first saw the summary document.
- 131 Exhibit 3-0001, Case Study 3, STAT.0066.001.0191 at 0191.
- 132 Exhibit 3-0001, Case Study 3, STAT.0066.001.0191 at 0191.
- 133 Exhibit 3-0001, Case Study 3, STAT.0063.001.0206 at 0206–0207.
- 134 Transcript of R McLary, Case Study 3 at 1874:19–23.
- 135 Transcript of R McLary, Case Study 3 at 1875:26–35.
- 136 Transcript of R McLary, Case Study 3 at 1875:40–41.
- 137 Exhibit 3-0002, Case Study 3, ANG.9320.01802.1180; Exhibit 3-0002, Case Study 3, ANG.9320.01802.1181; Exhibit 3-0002, Case Study 3, ANG.9320.01802.1182.
- 138 Exhibit 3-0001, Case Study 3, STAT.0078.001.0044 at 0044.
- 139 Transcript of P Roland, Case Study 3 at 2060:5–14.
- 140 Exhibit 3-0001, Case Study 3, STAT.0066.001.0328 at 0328.
- 141 Exhibit 3-0001, Case Study 3, STAT.0066.001.0328 at 0329.
- 142 Exhibit 3-0003, Case Study 3, ANG.0003.003.0002 at 0008–0009.
- 143 Exhibit 3-0003, Case Study 3, ANG.0003.003.0002 at 0003.
- 144 Exhibit 3-0002, Case Study 3, ANG.0003.004.0002 at 0003–0004.
- 145 Transcript of P Comben, Case Study 3 at 2133:3-21. Anne Hywood gave evidence that she and others in the Diocese were not aware that the scheme had been adopted: Transcript of A Hywood, Case Study 3 at 1750:4–41.
- 146 Exhibit 3-0001, Case Study 3, STAT.0063.001.0001 at 0002–0003.
- 147 Exhibit 3-0001, Case Study 3, STAT.0063.001.0001 at 0017.
- 148 Exhibit 3-0001, Case Study 3, STAT.0066.001.0191 at 0191.
- 149 Transcript of P Roland, Case Study 3 at 2031:21–40.
- 150 Transcript of P Roland, Case Study 3 at 2031:21–30.
- 151 Transcript of Harrison, Case Study 3 at 1796:41–1797:25.
- 152 Transcript of Harrison, Case Study 3 at 1796:41–1797:25.
- 153 Exhibit 3-0001, Case Study 3, STAT.0061.001.0108 at 0110.
- 154 Transcript of Harrison, Case Study 3 at 1828:45–1829:2.
- 155 Transcript of P Comben, Case Study 3 at 2180:1–4.
- 156 Transcript of K Slater, Case Study 3 at 2278:2–9.
- 157 Exhibit 3-0001, Case Study 3, STAT.0066.001.0001 at 0015.
- 158 Exhibit 3-0001, Case Study 3, STAT.0059.001.0035 at 0037.
- 159 Exhibit 3-0003, Case Study 3, ANG.0003.003.0001 at 0002; Exhibit 3-0003, Case Study 3, ANG.9320.01806.0547 at 0551, cl. 3.3.
- 160 Exhibit 3-0001, Case Study 3, STAT.0066.001.0354; Exhibit 3-0001, Case Study 3, STAT.0066.001.0355.
- 161 Exhibit 3-0001, Case Study 3, STAT.0066.001.0372.
- 162 Transcript of P Roland, Case Study 3 at 2068:6–22.
- 163 Exhibit 3-0001, Case Study 3, STAT.0057.001.0095.
- 164 Exhibit 3-0001, Case Study 3, STAT.0057.001.0095 at 0097.
- 165 Transcript of CK, Case Study 3 at 1639:1–4.
- 166 Exhibit 3-0001, Case Study 3, STAT.0071.001.0001 at 0007.
- 167 Exhibit 3-0001, Case Study 3, STAT.0068.001.0001 at 0002.
- 168 Exhibit 3-0001, Case Study 3, STAT.0057.001.0001 at 0005–0006.
- 169 Transcript of P Comben, Case Study 3 at 2157:3–34.
- 170 Exhibit 3-0003, Case Study 3, ANG.9320.01806.0559 at 0560-0562, clauses 14.8–14.13.
- 171 Transcript of S Harrison, Case Study 3 at 1812:7–14.
- 172 Transcript of P Roland, Case Study 3 at 2049:5–22.
- 173 Transcript of P Roland, Case Study 3 at 2055:40–2056:24.

- 174 Transcript of K Slater, Case Study 3 at 2279:28–37.
- 175 Exhibit 3-0001, Case Study 3, STAT.0057.001.0127.
- 176 Transcript of CK, Case Study 3 at 1636:1–6.
- 177 Exhibit 3-0001, Case Study 3, STAT.0071.001.0001 at 0006.
- 178 Exhibit 3-0001, Case Study 3, STAT.0071.001.0001 at 0006–0007.
- 179 Exhibit 3-0001, Case Study 3, STAT.0071.001.0001 at 0007.
- 180 Transcript of R Campion, Case Study 3 at 1669:11–21.
- 181 Exhibit 3-0001, Case Study 3, STAT.0059.001.0001 at 0005.
- 182 Exhibit 3-0001, Case Study 3, STAT.0057.001.0001 at 0015.
- 183 Exhibit 3-0001, Case Study 3, STAT.0057.001.0001 at 0024.
- 184 Exhibit 3-0001, Case Study 3, STAT.0057.001.0158.
- 185 Exhibit 3-0001, Case Study 3, STAT.0057.001.0161 at 0162.
- 186 Exhibit 3-0001, Case Study 3, STAT.0057.001.0179 at 0180.
- 187 Exhibit 3-0001, Case Study 3, STAT.0057.001.0001 at 0016.
- 188 Exhibit 3-0002, Case Study 3, ANG.9310.01001.0826.
- 189 Transcript of K Slater, Case Study 3 at 2288:43–2289:2.
- 190 Transcript of K Slater, Case Study 3 at 2289:23–40.
- 191 Transcript of R Campion, Case Study 3 at 1690:12–1691:9.
- 192 Transcript of R Campion, Case Study 3 at 1691:41–47.
- 193 Transcript of R Campion, Case Study 3 at 1692:4–5.
- 194 Transcript of R Campion, Case Study 3 at 1692:14–21.
- 195 Transcript of P Comben, Case Study 3 at 2230:5–46.
- 196 Exhibit 3-0001, Case Study 3, STAT.0057.001.0001 at 0020–0021; 0023.
- 197 Exhibit 3-0002, Case Study 3, ANG.9320.01803.0426.
- 198 Exhibit 3-0001, Case Study 3, STAT.0057.001.0255.
- 199 Transcript of K Slater, Case Study 3 at 2298:29–34; Exhibit 3-0001, Case Study 3, STAT.0078.001.0001 at 0030.
- 200 Exhibit 3-0001, Case Study 3, STAT.0078.001.0073 at 0073–0074.
- 201 Exhibit 3-0001, Case Study 3, STAT.0078.001.0001 at 0030.
- 202 Transcript of K Slater, Case Study 3 at 2301:40–42.
- 203 Exhibit 3-0001, Case Study 3, STAT.0066.001.0415.
- 204 Exhibit 3-0001, Case Study 3, STAT.0066.001.0416.
- 205 Exhibit 3-0001, Case Study 3, STAT.0057.001.0140.
- 206 Exhibit 3-0001, Case Study 3, STAT.0057.001.0145.
- 207 Exhibit 3-0001, Case Study 3, STAT.0057.001.0170. Mr Campion also raised CD’s matter directly with Bishop Slater at a meeting on 3 July 2007: Exhibit 3-0001, Case Study 3, STAT.0057.001.0001 at 0015.
- 208 Exhibit 3-0001, Case Study 3, STAT.0057.001.0203.
- 209 Exhibit 3-0002, Case Study 3, ANG.9320.01108.0018.
- 210 Exhibit 3-0002, Case Study 3, ANG.9320.01103.0339.
- 211 Exhibit 3-0002, Case Study 3, ANG.9320.01108.0028.
- 212 Exhibit 3-0002, Case Study 3, ANG.9320.01108.0029.
- 213 Exhibit 3-0001, Case Study 3, STAT.0069.001.0001 at 0004.
- 214 Exhibit 3-0001, Case Study 3, STAT.0069.001.0001 at 0004.
- 215 Exhibit 3-0001, Case Study 3, STAT.0058.001.0019; Exhibit 3-0001, Case Study 3, STAT.0058.001.0023.
- 216 Exhibit 3-0002, Case Study 3, ANG.9320.01117.0010.
- 217 Exhibit 3-0002, Case Study 3, ANG.9320.01802.1356 at 1356.
- 218 Exhibit 3-0001, Case Study 3, STAT.0070.001.0006.

- <sup>219</sup> Exhibit 3-0001, Case Study 3, STAT.0061.001.0083 at 0083; Exhibit 3-0001, Case Study 3, STAT.0061.001.0084 at 0084.
- <sup>220</sup> Transcript of P Roland, Case Study 3 at 2087:15–20.
- <sup>221</sup> Transcript of K Slater, Case Study 3 at 2295:2–6.
- <sup>222</sup> Exhibit 3-0001, Case Study 3, STAT.0059.001.0001 at 0007.
- <sup>223</sup> Exhibit 3-0001, Case Study 3, STAT.0059.001.0001 at 0008.
- <sup>224</sup> Exhibit 3-0002, Case Study 3, ANG.9320.01802.0887 at 0888.
- <sup>225</sup> Exhibit 3-0001, Case Study 3, STAT.0059.001.0001 at 0008; Exhibit 3-0001, Case Study 3, STAT.0059.001.0060 at 0060.
- <sup>226</sup> Exhibit 3-0001, Case Study 3, STAT.0059.001.0001 at 0008; Exhibit 3-0001, Case Study 3, STAT.0059.001.0062 at 0062.
- <sup>227</sup> Exhibit 3-0001, Case Study 3, STAT.0058.001.0037 at 0037.
- <sup>228</sup> Exhibit 3-0001, Case Study 3, STAT.0061.001.0108 at 0109.
- <sup>229</sup> Exhibit 3-0002, Case Study 3, ANG.9320.01804.3783 at 3783.
- <sup>230</sup> Exhibit 3-0002, Case Study 3, ANG.9320.01804.3783 at 3784.
- <sup>231</sup> Exhibit 3-0002, Case Study 3, ANG.9320.01806.0172 at 0174.
- <sup>232</sup> Exhibit 3-0002, Case Study 3, ANG.9320.01804.3772 at 3772; Exhibit 3-0002, Case Study 3, ANG.9320.01804.3768 at 3768.
- <sup>233</sup> Exhibit 3-0002, Case Study 3, ANG.9320.01804.3768 at 3769. The covering letter indicates that the settlement had been finalised.
- <sup>234</sup> Exhibit 3-0002, Case Study 3, ANG.9320.01806.0172 at 0173.
- <sup>235</sup> Exhibit 3-0001, Case Study 3, STAT.0065.001.0023 at 0023; Exhibit 3-0001, Case Study 3, STAT.0065.001.0033.
- <sup>236</sup> Exhibit 3-0002, Case Study 3, ANG.9320.01802.0230; Exhibit 3-0002, Case Study 3, ANG.9320.01802.0235; Exhibit 3-0002, Case Study 3, ANG.9320.01802.0236.
- <sup>237</sup> Exhibit 3-0001, Case Study 3, STAT.0065.001.0058; Exhibit 3-0001, Case Study 3, STAT.0063.001.0229 at 0229; Exhibit 3-0002, Case Study 3, Exhibit 3-0002, Case Study 3, ANG.9320.01802.1584 at 1584.
- <sup>238</sup> Exhibit 3-0001, Case Study 3, STAT.0063.001.0221 at 0224.
- <sup>239</sup> Exhibit 3-0002, Case Study 3, ANG.9320.01117.0010.
- <sup>240</sup> Exhibit 3-0003, Case Study 3, ANG.9320.01806.0547 at 0556, cl. 13.3.
- <sup>241</sup> Transcript of K Slater, Case Study 3 at 2295:8–25.
- <sup>242</sup> Transcript of A Hywood, Case Study 3 at 1740:7–34.
- <sup>243</sup> Transcript of M Elliott, Case Study 3 at 2351:10–17.
- <sup>244</sup> Transcript of A Hywood, Case Study 3 at 1748:31–41.
- <sup>245</sup> Transcript of A Hywood, Case Study 3 at 1751:9–22.
- <sup>246</sup> Transcript of G Ezzy, Case Study 3 at 2339:34–42.
- <sup>247</sup> Exhibit 3-0001, Case Study 3, STAT.0061.001.0001 at 0018; Exhibit 3-0001, Case Study 3, STAT.0061.001.0092 at 0095–0096.
- <sup>248</sup> Exhibit 3-0001, Case Study 3, STAT.0078.001.0124 at 0129.
- <sup>249</sup> Transcript of K Slater, Case Study 3 at 2312:22–32.
- <sup>250</sup> Exhibit 3-0001, Case Study 3, STAT.0061.001.0108 at 0109.
- <sup>251</sup> Transcript of A Hywood, Case Study 3 at 1750:4–41.
- <sup>252</sup> Transcript of G Ezzy, Case Study 3 at 2341:10–12; 2342:1–7; Transcript of A Hywood, Case Study 3 at 1786:1–4.
- <sup>253</sup> Exhibit 3-0001, Case Study 3, STAT.0061.001.0001 at 0013.
- <sup>254</sup> Transcript of G Ezzy, Case Study 3 at 2340:13–22.
- <sup>255</sup> Transcript of G Ezzy, Case Study 3 at 2342:20–32.
- <sup>256</sup> Transcript of G Ezzy, Case Study 3 at 2340:13–36; Exhibit 3-0019, Case Study 3, ANG.0026.001.0011; Exhibit 3-0019, Case Study 3, ANG.0026.001.0008; Exhibit 3-0019, Case Study 3, ANG.0026.001.0009.
- <sup>257</sup> Exhibit 3-0001, Case Study 3, STAT.0061.001.0001 at 0013.

- 258 Exhibit 3-0001, Case Study 3, STAT.0060.001.0090 at 0090.
- 259 Transcript of R Campion, Case Study 3 at 1703:1–7.
- 260 Transcript of P Aspinall, Case Study 3 at 2420:2–11.
- 261 Exhibit 3-0001, Case Study 3, STAT.0078.001.0043.
- 262 Exhibit 3-0001, Case Study 3, STAT.0078.001.0043 at 0043; Transcript of K Slater, Case Study 3 at 2275:35–39.
- 263 Exhibit 3-0001, Case Study 3, STAT.0078.001.0044 at 0044.
- 264 Exhibit 3-0001, Case Study 3, STAT.0078.001.0045 at 0045.
- 265 Exhibit 3-0001, Case Study 3, STAT.0057.001.0106 at 0121.
- 266 Exhibit 3-0001, Case Study 3, STAT.0078.001.0052 at 0052.
- 267 Exhibit 3-0001, Case Study 3, STAT.0078.001.0052 at 0053.
- 268 Exhibit 3-0001, Case Study 3, STAT.0078.001.0054 at 0057.
- 269 Exhibit 3-0001, Case Study 3, STAT.0078.001.0059 at 0059.
- 270 Exhibit 3-0001, Case Study 3, STAT.0078.001.0059 at 0059.
- 271 Exhibit 3-0001, Case Study 3, STAT.0078.001.0060 at 0060.
- 272 Exhibit 3-0001, Case Study 3, STAT.0078.001.0060 at 0061.
- 273 Exhibit 3-0001, Case Study 3, STAT.0078.001.0062 at 0062.
- 274 Exhibit 3-0001, Case Study 3, STAT.0078.001.0062 at 0062.
- 275 Exhibit 3-0001, Case Study 3, STAT.0078.001.0073 at 0073.
- 276 Exhibit 3-0001, Case Study 3, STAT.0078.001.0001 at 0028.
- 277 Exhibit 3-0001, Case Study 3, STAT.0078.001.0073 at 0074.
- 278 Exhibit 3-0001, Case Study 3, STAT.0078.001.0073 at 0073.
- 279 Exhibit 3-0001, Case Study 3, STAT.0078.001.0073 at 0074.
- 280 Exhibit 3-0001, Case Study 3, STAT.0078.001.0001 at 0028.
- 281 Exhibit 3-0001, Case Study 3, STAT.0078.001.0001 at 0028.
- 282 Exhibit 3-0001, Case Study 3, STAT.0078.001.0075.
- 283 Exhibit 3-0001, Case Study 3, STAT.0078.001.0075 at 0075.
- 284 Exhibit 3-0001, Case Study 3, STAT.0078.001.0075 at 0076.
- 285 Exhibit 3-0001, Case Study 3, STAT.0078.001.0062 at 0062.
- 286 Exhibit 3-0001, Case Study 3, STAT.0056.001.0036 at 0036.
- 287 Transcript of R McLary, Case Study 3 at 1916:12–16.
- 288 Exhibit 3-0001, Case Study 3, STAT.0078.001.0001 at 0003–0004.
- 289 Transcript of P Aspinall, Case Study 3 at 2421:13–23; 2422:8–14.
- 290 Such as no financial ceiling for settlement.
- 291 Transcript of P Aspinall, Case Study 3 at 2426:2–17.
- 292 Transcript of P Aspinall, Case Study 3 at 2438:29–39.
- 293 Transcript of P Aspinall, Case Study 3 at 2443:39–2444:33.
- 294 Transcript of P Aspinall, Case Study 3 at 2444:5–12.
- 295 Constituted under section 5 of the *Anglican Church of Australia Trust Property Act 1917* (NSW).
- 296 *Anglican Church of Australia Trust Property Act 1917* (NSW) section 26(1).
- 297 Transcript of P Roland, Case Study 3 at 2067:25–34.
- 298 See for example: Exhibit 3-0001, Case Study 3, STAT.0058.001.0001 at 0009; Transcript of A Newby, Case Study 3 at 1901:1–13.
- 299 Exhibit 3-0001, Case Study 3, STAT.0057.001.0061 at 0061.
- 300 The Royal Commission did not receive financial records for years before 2005. This information is drawn from: Exhibit 3-0013, Case Study 3, ANG.0030.001.0001; Exhibit 3-0013, Case Study 3, ANG.0030.001.0019; Exhibit 3-0013, Case Study 3, ANG.0030.001.0043; Exhibit 3-0013, Case Study 3, ANG.0030.001.0063; Exhibit 3-0013, Case Study 3, ANG.0030.001.0086; Exhibit 3-0013, Case Study 3,

- ANG.0030.001.0112; Exhibit 3-0013, Case Study 3, ANG.0030.001.0178; Exhibit 3-0013, Case Study 3, ANG.0030.001.0206; Exhibit 3-0013, Case Study 3, ANG.0030.001.0250; Exhibit 3-0013, Case Study 3, ANG.0030.001.0278; Exhibit 3-0013, Case Study 3, ANG.0030.001.0309; Exhibit 3-0013, Case Study 3, ANG.0030.001.0343; Exhibit 3-0013, Case Study 3, ANG.0027.001.0015; Exhibit 3-0013, Case Study 3, ANG.0025.001.0031; Exhibit 3-0013, Case Study 3, ANG.0025.001.0001; Exhibit 3-0013, Case Study 3, ANG.0027.001.0001; Exhibit 3-0013, Case Study 3, ANG.0030.001.0371; Exhibit 3-0013, Case Study 3, ANG.0030.001.0383; Exhibit 3-0013, Case Study 3, ANG.0030.001.0415.
- 301 Financial statements for 2010 and 2011 for the Corporate Trustees were not produced.
- 302 Exhibit 3-0013, Case Study 3, ANG.0030.001.0001 at 0006; Exhibit 3-0013, Case Study 3, ANG.0030.001.0086 at 0090; Exhibit 3-0013, Case Study 3, ANG.0030.001.0206 at 0210.
- 303 Transcript of P Comben, Case Study 3 at 2217:16–21.
- 304 Transcript of P Comben, Case Study 3 at 2111:29–32.
- 305 Exhibit 3-0001, Case Study 3, STAT.0057.001.0061 at 0061.
- 306 Transcript of P Comben, Case Study 3 at 2215:1–9.
- 307 Submissions of Counsel Assisting the Royal Commission, Case Study 3, p. 88 at para. 298.
- 308 Submissions on behalf of Archbishop Phillip Aspinall, Martin Drevikovsky and Rodney McLary, Case Study 3, p. 10 at para. 32.
- 309 Transcript of A Newby, Case Study 3 at 1884:47–1885:2.
- 310 Exhibit 3-0002, Case Study 3, ANG.9320.01804.0631 at 0633.
- 311 Transcript of A Newby, Case Study 3 at 1885:4–15; 1886:44–1887:3.
- 312 Exhibit 3-0001, Case Study 3, STAT.0058.001.0001 at 0003.
- 313 Exhibit 3-0001, Case Study 3, STAT.0058.001.0001 at 0004.
- 314 Transcript of A Newby, Case Study 3 at 1901:15–24.
- 315 Transcript of K Slater, Case Study 3 at 2291:3–4.
- 316 Transcript of K Slater, Case Study 3 at 2291:39–40.
- 317 Transcript of K Slater, Case Study 3 at 2292:6–7.
- 318 Transcript of K Slater, Case Study 3 at 2292:9–16.
- 319 Transcript of P Roland, Case Study 3 at 2025:15–19; Transcript of P Comben, Case Study 3 at 2133:43; see *Trustees of the Roman Catholic Church v Ellis* [2007] NSWCA 117 at [47] per Mason P.
- 320 Transcript of P Roland, Case Study 3 at 2049:43.
- 321 Submissions of Counsel Assisting the Royal Commission, Case Study 3, p. 86 at para. 290.
- 322 Exhibit 3-0001, Case Study 3, STAT.0058.001.0001 at 0009.
- 323 Transcript of A Newby, Case Study 3 at 1901:1–13.
- 324 The Offences Canon is available at: Anglican Church of Australia, *Offences Canon 1962-1981*, <http://www.anglican.org.au/governance/documents/canons/canon%201962-04%20offences.pdf> (viewed 1 August 2014).
- 325 Exhibit 3-0001, Case Study 3, STAT.0073.001.0069 at 0073–0074, clauses 10–11.
- 326 Exhibit 3-0001, Case Study 3, STAT.0073.001.0069 at 0076, cl. 17(1).
- 327 Exhibit 3-0001, Case Study 3, STAT.0073.001.0069 at 0079–0080, clauses 23(2) and 29.
- 328 Exhibit 3-0001, Case Study 3, STAT.0073.001.0069 at 0082, cl. 36(1), (2).
- 329 Exhibit 3-0001, Case Study 3, STAT.0073.001.0087 at 0088, s. 54(2).
- 330 Exhibit 3-0001, Case Study 3, STAT.0073.001.0087 at 0088, s. 54(2A)(b).
- 331 Exhibit 3-0001, Case Study 3, STAT.0073.001.0087 at 0088, s. 54(2A)(a).
- 332 Exhibit 3-0003, Case Study 3, ANG.9320.01806.0522 at 0537, cl. 54(1).
- 333 Exhibit 3-0001, Case Study 3, STAT.0073.001.0097. The ordinance was amended in 2006, 2007 and 2010: Exhibit 3-0003, Case Study 3, ANG.0006.002.0045. The Diocese of Newcastle’s Professional Standards Ordinance 2012 is available at: Diocese of Newcastle, *Professional Standards Ordinance 2012*, [http://www.newcastleanglican.org.au/SiteFiles/newcastleanglicanet/M102\\_-\\_PROFESSIONAL\\_STANDARDS\\_ORDINANCE\\_2012.pdf](http://www.newcastleanglican.org.au/SiteFiles/newcastleanglicanet/M102_-_PROFESSIONAL_STANDARDS_ORDINANCE_2012.pdf) (viewed 1 August 2014).
- 334 Transcript of P Gerber, Case Study 3 at 1952:1–15.
- 335 Exhibit 3-0020, Case Study 3, ANG.0035.001.0013.

- 336 Transcript of M Elliott, Case Study 3 at 2358:27–32.
- 337 Exhibit 3-0001, Case Study 3, STAT.0062.001.0001 at 0023.
- 338 Exhibit 3-0001, Case Study 3, STAT.0063.001.0070 at 0074; Exhibit 3-0001, Case Study 3, STAT.0063.001.0089 at 0089.
- 339 Exhibit 3-0002, Case Study 3, NSW.0470.01001.0001.
- 340 Exhibit 3-0002, Case Study 3, NSW.0470.01001.0001.
- 341 Exhibit 3-0002, Case Study 3, ANG.9320.01103.0697; Exhibit 3-0002, Case Study 3, ANG.9340.01002.0007; Exhibit 3-0002, Case Study 3, ANG.9320.01500.0014; Exhibit 3-0002, Case Study 3, ANG.9340.01002.0009.
- 342 Exhibit 3-0002, Case Study 3, ANG.9320.01103.0697; Exhibit 3-0002, Case Study 3, ANG.9340.01001.0007.
- 343 Exhibit 3-0002, Case Study 3, ANG.9320.01501.0031; Exhibit 3-0001, Case Study 3, STAT.0063.001.0070 at 0070–0072.
- 344 Exhibit 3-0002, Case Study 3, ANG.9320.01501.0023.
- 345 Exhibit 3-0002, Case Study 3, ANG.0002.001.0048 at 0048; Transcript of R Herft, Case Study 3 at 2413:4–12.
- 346 Exhibit 3-0002, Case Study 3, NSW.0460.01005.0016 at 0016–0017.
- 347 Transcript of P Gerber, Case Study 3 at 1951:39–46.
- 348 Transcript of P Gerber, Case Study 3 at 1951:29–46; Transcript of R Herft, Case Study 3 at 2410:13–21.
- 349 Transcript of K Slater, Case Study 3 at 2308:47–2309:5.
- 350 Transcript of K Slater, Case Study 3 at 2309: 17–20.
- 351 Transcript of K Slater, Case Study 3 at 2309:7–15.
- 352 Transcript of K Slater, Case Study 3 at 2309: 22–27.
- 353 Transcript of P Comben, Case Study 3 at 2201:34–2202:10.
- 354 Transcript of P Comben, Case Study 3 at 2202:12–30.
- 355 Transcript of M Elliott, Case Study 3 at 2356:29–36.
- 356 Exhibit 3-0001, Case Study 3, STAT.0073.001.0001 at 0002.
- 357 Transcript of R Herft, Case Study 3 at 2415:13–20.
- 358 Transcript of R Herft, Case Study 3 at 2412:15–32.
- 359 Transcript of R Herft, Case Study 3 at 2412:34–45.
- 360 Transcript of R Herft, Case Study 3 at 2414:34–44.
- 361 Transcript of R Herft, Case Study 3 at 2415:8–11.
- 362 Transcript of R Herft, Case Study 3 at 2414:15–20.
- 363 Transcript of R Herft, Case Study 3 at 2415:13–27.
- 364 Exhibit 3-0001, Case Study 3, STAT.0063.001.0001 at 0002.
- 365 Transcript of P Gerber, Case Study 3 at 1946:8–14.
- 366 Exhibit 3-0001, Case Study 3, STAT.0065.001.0001 at 0002; Exhibit 3-0001, Case Study 3, STAT.0065.001.0023; Exhibit 3-0001, Case Study 3, STAT.0065.001.0033.
- 367 Transcript of P Gerber, Case Study 3 at 1960:6–8; 1960:20–24.
- 368 Exhibit 3-0002, Case Study 3, ANG.0019.001.0001 at 0001.
- 369 Transcript of R Herft, Case Study 3 at 2414:26–30.
- 370 Submissions on behalf of Archbishop Roger Herft, Case Study 3, p. 3 at para. 4.
- 371 Transcript of P Gerber, Case Study 3 at 1946:16–35.
- 372 Exhibit 3-0001, Case Study 3, STAT.0062.001.0001 at 0021.
- 373 Transcript of P Gerber, Case Study 3 at 1948:23–28.
- 374 Exhibit 3-0001, Case Study 3, STAT.0062.001.0001 at 0021.
- 375 Exhibit 3-0002, Case Study 3, ANG.0019.001.0001 at 0001.
- 376 Exhibit 3-0002, Case Study 3, ANG.0019.001.0001 at 0001.
- 377 Exhibit 3-0001, Case Study 3, STAT.0663.001.0100 at 0100; Exhibit 3-0001, Case Study 3, STAT.0057.001.0032 at 0033.

- 378 Exhibit 3-0002, Case Study 3, ANG.9320.01802.0601; Exhibit 3-0002, Case Study 3, ANG.9320.01802.0602 at 0604.
- 379 Exhibit 3-0001, Case Study 3, STAT.0063.001.0110 at 0111.
- 380 Transcript of P Gerber, Case Study 3 at 1966:39–1967:6.
- 381 Transcript of R Campion, Case Study 3 at 1674:10–24.
- 382 Exhibit 3-0001, Case Study 3, STAT.0063.001.0206 at 0206.
- 383 Exhibit 3-0001, Case Study 3, STAT.0063.001.0208.
- 384 Exhibit 3-0001, Case Study 3, STAT.0063.001.0209.
- 385 Exhibit 3-0001, Case Study 3, STAT.0063.001.0212.
- 386 Transcript of P Gerber, Case Study 3 at 1987:8–16.
- 387 Transcript of P Gerber, Case Study 3 at 1983:5–9.
- 388 Transcript of P Comben, Case Study 3 at 2198:2–17.
- 389 Transcript of P Comben, Case Study 3 at 2197:1–26.
- 390 Transcript of P Comben, Case Study 3 at 2201:6–15.
- 391 Transcript of P Comben, Case Study 3 at 2198:32–38.
- 392 Exhibit 3-0015, Case Study 3, EXH.0003.015.0001 at 0001.
- 393 Transcript of K Slater, Case Study 3 at 2308:18–21.
- 394 Transcript of G Ezzy, Case Study 3 at 2344:14–21.
- 395 Transcript of K Slater, Case Study 3 at 2308:16.
- 396 Exhibit 3-0002, Case Study 3, ANG.0019.001.0001 at 0001–0002.
- 397 Tweed Daily News, *Death Notices*, <http://www.tweeddailynews.com.au/classifieds/ad/1079959/> (viewed 1 August 2014).
- 398 Transcript of P Comben, Case Study 3 at 2192:2.
- 399 Transcript of M Elliott, Case Study 3 at 2355:45–2356:3.
- 400 Exhibit 3-0002, Case Study 3, ANG.0002.001.0033 at 0034.
- 401 Exhibit 3-0002, Case Study 3, ANG.0002.001.0033 at 0033.
- 402 Transcript of M Elliott, Case Study 3 at 2362:19–20.
- 403 Transcript of M Elliott, Case Study 3 at 2377:22–34.
- 404 Transcript of M Elliott, Case Study 3 at 2377:36–47; 2378:1–14.
- 405 Transcript of M Elliott, Case Study 3 at 2377:1–21.
- 406 Transcript of M Elliott, Case Study 3 at 2362:23–27.
- 407 Transcript of M Elliott, Case Study 3 at 2371:37–47; 2372:1–12.
- 408 Exhibit 3-0003, Case Study 3, ANG.9310.01001.0584 at 0588, cl. 9.
- 409 Exhibit 3-0001, Case Study 3, STAT.0076.002.0001 at 0005.
- 410 Exhibit 3-0001, Case Study 3, STAT.0076.002.0001 at 0007.
- 411 Exhibit 3-0001, Case Study 3, STAT.0076.002.0001 at 0008.
- 412 Exhibit 3-0001, Case Study 3, STAT.0076.002.0001 at 0002–0006.
- 413 Transcript of M Elliott, Case Study 3 at 2368:15–20.
- 414 Exhibit 3-0001, Case Study 3, STAT.0076.002.0001 at 0006; Exhibit 3-0001, Case Study 3, STAT.0076.003.0002.
- 415 Exhibit 3-0001, Case Study 3, STAT.0076.002.0001 at 0004; Exhibit 3-0001, Case Study 3, STAT.0076.003.0002.
- 416 Exhibit 3-0001, Case Study 3, STAT.0076.003.0002; Transcript of P Aspinall, Case Study 3 at 2445:37–38.
- 417 Exhibit 3-0002, Case Study 3, ANG.0019.001.0001 at 0001.
- 418 He advised that it was not possible to place Mr Brown’s name on the National Register without him being informed: Exhibit 3-0002, Case Study 3, ANG.0019.001.0001 at 0002.
- 419 Transcript of M Drevikovskiy, Case Study 3 at 2406:25–2407:13.
- 420 Exhibit 3-0001, Case Study 3, STAT.0062.001.0093 at 0094.
- 421 Transcript of M Drevikovskiy, Case Study 3 at 2394:34–47; 2395:1–14.



<sup>422</sup> Transcript of M Drevikovsky, Case Study 3 at 2396:11–16.

<sup>423</sup> Transcript of M Elliott, Case Study 3 at 2363:2–7.

<sup>424</sup> Transcript of M Elliott, Case Study 3 at 2361:4–7.

<sup>425</sup> Transcript of M Elliott, Case Study 3 at 2376:28–40.







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