



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

# REPORT OF CASE STUDY NO. 43

The response of Catholic Church  
authorities to allegations of  
child sexual abuse in the  
Maitland–Newcastle region

NOVEMBER 2017

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The response of Catholic Church authorities to allegations  
of child sexual abuse in the Maitland-Newcastle region

November 2017

## CHAIR

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## COMMISSIONERS

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# Preface

## 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.

## Public hearings

A Royal Commission commonly does its work through public hearings. A public hearing follows intensive investigation, research and preparation by Royal Commission staff and Counsel Assisting the Royal Commission. Although it may only occupy a limited number of days of hearing time, the preparatory work required by Royal Commission staff and by parties with an interest in the public hearing 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, if the Royal Commission were to attempt that task, a great many resources would need to be applied over an indeterminate, but lengthy, period of time. For this reason the Commissioners have accepted criteria by which Senior Counsel Assisting will identify appropriate matters for a public hearing and bring them forward as individual ‘case studies’.

The decision to conduct a case study will be informed by whether or not the hearing will advance an understanding of systemic issues and provide an opportunity to learn from previous mistakes, so that any findings and recommendations for future change which the Royal Commission makes will have a secure foundation. In some cases the relevance of the lessons to be learned will be confined to the institution the subject of the hearing. In other cases they will have relevance to many similar institutions in different parts of Australia.

Public hearings will also be held to assist in understanding the extent of abuse which may have occurred in particular institutions or types of institutions. This will enable the Royal Commission to understand the way in which various institutions were managed and how they responded to allegations of child sexual abuse. Where our investigations 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 will also be held to tell the story of some individuals which will assist in a public understanding of the nature of sexual abuse, the circumstances in which it may occur and, most importantly, the devastating impact which it can have on some people's lives.

A detailed explanation of the rules and conduct of public hearings is available in the Practice Notes published on the Royal Commission's website at:

[www.childabuseroyalcommission.gov.au](http://www.childabuseroyalcommission.gov.au)

Public hearings are streamed live over the internet.

In reaching findings, the Royal Commission will apply the civil standard of proof which requires its 'reasonable satisfaction' as to the particular fact in question in accordance with the principles discussed by Dixon J in *Briginshaw v Briginshaw* (1938) 60 CLR 336 (*Briginshaw*):

it is enough that the affirmative of an allegation is made out to the reasonable satisfaction of the tribunal. But reasonable satisfaction is not a state of mind that is attained or established independently of the nature and consequence of the fact or facts to be proved. The seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding are considerations which must affect the answer to the question whether the issue has been proved to the reasonable satisfaction of the tribunal...the nature of the issue necessarily affects the process by which reasonable satisfaction is attained.

In other words, the more serious the allegation, the higher the degree of probability that is required before the Royal Commission can be reasonably satisfied as to the truth of that allegation.

## 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. As at 22 September 2017, the Royal Commission has held 7,642 private sessions and more than 472 people were waiting to attend one. Many accounts from these sessions will be recounted in later Royal Commission 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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### The public hearing

The public hearing was held in Newcastle between 31 August and 8 September 2016. The hearing reconvened for one day in Sydney on 9 December 2016.

The scope and purpose of the public hearing was to inquire into:

1. The experience of survivors of child sexual abuse by Catholic clergy and religious in the Maitland–Newcastle region.
2. The response of the Catholic Diocese of Maitland–Newcastle (the Diocese) to allegations of child sexual abuse made against Father Vincent Ryan.
3. The response of the Marist Brothers to allegations of child sexual abuse made against Marist Brothers including Francis Cable (Brother Romuald) and Thomas Butler (Brother Patrick).
4. The impacts of child sexual abuse on survivors, families and the community in the Maitland–Newcastle region.
5. Any related matters.

## The evidence

The Royal Commission heard from 25 witnesses. Those witnesses were 11 survivor witnesses or their relatives, a former teacher and an officer of Zimmerman Services. Survivor witnesses told us of their abuse by Brother Dominic, Brother Patrick and Cable at schools owned or operated by the Marist Brothers in the Maitland–Newcastle region.

The majority of survivor witnesses spoke of their experiences at Marist Brothers High School, Hamilton, in the 1970s. However, we also considered allegations of child sexual abuse against the three Brothers at other schools.

We also heard from nine institutional witnesses and a psychiatrist and former priest to whom an accused priest was referred.

In addition to those witnesses who gave evidence orally, the statements of other persons were tendered into evidence. In those cases, the parties with leave to appear were given an opportunity to request that the persons be available for questioning.

## The submissions process

The written submissions received in the case study were extensive and detailed. We have carefully reviewed and considered all submissions made in this case study, and we have taken them into account in preparing this report. In some parts of this report it has been necessary to address the submissions of the parties in detail and to include our reasoning in relation to the findings and recommendations we have made.

# Executive Summary

In Case Study 43, the Royal Commission into Institutional Responses to Child Sexual Abuse inquired into:

- the response of the Catholic Diocese of Maitland–Newcastle (the Diocese) to instances and allegations of child sexual abuse against Father Vincent Ryan
- the response of the Marist Brothers to allegations of child sexual abuse made against Marist Brothers including Francis Cable (Brother Romuald) and Mr Thomas Butler (Brother Patrick).

This volume of the report examines the response of the Diocese to allegations against Father Ryan.

## The Catholic Diocese of Maitland–Newcastle

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The Diocese is located in the Hunter and mid North Coast regions of New South Wales. The Diocese is made up of 39 parishes, each of which has a parish priest. A more junior priest, called an ‘assistant priest’, may also live and minister within the parish. The leader of the Diocese is the Bishop of Newcastle.

The current bishop of the Diocese is Bishop William (Bill) Wright. Former bishops of the Diocese include:

- Bishop Michael Malone, who was the bishop between November 1995 and June 2011
- Bishop Leo Clarke, who was bishop between June 1976 and November 1995
- Bishop John Toohey, who was bishop between 1956 and October 1975.

There was a period of eight to nine months between Bishop Toohey’s death and the date that Bishop Clarke assumed office. During that period, from October 1975 to June 1976, Monsignor Patrick Cotter served as the ‘Vicar Capitular’. A Vicar Capitular is effectively a caretaker for the bishop, but he does not have the full powers of a bishop under canon law.

## Father Vincent Ryan

Father Vincent Ryan was born in 1938 in the Maitland–Newcastle region. He was ordained as a priest in the Diocese in 1966. Between 1973 and 1975 he was an assistant priest at St Joseph’s parish in Merewether / The Junction. He lived in the presbytery, which was located on the grounds of St Joseph’s Primary School.

Father Ryan was the first Catholic priest in the Maitland–Newcastle region to be charged with child sexual abuse. He was charged in October 1995 and was ultimately sentenced to 14 years’ imprisonment.

## CNA's complaint

CNA told us that her two sons were sexually abused by Father Ryan.

In 1974, after her sons told her of the sexual abuse, CNA and her husband went to see Monsignor Cotter at the presbytery. At the time, Monsignor Cotter was the priest in charge of St Joseph's parish and Father Ryan was the assistant priest.

CNA told Monsignor Cotter her two boys had said that Father Ryan touched them on their private parts. Monsignor Cotter called Father Ryan into the room. Father Ryan denied the allegations. As the current bishop of the Diocese, William Wright, acknowledged, Monsignor Cotter 'objectly failed to do anything meaningful to protect the children, who should have been his primary concern'.

## December 1975 complaints

In 1975 a number of boys from St Joseph's Primary School disclosed that they were sexually abused by Father Ryan.

Sister Margaret-Anne Geatches, of the Sisters of St Joseph's of Lochinvar, was the principal of the school. One afternoon at the end of the school term she was told by a mother, CNC, that Father Ryan had been touching some boys. Sister Geatches then spoke with some boys who were returning from a school sports carnival. Sister Geatches said the boys told her they had been touched and pointed at their crotch area. It was clear to Sister Geatches that the boys were describing sexual touching and that Father Ryan had been touching them for some time. She said that they did not describe oral sex, but they were being fairly graphic and she believed them.

## Mr Hallinan

Mr Chris Hallinan was a teacher at St Joseph's school in 1975. Mr Scott Hallett and Mr Gerard McDonald were students in his grade 5 class. Mr Hallinan told us that the two boys approached him towards the end of 1975. They indicated to him that they had been sexually assaulted by Father Ryan on several occasions while they were attending altar boy practice.

Mr Hallinan told us that while he was interviewing the boys Sister Geatches directed him to stop talking to the children and also not to talk to their parents. Mr Hallinan agreed that he perceived his involvement in any further investigations could be a risk to his future employment and he said that any breach of a direction from an employer could result in adverse consequences. However, he did not recall that Sister Geatches said anything to that effect to him.

Sister Geatches did not recall telling Mr Hallinan not to discuss the matter with anyone. She said she told him not to discuss the matter any further with the boys that afternoon, but this was so that the boys could be calmed down and made ready to go home. Sister Geatches said she never made a comment to Mr Hallinan about the effect of his actions on his teaching career.

There are conflicting recollections of the conversation between Sister Geatches and Mr Hallinan. We do not consider that the evidence establishes that Sister Geatches said anything to Mr Hallinan about the potential impact of his actions on his future employment. Neither Mr Hallinan nor Sister Geatches told us that this was the case.

We accept that Mr Hallinan perceived from his conversation with Sister Geatches that the complaints against Father Ryan would be dealt with by the Church, that Mr Hallinan should not take any further action and that, if he did not cease his involvement, there could be a risk to his future employment. It is understandable that a junior teacher in the position of Mr Hallinan would have formed this view based on what he was told.

### Allegations reported to Sister Woodward

Sister Geatches decided to inform Sister Evelyn Woodward, another nun in the congregation, about the allegations. Sister Woodward was a counsellor, and Sister Geatches thought she would have the skills to deal with the matter.

Both Sister Geatches and Sister Woodward told us that they discussed the allegations against Father Ryan. However, there were differences in their accounts as to what the allegations were. Sister Woodward's evidence was that Sister Geatches told her the allegations involved genital handling and masturbation. Sister Woodward said there were also allegations of oral and anal sex. Sister Geatches thought she just said that Father Ryan had been touching the boys sexually and that it had evidently been going on for some time.

In the circumstances, we do not think it is necessary to resolve this point. It was not disputed that the allegations were serious. They involved multiple incidents with multiple young boys over a period of time. On either view, the matters reported included allegations of masturbation and genital fondling by Father Ryan of primary school boys.

### Allegations reported to Monsignor Cotter

Sister Geatches and Sister Woodward decided that Sister Woodward would report the matter to Monsignor Cotter. Monsignor Cotter was the Vicar Capitular at that time.

Sister Woodward travelled to see Monsignor Cotter that night (in December 1975).



She said she described to Monsignor Cotter what she knew, which she said was ‘oral and anal penetration, penis sucking and attempts at masturbation’. Although Sister Woodward did not recall referring to the ages of the boys, she said it was clear that the allegations were in relation to altar boys who attended the primary school.

Monsignor Cotter asked Sister Woodward for her view as to what he should do. She told him he needed to get Father Ryan away from children immediately and send him to get psychiatric help. She suggested Dr Peter Evans, a qualified psychiatrist with the Order of Franciscan Friars, and Monsignor Cotter told her he would contact Dr Evans as soon as he could.

### Dr CND

Mr McDonald said that after the sports carnival the boys decided they would go home and tell their parents what had happened. Mr McDonald’s mother, Mrs Phyllis McDonald, gave a statement to police in 1995 that her son told her that Father Ryan had been touching him ‘down there’ and indicated his crotch area. Mrs McDonald told police that later that night Dr CND, the father of another boy, came to the house and they spoke about the incident. Mrs McDonald told him what her son had told her. Dr CND said that he was going to speak to Monsignor Cotter about it.

Whether Mrs McDonald told Dr CND that Gerard had been touched ‘down there’ or also described oral sex is unnecessary to resolve. On either view, the matters she spoke of were serious. Dr CND spoke to Monsignor Cotter about the matter and he subsequently provided Monsignor Cotter with a letter of referral for Father Ryan to see a psychiatrist.

### Father Ryan is confronted and admits the allegations

Following the reports from Dr CND and Sister Woodward, Monsignor Cotter confronted Father Ryan. We heard evidence that during this confrontation Father Ryan admitted some wrongdoing to Monsignor Cotter.

Sister Woodward told us that she got a call from Monsignor Cotter shortly after she reported the allegations to him. He told her that Father Ryan had ‘knelt at his feet, wept, and admitted what he had done’. That evidence is, in part, supported by what Father Ryan told police in 1995. Referring to the events in December 1975, he said that Monsignor Cotter told him there was an allegation that he had ‘interfered with’ altar boys and that he admitted the allegation.

## Withdrawal of Father Ryan's faculties

Monsignor Cotter was interviewed by Mr Paul Firman of Arrow Insurance Adjusting on 4 November 1997. Monsignor Cotter said in that interview that he suspended Father Ryan from pastoral activities immediately when he received the complaint from Dr CND. However, there is no contemporaneous documentary evidence that Father Ryan had his faculties withdrawn, was suspended or was dismissed.

## The knowledge and response of Monsignor Cotter (Vicar Capitular)

Monsignor Cotter is deceased. However, before his death he provided several accounts of his recollection of events relating to Father Ryan.

We are satisfied that in December 1975 Monsignor Cotter was made aware of allegations that Father Ryan had sexually abused multiple altar boys who were students at St Joseph's Primary School.

We accept Sister Woodward's evidence that she told Monsignor Cotter the allegations known to her. Furthermore, there was no suggestion in the evidence of Sister Geatches or Sister Woodward that the children were not believed.

We are also satisfied that Monsignor Cotter received a complaint from Dr CND in relation to these allegations, although the evidence as to what exactly was alleged by Dr CND is inconclusive. Dr CND is deceased and never gave an account of his conversation with Monsignor Cotter. According to the police statement provided by Mrs McDonald, Dr CND was at least aware that Father Ryan had touched Gerard McDonald on his crotch area.

We are also satisfied that Father Ryan admitted to Monsignor Cotter that he had sexually abused altar boys at St Joseph's.

Despite the serious allegations reported to him directly, Monsignor Cotter professed to have little or no recollection of those events and the substance of the complaints. Given the gravity of the matters, his claimed lack of recollection defies belief. Monsignor Cotter's accounts were generally unspecific, unclear or evasive. Monsignor Cotter sought to minimise the gravity of the conduct reported to him and to present the information provided to him as having been vague or inconclusive, when that was not the case.

Monsignor Cotter, who was at the time the most senior priest in the Diocese, did not take appropriate or adequate steps to respond to these serious allegations. No official reprimand or sanction was put in place. The allegations were not properly documented and recorded in the Diocese's files. The only step taken was to refer Father Ryan to Dr Evans and remove him from the parish. That was completely inadequate. Monsignor Cotter sought to protect the Church and Father Ryan. No steps were taken to protect the welfare of the children in the Diocese.

## Monsignor Casey (diocesan consultant)

There is also evidence that the 1975 incidents were reported to Monsignor Vincent Casey, who was one of the diocesan consultants at the time. He later became the Vicar General of the Diocese.

We are satisfied that Monsignor Casey, another senior priest in the Diocese, knew that there had been 'trouble' with Father Ryan and altar boys and that Father Ryan had been referred to a specialist as a result. Monsignor Casey could not recall if he knew the substance of the allegations. However, Monsignor Cotter said it was discussed in detail. We are satisfied that Monsignor Casey knew that allegations had been made that Father Ryan had sexually interfered with altar boys.

## Other issues

### **No counselling or support for the boys**

We are satisfied that no counselling or support was provided to those primary school students at St Joseph's who reported being sexually abused by Father Ryan. Also, the principal who replaced Sister Geatches in the new year was not informed of the allegations at the time she commenced in her role, when she would have been in a position to arrange for the necessary supports to be provided.

### **Criminal allegations not reported to police**

No one in or associated with the Church authorities reported the allegations against Father Ryan to the police.

We accept that Sister Geatches and Sister Woodward may have felt constrained in the actions they could or should have taken because of their lack of experience, positions within the Church and the absence of any established protocols or procedures to assist them in responding to the allegations. They ensured that the matter was reported to the most senior person in the Diocese and left the decision whether to refer Father Ryan to the police in his hands. They both acknowledged their regret over not having done more at the time.

However, as acknowledged by both Sister Geatches and Sister Woodward, these were serious allegations. There was no suggestion that the children were not believed.

We consider it is extraordinary that any person in 1975 would not view:

- a report that a man had been touching primary school boys sexually on their crotch area for some time (being Sister Geatches' evidence of the allegations reported to her)
- a report that a man had been engaging in masturbation and oral and anal sex with primary school boys (being Sister Woodward's evidence of what she was told),

as criminal conduct.

We are satisfied that there was a failure on the part of those informed of the allegations to recognise the conduct as criminal and that the matters ought to have been dealt with by police.

Further, Monsignor Cotter's admission in his letter to Bishop Clarke in June 1996 was that he would have preferred to deal with matters 'in-house' rather than report them to police. That approach was wrong. The allegations should have been referred to the police, and not doing so was an abject failure to act in the best interests of the children of St Joseph's Primary School and the Diocese.

Monsignor Cotter's admission plainly demonstrates an approach that protected the Church and the perpetrator over the welfare of the children in the parish and the school.

This was an opportunity to bring an end to Father Ryan preying sexually on children within the Diocese. Missing that opportunity had devastating consequences for those children Father Ryan went on to abuse in the future.

## Father Ryan's treatment

The following facts are uncontested:

- After the allegations were made against Father Ryan in December 1975, Monsignor Cotter removed him from St Joseph's parish and he was sent to reside for a time with his parents, out of the area.
- In around late January 1976, Father Ryan arrived at the Franciscan Retreat House 'La Verna' in Kew, Melbourne.
- Dr CND referred Father Ryan to Dr Evans at La Verna, the person to whom Sister Woodward had recommended Father Ryan be sent for treatment.

- Father Ryan had only one consultation with Dr Evans in 1976 and did not attend any other sessions with any other psychologist or other person in relation to his sexual offending against children while he was in Melbourne.
- Father Ryan spent the academic year in Melbourne studying at the National Pastoral Institute before he returned to a parish appointment in the Diocese at the end of 1976.

The evidence as to whether Sister Woodward and Dr Evans spoke to each other directly about Father Ryan is inconclusive. Sister Woodward accepted that it was possible that the conversation occurred. Ultimately, little turns on the point. It is clear from the evidence that, whether by way of a direct conversation between Sister Woodward and Dr Evans or through a combination of other communications, the referral occurred and some level of detail about the alleged offending was conveyed to Dr Evans.

## Dr Evans' assessment

### **Postgraduate studies at the National Pastoral Institute**

One of the disputed matters concerning Father Ryan's assessment by Dr Evans was whether Dr Evans recommended that Father Ryan undertake postgraduate studies at the National Pastoral Institute.

We consider it is unlikely that Dr Evans would have recommended Father Ryan undertake postgraduate study at the National Pastoral Institute. There is no record of a recommendation to that effect contained in Dr Evans' notes of his consultation with Father Ryan. It is contrary to Dr Evans' evidence that Father Ryan should undergo therapy in the Maitland–Newcastle region.

However, we consider it is clear from the correspondence between Father Ryan and Monsignor Cotter that Monsignor Cotter believed that Dr Evans had recommended this course of action.

### **Service to be provided by Dr Evans**

The other matter that was the subject of some controversy in the evidence was the nature of the service to be provided by Dr Evans and any services recommended.

## Reports sought by Monsignor Cotter

Dr Evans said that he never advised anyone that Father Ryan was suitable to return to a parish appointment. We accept his evidence.

All of Monsignor Cotter's accounts consistently support the proposition that Monsignor Cotter had only minimal contact with Father Ryan throughout 1976 and made no inquiries with Dr Evans regarding Father Ryan or his progress. That is consistent with Father Ryan's recollection that he had only three conversations with Monsignor Cotter in 1976.

We are satisfied that Monsignor Cotter did not have any contact with Dr Evans directly. He did not seek from Dr Evans any recommendation or assurance that Father Ryan was 'cured' or that he was fit to return to ministry.

## Father Ryan returns to the Diocese

After his return to the Diocese and parish ministry in 1976, Father Ryan was not subject to any restrictions that would prevent him from interacting with children.

## Effectiveness of treatment

Monsignor Cotter arranged for Father Ryan to be sent to Dr Evans with an expectation that he would be treated by Dr Evans on an ongoing basis. However, that expectation does not appear to have been clearly communicated to Dr Evans by Monsignor Cotter or anyone else. It is inherently unlikely that Dr Evans would have agreed to see Father Ryan on an ongoing basis because he was soon to leave the priesthood and the Franciscan religious order. We accept his evidence that he did not agree to do so.

There was a breakdown in the communications between Dr Evans and the Diocese such that neither party had a clear understanding of the expectation of the other, even in respect of the service to be provided. It was not explained adequately to Dr Evans that the Diocese was awaiting and relying upon his advice in relation to Father Ryan. If it had been, Dr Evans would have been able to disabuse Monsignor Cotter and anyone else of their false assumptions about the service to be provided.

While the decision to treat Father Ryan was in part based on a belief that treatment would be effective, we are also satisfied that the decision to send Father Ryan for treatment in Melbourne was at least in part motivated by a desire to remove Father Ryan from the parish and the area where his continued residence was likely to cause a scandal for the Church.

Further, whatever view Monsignor Cotter held as to the potential for Father Ryan to be 'cured', his actions to verify the effectiveness of the treatment were completely inadequate. He failed to make any proper inquiries as to Father Ryan's progress and condition.

It was wrong for Monsignor Cotter to rely on the fact that he had received no adverse report from Dr Evans as a basis to conclude that Father Ryan had been 'cured' and could return to parish ministry. If Monsignor Cotter was relying on professional advice regarding Father Ryan's condition and appropriate appointments, he ought to have sought that advice directly. He did not.

We are satisfied that it was convenient for Monsignor Cotter to describe Father Ryan as rehabilitated. This avoided the need for the Diocese to take any special steps to prevent him from having contact with children or otherwise to deal with what would have been an ongoing management problem and likely scandal.

## Bishop Leo Clarke

Leo Clarke was ordained as a priest in the Catholic Archdiocese of Melbourne in 1949. He served as a priest in the archdiocese until June 1976, when he was appointed Bishop of the Diocese of Maitland–Newcastle.

Bishop Clarke is deceased. He previously provided accounts of his recollection of events relating to Father Ryan. Bishop Clarke gave a statement to police in 1996. In 1997, he was interviewed by lawyers and a statement was prepared. The statement is unsigned.

In the documents setting out Bishop Clarke's accounts of his dealings with Father Ryan, Bishop Clarke maintained that he was unaware of the allegations that Father Ryan had sexually abused boys at St Joseph's in the 1970s. Bishop Clarke said that he only became aware of the allegations when Father Ryan was charged, in 1995.

## Conversations with Monsignor Cotter

As set out earlier, before his death Monsignor Cotter also provided several accounts of his recollection of events relating to Father Ryan.

Contrary to Bishop Clarke's accounts in which he denied all knowledge of allegations against Father Ryan, Monsignor Cotter has said that he did discuss Father Ryan's situation with Bishop Clarke, around the time that he became bishop in 1976. Monsignor Cotter said he told Bishop Clarke that Father Ryan 'was homosexual and that there had been some problems with children'.

## Conversation with Sister Woodward

In Sister Woodward's oral evidence, she said she spoke to Father Peter Cantwell, a friar at La Verna, on a couple of occasions in 1976. In those conversations, Father Cantwell told her that Father Ryan was studying at the National Pastoral Institute and had had only one counselling session with Dr Evans. She said she was appalled to learn this because she knew Father Ryan's condition would not be cured in one treatment.

This does not sit comfortably with Sister Woodward's statement to the Royal Commission. In her statement, she said she assumed Father Ryan had been treated and cured when he returned to the Diocese at the end of 1976. She could not have held that assumption if she knew he had only seen Dr Evans once. Sister Woodward also did not give an account of the conversation with Father Cantwell in a police statement she provided in 1995 and in a 1997 interview with a loss adjustor.

However, when questioned by Counsel Assisting, Sister Woodward appeared to have quite a specific recollection of receiving this information while Father Ryan was in Melbourne. She also recalled Father Cantwell telling her that Father Ryan was enjoying his studies at the National Pastoral Institute, which he did not commence until after his session with Dr Evans. This suggests they did speak after Father Ryan's consultation.

We accept Sister Woodward's evidence that she learned through Father Cantwell some time in 1976 that Father Ryan had only had one session with Dr Evans.

Sister Woodward also said in her oral evidence that she had a conversation with Bishop Clarke in 1976, at about the time Father Ryan returned to the Diocese from Melbourne. She told us this included a discussion about why Father Ryan had been sent to Melbourne and a description of the conduct that Father Ryan had engaged in with the boys. Sister Woodward said she would have told Bishop Clarke that there was only one session between Father Ryan and Dr Evans.

Sister Woodward's evidence about the conversation with Bishop Clarke in 1976 is also not set out in her statement to the Royal Commission. In her statement, she said she could not be sure whether she had spoken to Bishop Clarke before 1995 about the allegations against Father Ryan. Sister Woodward's oral evidence is not inconsistent with such a conversation having occurred.

Sister Woodward's account of a conversation with Bishop Clarke about Father Ryan in 1976 is not set out in her 1995 police statement.

In her 1997 interview with a loss adjustor, Sister Woodward said she visited Bishop Clarke in 1995 when she heard that Father Ryan could be the subject of criminal investigation. She said she thought she told Bishop Clarke what she knew about the 1975 allegations.



Bishop Clarke responded, 'Oh, I didn't know all that ... I knew vaguely that something had happened in relation to Vince, because he went away for a year, but I presumed it was all okay when he came back'.

If Sister Woodward had informed Bishop Clarke of the allegations in 1976, she would have known that his statement was incorrect.

In light of the fact that her evidence in the public hearing differed from her previous accounts, Sister Woodward was questioned closely, both by Counsel Assisting and the Church parties, about the clarity of her recollection of the alleged conversation with Bishop Clarke. This included whether the conversation might have in fact occurred in 1995, not 1976.

Sister Woodward generally presented as a candid, credible and forthright witness. Despite the fact that she did not refer to her discussions with Bishop Clarke in 1976 in her prior statements, she affirmed she had a reasonably clear recollection of that conversation occurring at around that time and not in 1995. When giving oral evidence about these matters, she gave her evidence by reference to a sequence of events in 1975 and 1976 which make it likely that the conversation with Bishop Clarke occurred in or around the end of 1976. Particularly given that her evidence was connected with surrounding events, it is implausible that Sister Woodward is mistaken by a matter of two decades.

We accept her evidence regarding the conversation with Bishop Clarke in or around 1976.

### Other documents indicating Bishop Clarke's knowledge

In June 1994 Bishop Clarke signed a Special Issues Incident Report at the request of the Church insurers. Bishop Clarke completed and signed the form, which detailed certain matters in relation to Father Ryan. Bishop Clarke wrote that in the early 1970s, acting on a complaint, Father Ryan was sent to the National Pastoral Institute for one year. Bishop Clarke prepared this form more than a year before Father Ryan was charged.

In November 2007, a priest in the Diocese wrote to Bishop Malone. This priest wrote that he became good friends with Monsignor Cotter, and Monsignor Cotter told him 'he certainly did talk to Leo [Clarke] about Vince' and that Monsignor Cotter had recommended to Bishop Clarke to take Father Ryan back into the Diocese.

### Bishop Clarke's knowledge of allegations against Father Ryan in 1976

We are satisfied that Bishop Clarke spoke to Monsignor Cotter and Sister Woodward about the allegations against Father Ryan in 1976.

Monsignor Cotter's accounts of conversations with Bishop Clarke in 1976 indicate that Bishop Clarke knew that Father Ryan was in Melbourne for treatment in relation to homosexuality and 'problems' with children. That makes plain he was aware that Father Ryan was the subject of allegations of a sexual nature in relation to children.

Further, the evidence establishes that, at or around the time that Father Ryan returned to the Diocese in December 1976, Sister Woodward informed Bishop Clarke of the allegations that Father Ryan had sexually abused altar boys from St Joseph's, that he had been sent to Melbourne to be treated by Dr Evans and that he had only had one session with Dr Evans.

This conclusion is at odds with Bishop Clarke's position that he only became aware of the allegations in 1995, just before Father Ryan was arrested. Bishop Clarke's position is also inconsistent with documents – in particular, the 1994 Special Issues Incident Report, which was completed more than a year earlier and before the police were involved.

Further, it is inherently unlikely that the bishop would have allowed Father Ryan to return to the Diocese without understanding the reason he was in Melbourne.

As a consequence, we have concluded that Bishop Clarke was not honest when he later claimed that he had no awareness of Father Ryan's offending until 1995.

There is no evidence that Bishop Clarke made any inquiries or sought advice from anyone except Monsignor Cotter as to whether Father Ryan was, in fact, 'cured'. The only evidence of any report to Bishop Clarke was Sister Woodward's evidence that she had reported that Father Ryan had only seen Dr Evans once.

Father Ryan was returned to ministry and later to parish appointments without any special steps being taken by the bishop to restrict Father Ryan's access to children. That was a gross neglect of duty to the children of the parishes in which Father Ryan was placed and enabled Father Ryan to continue to sexually abuse children.

## Marist Brothers Hamilton

After Mr McDonald finished primary school at St Joseph's, he attended the Marist Brothers High School in Hamilton. He told us that in 1977 he saw Father Ryan give a church service at the school to mark the beginning of the school year. Mr Hallett (who also attended Marist Brothers Hamilton) also gave evidence that he recalled Father Ryan saying mass at the school hall.

After Father Ryan had said a mass at Marist Brothers Hamilton, Mrs McDonald rang the school to complain. Although Brother Turton was at Marist Brothers Hamilton as principal in 1977 and 1978, Mrs McDonald did not identify him as the Brother to whom she spoke.

Her statement to police was that she spoke to Gerard's form master. There is no reason to doubt that Mrs McDonald made a complaint to the school at the time and there should be such a finding. We are unable to determine on the evidence to whom the complaint was made. There was no evidence that the report was forwarded on to the Diocese.

The reappearance of Father Ryan was a cause of considerable distress and disillusionment for those students who had been abused by Father Ryan and for the families of those boys.

## Subsequent parishes

There is evidence that Father Ryan continued to sexually abuse children after he returned to the Diocese in 1976. In an unsigned statement taken in August 1998, Father Ryan is recorded as having said that he thought his first offence occurred only about one year after he returned from Melbourne.

Father Ryan has been convicted of offences regarding the sexual abuse of children in Hamilton, East Gresford and Cessnock. As was the case in relation to his prior offending, the offences by Father Ryan after 1976 included extended periods of offending involving multiple incidents against some survivors.

## CNH

CNH is the wife of a man who said he was abused by Father Ryan in the 1970s, when Father Ryan was at St Joseph's, Merewether. She provided a statement to police in January 1997.

CNH told police that at some time in 1990 her husband disclosed to her that Father Ryan used to 'interfere with' boys at St Joseph's. CNH told police that in around April or May 1991 she phoned Father Ryan and said to him that she knew what he did to little boys. CNH said that Father Ryan responded by saying, 'Yes but I've stopped I've had help I went to Melbourne it's alright now', and later said, 'All I can say is I'm sorry'.

After this conversation, CNH said she immediately phoned the 'Bishop's office' and was told she was being put through to Monsignor Cotter. CNH heard a male voice say 'hello'. CNH said, 'Are you aware that Father RYAN is molesting boys'. She said she heard a gasp and the response, 'Yes we are aware he has been to Melbourne to get Psychiatric help'. CNH asked what was going to be done about it, and the person responded, 'He's not doing it anymore'. CNH said it was hypocritical for Father Ryan to preach about goodness as a criminal, and the person responded, 'We'll deal with it'. CNH hung up.

CNH then telephoned Cessnock police station and said she believed Father Ryan was molesting boys because her husband had told her so but that he would not come forward. She did not give her real name.

In an unsigned statement by Bishop Clarke in 1997, he referred to receiving an anonymous phone call in the early 1990s from a woman. The conversation that Bishop Clarke referred to is consistent with the substance of the conversation recorded in CNH's police statement. We are satisfied that the complaint Bishop Clarke referred to is the one from CNH. It is not necessary to resolve whether CNH spoke to Bishop Clarke and not Monsignor Cotter or whether she spoke to both of them.

Bishop Clarke admitted he had received an allegation that Father Ryan had interfered with a woman's husband years before. The fact that the complainant was anonymous did not mean that Bishop Clarke could not put that allegation to Father Ryan, and it was wrong to treat it as a barrier to taking action.

## Criminal investigation

### Bishop Clarke is informed of the police investigation

Sister Woodward told us that she received a phone call from Mrs McDonald, the mother of Mr Gerard McDonald, in 1995. Mrs McDonald told her that a group of boys from St Joseph's who had been interfered with by Father Ryan in 1975, including her son, were planning to go to the police.

Sister Woodward reported the matter to Bishop Clarke in September 1995. Sister Woodward agreed that the effect of what she told Bishop Clarke was that there was likely to be a police investigation in relation to Father Ryan.

Sister Woodward said that she learned subsequently from Father Brian Lucas, a member of the National Professional Standards Committee, that Father Ryan was about to be arrested, although she did not know how Father Lucas had learned of that. Sister Woodward then relayed this to Bishop Clarke.

### Father Ryan is informed of police investigation

Father Ryan told police in 1996 that he met with Monsignor Cotter on 10 October 1995. Monsignor Cotter said that Bishop Clarke had asked him to let Father Ryan know of 'some sort of talk' about allegations that Father Ryan had sexually assaulted someone.

We are satisfied that Bishop Clarke directed Monsignor Cotter to inform Father Ryan of the criminal investigation. It was wrong of Bishop Clarke to do so. He and Monsignor Cotter should have appreciated that informing Father Ryan of potential or pending criminal investigations could have prejudiced those investigations.

Father Ryan was arrested on 11 October 1995 at the presbytery at Taree by Senior Constable Troy Grant and other officers. Bishop Clarke wrote to Father Ryan on 19 October 1995 and said that the events made it ‘impossible’ for Father Ryan to fulfil his duties as parish priest and that he had appointed another priest as parochial administrator of the parish.

## Bishop Michael Malone

Towards the end of 1994, Bishop Malone was appointed the co-adjutor bishop (a priest with the right of succession to the bishop) of the Diocese of Maitland–Newcastle. He arrived in the Diocese in February 1995. He told us that he had no familiarity with the Diocese prior to his appointment.

### Co-adjutor Bishop Malone’s alleged knowledge of the police investigation

In her statement to the Royal Commission, Sister Woodward said, ‘although my recollection is not entirely clear, I believe that I also informed Bishop Malone about Ryan’s conduct’, and she thought that discussion ‘was after my discussion with Bishop Clarke in 1995’. Sister Woodward did not refer to a conversation with Bishop Malone in her statement to police in November 1995 or in the interview with the loss adjuster in 1997. Sister Woodward told us she had ‘an idea’ that this conversation occurred just before Bishop Malone took over as the bishop of the Diocese, because she recalled that, when she told Bishop Clarke about the criminal investigation regarding Father Ryan, he said to her ‘rather dismissively’ that she should tell Bishop Malone.

We received a conflicting account from Bishop Malone about the nature of any discussions between them regarding Father Ryan before Father Ryan’s arrest on 11 October 1995.

Bishop Malone said that he had no knowledge of a police investigation in relation to Father Ryan before October 1995. He told us that there was an occasion on which Sister Woodward visited him at his residence. He said that they had a general conversation about the Diocese and that Father Ryan’s name came up. He said, ‘it came up in a very innocent kind of way, insofar as she mentioned to me that if there was anybody in the Diocese that was going to be in trouble, it was Vince Ryan’.

Sister Woodward’s account of being directed by Bishop Clarke to speak to the bishop elect (Bishop Malone), particularly given Bishop Clarke’s imminent retirement, is both credible and logical.

In her statement to us, Sister Woodward said that her recollection of a conversation with Bishop Malone was ‘not entirely clear’.

In a 1997 interview with a loss adjuster, Sister Woodward said Bishop Clarke asked her to inform Monsignor Cotter, not Bishop Malone, which she did.

Sister Woodward accepted counsel for Bishop Malone's proposition that her recollection of events in 1997 was likely to be more accurate than her recollection now.

It is possible Bishop Clarke directed Sister Woodward to inform Monsignor Cotter, not Bishop Malone, about the police investigating Father Ryan. In those circumstances, we are not satisfied to the relevant standard that the conversation with Bishop Malone occurred in the terms that Sister Woodward described in her oral evidence.

### Public statements made by Bishop Malone

We are satisfied that Bishop Malone made a number of public statements which misrepresented the true position in relation to the adequacy of the Diocese's response to allegations against Father Ryan in the 1970s:

- A media release dated 30 May 1996 is misleading in that it omits from the 'timeline' of the Diocese's response the reports to the Diocese in 1975 and 1976.
- A statement dated October 1997 is misleading, as it conveys the impression that the diocesan authorities only had knowledge of the gravity of Father Ryan's sexual abuse of children in 1995. That clearly was not the case.
- A 2001 letter to the editor of the *Newcastle Herald* is misleading, as it conveys that the approach in 1975 was an adequate response.
- A 2007 statement is misleading, as it conveys that the 'Church leaders' in the 1970s did not believe the allegations against Father Ryan. That is not correct and is not an appropriate explanation of the Diocese's inadequate response.

Bishop Malone accepted that he did not seek to interrogate Monsignor Cotter or Bishop Clarke in relation to what each had known about Father Ryan in 1975 and 1976. Bishop Malone ought to have appreciated that, in order to make truthful and accurate statements about the response of the Diocese, a full understanding of what they knew and how they responded was necessary. To the extent that the public statements were misleading or incomplete because of Bishop Malone's ignorance, that is not a reasonable excuse. Bishop Malone should not have been making statements purporting to explain and justify the history of the Church's dealings with Father Ryan without having taken proper steps to investigate the true position.

As Bishop Malone acknowledged, initially his attitude in responding to allegations of child sexual abuse was, in some respects, to defend or be loyal to the Church.

We are satisfied that, in the respects identified above, his statements were misleading. Bishop Malone's failure to make complete and accurate statements based on a proper understanding of the Diocese's dealings with Father Ryan is consistent with a defensive attitude and a position of loyalty to the Church at the time.

## Other matters

### Father Burston

Father William Burston was a priest of Diocese. He told us that in 1975 he was not aware of the incidents that led to Father Ryan being sent to Melbourne. However, he said that Monsignor Cotter told him that Father Ryan had been sent to Melbourne and that there was 'a complaint about inappropriate behaviour with boys'.

Bishop Malone appointed an independent committee to review the Church's response to crimes committed by Father Ryan. The committee issued a report in 1996. The report refers to 'a small group, who were aware, in varying degrees, of the nature of the disclosures relating to Fr Ryan' in 1975. This included 'a priest who was trained as a psychologist'. One of the authors of that report, Ms Elizabeth Seysener, gave evidence that this priest was Father Burston.

The evidence establishes that, at or around the time that Father Ryan was sent to Melbourne in early 1976, Father Burston also knew that Father Ryan had been sent there because of a complaint about sexually inappropriate behaviour with boys.

### Father Ryan's status as a priest

Bishop Malone did not take steps to seek to have Father Ryan laicised. Rather, following Father Ryan's release from jail in 2010, the Diocese entered into a memorandum of understanding with him that made his continued financial support dependent upon him complying with certain conditions. Those conditions included not wearing religious or clerical clothing or referring to himself by religious titles, not celebrating or administering sacraments and not having unsupervised contact with children.

Bishop Malone told us that he thought it would not be responsible to have Father Ryan laicised, because by doing so he would be being released into the community without any checks and balances beyond the end of his parole period. He said he understood how it could seem to the community that the Church not take steps to laicise an offender such as Father Ryan, but he said, 'I also understand that ... the community would not thank us for releasing a paedophile into its midst without any controls'.

When Bishop Wright became bishop of the Diocese in June 2011, he decided that it was appropriate that the existing arrangements for the supervision and monitoring of Father Ryan continue.

We consider it is wrong that a person convicted of multiple offences of serious sexual abuse of children should retain his status as a priest. It should not be seen as a necessary evil that people are retained within the priesthood in order to maintain supervision and a level of control. In the case of Father Ryan, the evidence indicates that supervision and control may have been achieved in other ways even with laicisation, such as by making the provision of material assistance conditional on compliance with supervision arrangements and other terms. Witnesses referred to the possibility that Father Ryan might go his own way, but the Church authorities do not appear to have addressed the likelihood of that occurring.

Father Ryan's retention of his title as a priest, with all of the institutional and spiritual authority that is conveyed by that status, is likely to aggravate the sense of betrayal and disillusionment with the Church felt by Father Ryan's victims and the Church community.

## Bishop Wright's evidence

### Bishop Wright's apology on behalf of the Diocese

As the current bishop of the Diocese, Bishop Wright delivered an apology to those affected by sexual abuse by clergy. The apology was expressed in Bishop Wright's statement to the Royal Commission and he delivered the apology during his oral evidence. Bishop Wright was right to make the concessions in his statement, and his apology on behalf of the Diocese was appropriate.

## Zimmerman Services

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Zimmerman Services is an agency which operates under the direction of the bishop. Its mandate is to prevent child abuse, respond to complaints of child abuse and provide support to persons affected by child abuse (both current and historical).

Zimmerman Services works with a number of government agencies and the police. It is staffed by lay people with specialist child protection qualifications and experience.

We heard from Ms Maureen O'Hearn, the current coordinator of the Healing and Support Team of Zimmerman Services. She said that Bishop Malone 'clearly saw a need that the Diocese needed to respond to those who had been affected by sexual abuse'. She thought that Bishop Malone identified that the Church did need to respond to people. She said it had continued to respond and has become more proactive over the years.



In September 2007, Zimmerman House was opened as a centre providing a support and healing service for victims, in acknowledgement of the need for support services to be in a physically separate location from traditional diocesan premises.

Zimmerman House was renamed Zimmerman Services in 2011. The investigative/prevention functions and the healing/support functions were separated, and an independent coordinator for the Healing and Support Team was appointed.

One purpose of this restructure was to address the potential conflict of interest that could arise when the manager of Zimmerman Services managed the negotiation of a civil claim on behalf of the Diocese with a claimant who was also a client of the Healing and Support Team.

The Healing and Support Team provides a supportive response to those who have been directly affected by child sexual abuse perpetrated by personnel of the Diocese of Maitland–Newcastle. There is no burden of proof placed on people to access Healing and Support Team services, and anyone who has been affected by the abuse can seek support. There is no limit to the length of time that a person can continue to seek support from the Healing and Support Team. Survivors who were witnesses in the case study provided positive accounts of their experiences with the Healing and Support Team.

The work that the Diocese has undertaken to improve responses to and management of complaints, and provide sensitive, effective and appropriate support to survivors of child sexual abuse, is commendable and ought to be acknowledged.

The Church parties submitted that Bishop Wright has discussed his views regarding Zimmerman Services with other bishops many times. They said that Zimmerman Services is a 'positive example of a localised approach to the specific issues that the Diocese has faced' and that the application of the model or aspects of it to other dioceses and religious institutes should be considered on a case-by-case basis.

The approach of the Diocese in establishing and supporting Zimmerman Services is a positive model that Bishop Wright could promote for the consideration of other Church leaders.

## The Marist Brothers

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The Marist Brothers is a Catholic male religious congregation founded in France in 1817. The Marist Brothers came to Australia in 1872. They opened their first school in New South Wales. Since that time, the Marist Brothers have principally been involved in the establishment and operation of various primary and secondary schools around the country. Since 1984 the Marist Brothers have taught approximately 200,000 children.

## Structure and governance of the Australian arm

Until December 2012, the Australian arm of the Marist Brothers was divided into two Provinces. The Sydney Province covered New South Wales, Queensland and the ACT. The Melbourne Province covered the remainder of the states and the Northern Territory. The two Provinces were joined in December 2012 to form one Australian Province. The matters considered in the case study concern what was formerly the Sydney Province.

The Australian Province of the Marist Brothers is administered by a Provincial Council, which is comprised of the Provincial (the leader of the Australian Province), the Vice Provincial and four advisors.

The Provincial has direct authority over all Australian Marist Brothers. The Vice Provincial, Provincial Council and Mission Council assist the Provincial. Each plays an advisory role to the Provincial in the governance of the Order.

We heard from the following Provincials during the public hearing:

- Brother Peter Carroll: Provincial of the Australian Province since 2015, Vice Provincial (2012–2015)
- Brother Michael Hill: Provincial of the Sydney Province (July 1995 – December 2001), Vice Provincial (1993 – July 1995)
- Brother Alexis Turton: Director of Professional Standards (January 2002 – March 2012), Provincial of the Sydney Province (June 1989 – June 1995), Vice Provincial of the Sydney Province (September 1983 – June 1989).

The Marist Brothers generally live together in a community. In many cases, the Brothers' residence was located either on, or in close proximity to, the school at which they taught. The Provincial appoints a Community Leader (formerly known as Community Superior) to lead each community of Brothers. The Provincial, or another member of the Provincial Council, aimed to visit each community of Brothers at least once a year.

## About the three Brothers

We considered the Marist Brothers' response to allegations of child sexual abuse against three persons: Francis Cable (formerly Brother Romuald), Brother Dominic (Darcy O'Sullivan) and Brother Patrick (Thomas Butler).

Each of those persons held teaching positions at Marist Brothers Hamilton during the 1970s.

## Early complaints regarding Cable

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### Marist Brothers Maitland

Cable taught at Marist Brothers Maitland between 1961 and 1963.

### Complaint to Brothers Fingal and Florentine

In 2012 a man told police about incidents involving Cable at Marist Brothers Maitland. He said that these occurred when he was in fifth class in 1959. A copy of the man's statement (in an unsigned form) was tendered. The man told police that one day he told Brother Florentine, another teacher, about what Cable had been doing. The man also said he told Brother Fingal, then the principal of the school, about the abuse but that 'nothing ever happened'.

We are mindful of the fact that Brother Fingal and Brother Florentine are deceased and we were not able to take their evidence about these matters. However, the Royal Commission must proceed on the basis of the evidence that is available. We are satisfied that it is likely that the man made reports to Brother Fingal and Brother Florentine. We are not in a position to make any findings as to the precise contents of such reports or the circumstances in which they were made.

We do not know whether the information was escalated to more senior authorities in the Marist Brothers. If the report was escalated, no effective action was taken by those authorities in response.

### Marist Brothers Pagewood

Cable taught at Marist College Pagewood (now Champagnat Catholic College Pagewood) in Sydney from 1965 to 1967.

### Complaint to Brother Willits

A former student at Marist Brothers Pagewood gave a statement to police in 2014. He described an incident in 1967, when he was 14 years old, in which Cable came up behind him in a science laboratory and put his hand down the front of the student's pants and inside his underpants. The former student described reporting the incident soon after to Brother Willits.

The former student's statement is signed and it is consistent with other accounts of Cable's conduct towards students. We accept his account.

We do not know whether Brother Willits reported the information to more senior authorities in the Marist Brothers, although the fact that Cable left the school shortly afterwards indicates he may have done so.

## Michael Balk's complaint to Brother Willits

Mr Michael Balk is a former student of Marist Brothers Pagewood. He told us of several incidents involving Cable when he was in form 4 in 1967, including Cable grabbing his penis in the pool at a swim training session. Mr Balk's evidence is that he then told Brother Kevin Willits, in front of his father, that Cable had touched him.

In a police statement many years later, Mr Balk's father gave a slightly different account of this incident and said his son never disclosed in detail what happened to him. However, we accept Mr Balk's evidence. His evidence was clear and unequivocal. It was not challenged. We are satisfied that an event such as this would stand out in his memory and it is unlikely Mr Balk is mistaken about disclosing what happened to him.

Brother Willits is deceased, and we have taken this into account. However, we are satisfied that Mr Balk disclosed Cable's conduct to Brother Willits.

As the Church parties acknowledged, nothing was done to protect children at Marist Brothers schools from abuse by Cable, and no appropriate action was taken in response to any complaints made to the Marist Brothers in the 1960s. The Church parties and Brother Carroll also acknowledged that complaints of this nature ought to have been recorded, should have led to appropriate action being taken within the school and should have been reported to the Provincial. We agree.

## Marist Brothers Hamilton

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Marist Brothers Hamilton (now known as St Francis Xavier's College) is a secondary school in the Maitland–Newcastle region in New South Wales. In the 1960s and 1970s, most of the teachers were Marist Brothers.

Brother Dominic, Brother Patrick and Cable all taught at Marist Brothers Hamilton during the 1970s.

The principals at the school in the 1970s were Brother William Wade, Brother Turton and Brother John Venard Smith. When he became principal, Brother Wade also became Superior of the Marist Brothers Community.

## The prevalence of sexual and physical abuse

### Sexual abuse

We heard from 11 witnesses who told us they were sexually abused at Marist Brothers Hamilton in the 1960s and 1970s. Of those, seven gave evidence that they were sexually abused by more than one Brother. In addition to the survivor witnesses, 22 police statements were tendered in which others say they were sexually abused by one or more of Brother Patrick, Brother Dominic or Cable at Marist Brothers Hamilton.

Many of the incidents described by the survivors occurred in public settings, in classrooms or the school playground, in view of other students and, occasionally, other teachers.

### Physical abuse

A number of survivors also recounted their experiences of physical violence at Marist Brothers Hamilton. Brother Wade accepted that on too many occasions there was excessive, cruel and unreasonable physical punishment, which should never have occurred. We accept the evidence of the survivors about the physical abuse they endured at Marist Brothers Hamilton. Their evidence was not challenged and revealed consistent themes.

### Intimidation of students

We also heard evidence of the connection between physical violence and the prevalence of the abuse and the effect of the Brothers' religious status on reporting allegations of physical and sexual abuse.

Evidence about physical intimidation was not limited to the students. Brother Wade gave evidence of receiving a complaint from a child of being sexually abused by Cable and having to confront Cable about the complaint. He spoke of feeling 'extremely anxious and nervous' to confront Cable because Cable was 'a very physically dominating and intimidating character'. Brother Wade said that Cable's conduct towards others was to intimidate and frighten them and that he was himself frightened of Cable. That the principal of the school with authority over Cable could be frightened and intimidated by him is an insight into the terror that was evidently felt by school students.

## The culture at Marist Brothers Hamilton in the 1960s and 1970s

We are satisfied that students at Marist Brothers Hamilton were subjected to frequent and sometimes brutal physical violence at the hands of certain Brothers and teachers in the 1960s and 1970s. The Church parties acknowledged this. The frequency and severity of the physical punishment and the lack of any apparent proportionality between the punishment and the supposed transgression is such that this cannot be explained as merely an example of typical corporal punishment as accepted in society at the time.

The physical punishment was of such a kind as to produce a culture of fear and intimidation of the students. Physical intimidation combined powerfully with the spiritual intimidation that students felt in dealing with Brothers because of their status as figures of religious authority.

Brother Dominic, Brother Patrick and Cable engaged in inappropriate sexual conduct with children at Marist Brothers Hamilton that was brazen, frequent and in some cases quite blatant. The Church parties accepted that position and acknowledged that it should not have occurred. Such conduct suggests that the Brothers perceived that they enjoyed a measure of impunity. The culture of physical violence and the students' fear of retribution contributed to this state of affairs.

## The impacts of physical and sexual abuse

Many survivors gave accounts of the long-lasting, profound effects of sexual and physical abuse at Marist Brothers Hamilton. These included psychological and psychiatric conditions, substance abuse, difficulties in social interactions, problems with authority, confusion surrounding sexuality and sexual identity, educational and career setbacks, relationship difficulties and loss of faith.

The Church parties acknowledged that the survivor witnesses had suffered greatly. They acknowledged the devastating impact of the abuse on survivors in both the short and long term.

## The death of Andrew Nash

Andrew Nash and his older brother CQT attended Marist Brothers Hamilton in the 1970s. Andrew Nash commenced at the school in 1973. In 1974, when Andrew was 13 years old, Cable was his form master. In October of 1974, Andrew Nash was found dead in his bedroom. He had hanged himself.

Mrs Audrey Nash, Andrew's mother, gave evidence that within two hours of Andrew's death a number of priests and Marist Brothers came to the house. They included Cable, Father William Burston and Brother Wade.

Father Burston told us that he arrived at the house to anoint Andrew and that no other priests or religious arrived while he was there.

In the time since Andrew's death, Mrs Nash has come to believe that he was sexually abused by Cable, although he never disclosed this to her. CQS, another former student of Marist Brothers Hamilton, told us that Andrew was one of the boys targeted for sexual abuse. When asked who targeted Andrew, CQS said 'Brother Romuald [Cable], and I also understand Brother Dominic'.

The current Marist Brothers Provincial, Brother Carroll, delivered a statement to the Royal Commission with regard to Andrew Nash's death. In that statement, Brother Carroll acknowledged that the evidence points to Andrew Nash having been sexually abused and to having taken his own life. Brother Carroll's statement was an appropriate acknowledgement to make on behalf of the Marist Brothers.

Brother Wade told us he had no recollection of attending the Nash residence that night, but he was not saying it did not happen. He denied that, if he went to the house, the reason was to ascertain if Andrew had left a note.

Brother Wade was able to recall other matters from his past, including from the 1970s, albeit with varying degrees of precision. He recalled other events following Andrew's death more clearly, including the mass held for Andrew. It is not credible that he has no recollection of an event as significant and unusual as attending the Nash residence on the night of Andrew's death. While it is true that Brother Wade frankly admitted his past failings in some respects, we do not consider that, as a witness, Brother Wade was ready to do so in all instances.

We are satisfied that Brother Wade was not frank or forthcoming in his evidence regarding his lack of recollection of this event.

We accept the evidence of Mrs Nash and CQT that Brother Wade visited the Nash residence on the night of Andrew's death and was present at the residence when Cable asked Mrs Nash whether Andrew had left a note.

The circumstances give rise to an inference that Cable asked whether Andrew left a note because Cable was concerned that Andrew's suicide might lead to suggestions that he was sexually abused coming to light.

We do not find that Father Burston was present at the same time as the Brothers or involved in any conversation in relation to a suicide note.

## CNP

CNP made a statement to police in November 2013 in which he said he was touched inappropriately by Brother Dominic in his technical drawing class in 1972. CNP said he told Brother Wade what had happened. Brother Wade said he could not recall either way whether the conversation with CNP happened.

We consider that the account that CNP provided to police is credible, although it may have been inaccurate in some respects. His account is believable and his evidence of his abuse is similar to the incidents described by other survivor witnesses and contained in the police statements of others.

As CNP resides overseas, he was not able to give evidence in the public hearing. Based on the evidence before us, we make no finding as to whether CNP made the complaint to Brother Wade.

## CNS

We heard from CNS, who was a student at Marist Brothers Hamilton between 1969 and 1972. CNS said that in 1972, during a meeting with Brother Wade, he said: 'How do you justify what Brother Patrick, [Cable] and Brother Dominic are doing molesting kids. How do you justify that in a Catholic School?' CNR, a friend of CNS, said that CNS relayed his conversation with Brother Wade to CNR a few days after it occurred. CNV, CNS's brother, also said that CNS told him he had spoken to Brother Wade. Brother Wade told us he could not recall meeting with CNS.

We do not think the language CNS said he used is unusual or out of character for a teenage boy. There is some inconsistency in the evidence that CNR and CNS gave, but we prefer CNS's direct evidence of the conversation to CNV's second-hand account. When questioned, CNS said he had a 'very clear memory' of his conversation with Brother Wade. He was also firm in his recollection that he mentioned all three Brothers. We accept CNS's evidence.

The ultimate effect of Brother Wade's sworn evidence to us and the signed statement he gave to police was that he could not recall if the conversation occurred, rather than that it did not occur.

We are satisfied that CNS told Brother Wade in late 1972 or early 1973 that Brother Patrick, Brother Dominic and Cable were 'molesting' boys. There is no evidence that Brother Wade did anything with that information. That was a gross failing on his part to protect the wellbeing of students.



## CNX

CNV is the son of CNX and younger brother of CNS. He told us he was sexually abused by Cable and Brother Patrick at Marist Brothers Hamilton in 1972 and 1973. CNV told his parents. His father, CNX, told CNV many years later that he subsequently had a meeting at the school with the principal, Brother Wade. Brother Wade gave evidence that he could not recall the conversation with CNX.

We accept CNV's evidence. We are satisfied CNX 'raised sexual abuse' with Brother Wade in relation to CNV. However, in the absence of direct evidence or a fuller account of that conversation, we are not able to draw any other conclusions as to the content of the conversation.

## Complaint to Brother Wade in relation to Cable

Brother Wade told us one complaint against Cable was made to him at Marist Brothers Hamilton. Brother Wade said he remembered only that this was a complaint to do with 'sexual interfering' with a boy, and he remembered he felt it necessary to confront Cable about it. He could not recall the year the complaint was made. However, in an interview with police in 2014, Brother Wade placed the time of the complaint as 'Sometime just before or just after' the death of Andrew Nash, which was on 8 October 1974.

Brother Wade confronted Cable about an allegation that Cable had sexually interfered with a boy. Brother Wade said he understood that Cable denied the allegation by saying, 'Oh, I thought I'd been good in that area recently'. That statement clearly implies that Cable had *not* been good in that area previously. The 'area' was the topic of his alleged sexual interference with children. We are satisfied that Cable effectively admitted to Brother Wade that he had engaged in sexual misconduct with minors in the past.

In his evidence to us, Brother Wade sought to avoid accepting the significance of what Cable had said to him. Even when presented with the document recording his own description of that admission to police, Brother Wade sought to qualify his prior position and to minimise the significance of what he was told. We are satisfied that Brother Wade was less than forthcoming in this critical aspect of his evidence.

Even in relation to the particular allegation that Brother Wade was putting to Cable, the response that was treated as a 'denial' was itself so unconvincing that Brother Wade should have been highly suspicious.

## CQS

CQS commenced high school at Marist Brothers Hamilton in 1973. CQS gave evidence that he was sexually abused by Cable in 1974, and he told his parents. His father contacted Mr Forbes, his class master. Within days, CQS said he and his father met with Brother Wade in his office. CQS believed he told Brother Wade everything that Cable had done to him. Subsequently, CQS said that Cable was very aggressive towards him and caned him at every class. CQS said he lived in fear and lost confidence in himself and the school.

Brother Wade said that he did not recall a conversation with CQS and his father, as described by CQS.

We accept CQS's evidence. As counsel for Brother Wade accepted, he was an impressive witness. When questioned, CQS maintained that he had a clear recollection of the topics he spoke about with Brother Wade. There is no reason to disbelieve him.

We are satisfied that in 1974 CQS told Brother Wade that Cable had tried to touch CQS's genitals, Cable had rubbed his erection against CQS and probably other boys, Cable had walked naked in the shower area with an erection in front of boys, and Cable had made CQS undress in front of other boys while groping CQS's genitals.

We are not able to say definitively whether the complaint from CQS is the same complaint that Brother Wade told police he confronted Cable about or if it is another (that is, additional) complaint. We agree that the matters identified on behalf of Brother Wade make it likely that it is the same complaint.

In any event, given the nature and detail of the matters that CQS, in the company of his father, reported to Brother Wade, it is extraordinary that Brother Wade professed to have no recollection of the meeting.

On the basis of what CQS told him, Brother Wade could have been in no doubt that other boys were at risk of sexual predation by Cable.

Assuming the CQS complaint is the complaint that Brother Wade recalled, he took no action other than to confront Cable and accept his denial. Whether or not Brother Wade confronted Cable regarding CQS's complaint, Brother Wade's response was ineffective. Following CQS's report to Brother Wade, CQS was victimised by Cable.

## Brother Wade's conduct

As set out above, we are satisfied that Brother Wade received three allegations of child sexual abuse or other sexually inappropriate behaviour by Brother Patrick, Brother Dominic and Cable between late 1972 and 1974, as well as an admission by Cable that he had sexually interfered with boys in the past.

Brother Wade received those complaints at a time when he was in a leadership position within the Marist Brothers, as the school principal and the Superior in the Marist Brothers Hamilton community. The only evidence of any action by Brother Wade to respond to these complaints is his evidence that he confronted Cable on one occasion. On that occasion, he accepted Cable's unconvincing denial of the complaint and took no action on Cable's admission of sexually interfering with boys in the past.

Brother Wade's lack of response to inculpatory statements by Cable is extraordinary and inexcusable. So too is his failure to take further action on the particular complaint.

Cable should have been removed from contact with children immediately and the matter should have been reported to the police. Brother Wade prioritised his own desire to avoid confrontation and controversy, for himself and for the Marist Brothers, over the safety of children in his care.

Brother Wade's acceptance of the denial and his failure to take any action to protect children from Cable or even to interrogate Cable further as to his past misconduct were grave failings on the part of Brother Wade and the institution in which he held a senior role.

There is no evidence that Brother Wade reported any of the three complaints or the admission to the Provincial.

No record of any of the complaints reported to Brother Wade was produced by the Marist Brothers. We are satisfied that no records were made. Brother Wade's failure to make a full and frank record of the complaints of serious misconduct against Brothers was totally inadequate and a serious dereliction of his duty as principal of the school and Superior of the Marist Brothers community.

We are satisfied that Brother Wade failed to act in the best interests of the children at Marist Brothers Hamilton, for whom he was directly responsible. Had he responded appropriately when complaints were brought to him, it is possible that other children would not have suffered sexual abuse.

## CNQ

CNQ was in Brother Patrick's maths class in 1980. He told us about incidents during that year in which Brother Patrick sexually abused him. After one incident, CNQ said he told his form master, Brother Alfred, that 'Br PATRICK had his hand on my thigh and leg and I punched him'.

After later telling his mother what Brother Patrick had done, CNQ said his mother went to see the principal, Brother Smith. CNQ said he told Brother Smith what Brother Patrick had done.

Brother Alfred is deceased. Brother Smith is 88 and was not competent to give evidence. Brother Smith provided answers to a series of questions about CNQ's complaint to the solicitors for the Marist Brothers' insurer in 2013.

CNQ's evidence of his report to Brother Smith, in the presence of his mother, and the response of Brother Smith is credible.

We are satisfied that CNQ told Brother Smith that Brother Patrick had touched him in a way that was inappropriate. The implication of Brother Smith's recollection in 2013 is that he would have tried to 'smooth over' things with CNQ. That was plainly inadequate.

CNQ subsequently changed schools to St Pius X, Adamstown, and he and his mother met with the principal, Father Tom Brennan. CNQ said he told Father Brennan that Brother Patrick 'had been touching me and that I had had enough – that's why I belted him'. Father Brennan responded by 'putting both hands up in a defensive manner and saying that there was nothing he could do about it'.

We accept CNQ's evidence. Brother Carroll said that any complaint of this nature should have been recorded, should have led to appropriate action being taken within the school and should have been reported to the Provincial.

Brother Smith was not competent to give evidence. Father Brennan is deceased. We accept that neither of them is in a position to explain what action (if any) was taken in response and why.

We do not know whether Brother Smith or Father Brennan took any steps to inquire further as to the nature of the allegation or to escalate the complaint to the Marist Brothers Provincial. If the report was escalated, no effective action was taken by those authorities in response.

## Brother Dominic

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After he left Marist Brothers Hamilton in 1977, between 1978 and 1996 Brother Dominic held teaching appointments at Marist Brothers schools outside the Maitland–Newcastle region. These included St Mary’s High School in Casino in Northern New South Wales (St Mary’s) and St Peter Claver’s College in Riverview, Queensland (Riverview).

### Report to Brother Turton regarding CNM in November 1994

In 1994, Brother Turton (then the Provincial) received a call from the parish priest of Casino, Father Rex Hackett. Father Hackett had been approached by a man, CNM. CNM told Father Hackett of matters regarding Brother Dominic from the time CNM was a student at St Mary’s in the early 1980s. Brother Turton made a note of the report.

Brother Turton was not sure if he asked Brother Dominic about CNM’s allegation of sexual touching, but said that he believed he did and that Brother Dominic said there was nothing to the allegation. Brother Turton said he reported the matter to Father Brian Lucas because he was the nominated person under the Church’s *Protocol for Dealing with Allegations of Criminal Behaviour* (Church Protocol).

We accept the evidence and submission of Brother Turton that he acted in accordance with what he understood to be the requirements of the relevant Church Protocol at the time. No further steps were taken to investigate CNM’s allegation or to test the reassurance of Brother Dominic that there was nothing to the complaint, in circumstances where Brother Dominic held a current teaching position and was a principal of a school.

### Complaint from a staff member to Brother Turton in August 1995

A further complaint in relation to Brother Dominic is recorded in a note by Brother Turton in 1995, when Brother Dominic was the principal of Riverview.

Brother Turton said the complaint arose ‘in passing’ while he was dealing with the complaint about another Brother by a staff member. He ascertained that the concerns were of ‘inappropriate touching’, which he said was ‘being too tactile and not maintaining professional boundaries’, but that there was no suggestion or complaint made that Brother Dominic had sexually assaulted any students.

Brother Turton's response to the staff member's complaint was inadequate. He sought to distance himself from and avoid responsibility for the complaint by saying it was a matter for the Brisbane Catholic Education Centre (CEC). If he held the view that complaints were exclusively within the purview of the CEC, he ought to have informed it of the earlier allegation that Brother Dominic had touched CNM's genitals in around 1981. That information was clearly relevant in assessing the complaint he received in August 1995 and determining any necessary action. On his own evidence, he took no steps to follow up with the CEC or inquire as to the outcome of the August 1995 matter.

We reject Brother Turton's submissions regarding the effect of the differences between the complaint from CNM and the 'hearsay' reported by the staff member. Despite Brother Turton's evidence that there was no specific allegation, the matter reported to him by the staff member in August 1995 indicated that Brother Dominic posed a risk to students. Had CNM been made aware of that, he may have followed up on his complaint with the Marist Brothers directly. The absence of a direct report was the reason that Brother Turton gave for inaction on CNM's complaint. That was not an adequate reason for continued inaction.

## Handover from Brother Turton to Brother Hill

Brother Hill was Vice Provincial at the time Brother Turton received the 1994 complaint from Father Hackett, and he had just become Provincial at the time of the 1995 allegation by a staff member. Therefore, the nature of any discussions between them regarding Brother Dominic and any formal handover process was important.

Counsel for Brother Turton (who was also counsel for Brother Hill) submitted that the effect of the evidence was that Brother Turton thought it likely he did discuss these matters with Brother Hill and 'All Br Hill was able to say was that he had no recollection of that'.

In our view that puts a gloss on the evidence of Brother Hill, who said the complaints were not brought to his attention *and* that he could not recall discussing the complaints specifically, or Brother Dominic generally, with Brother Turton.

We are satisfied that Brother Turton did not tell Brother Hill about the complaints he had received against Brother Dominic. Neither Brother Turton nor Brother Hill had a specific recollection of discussing them. It is inherently unlikely that Brother Hill would not remember having been informed of a complaint that Brother Dominic had touched CNM's genitals or that a teacher was concerned about his inappropriate relationship with students. The information was important, and Brother Turton should have told Brother Hill about it.

## Complaint by CNO in 1996

In July 1996, CNO, a 13-year-old student in grade 9 at Riverview, made a complaint against Brother Dominic to police. CNO told police about three incidents which had occurred the previous year. The complaint was referred to the school and the Brisbane CEC.

Brother Dominic was interviewed by representatives of the school and the CEC on 16 July 1996. He made admissions in relation to some of the alleged conduct but did not accept that it was improper.

Brother Hill told us he remembered CNO's case 'quite clearly'. He said Brother Dominic told him that he had done something foolish in making an inappropriate statement to a student. Brother Hill's evidence was that he was not aware at the time that CNO also said that Brother Dominic touched him inappropriately.

We consider that the documents give rise to the inference that Brother Hill was informed of the alleged inappropriate touching.

We are satisfied that Brother Hill was made aware both of the inappropriate comment and that Brother Dominic had touched CNO in a way that CNO considered to be inappropriate.

## Criminal investigation regarding CNO's complaint

Documents in evidence record communications between Mr Pat Mullins, Brother Dominic's solicitor, and Brother Hill relating to the police investigation of CNO's complaint.

We are satisfied that Brother Hill knew at or around the time that CNO had made a statement to police and that Brother Dominic had been interviewed about the allegations. We are satisfied that he was informed by Mr Mullins in March 1997 that the police said it was unlikely that proceedings would be brought 'in the near future'.

It is not clear on the evidence whether Mr Mullins informed Brother Hill on or around 16 December 1996 that police were intending to charge Brother Dominic in the New Year (1997) and we make no finding as to whether or not that occurred.

## CQP

On 25 May 1996, Brother Hill held an interview with Brother Dominic in which he proposed appointing Brother Dominic as the principal of St Francis Xavier's College Hamilton (St Francis Xavier's) (formerly Marist Brothers Hamilton) from the beginning of 1997. On 3 June 1996, Brother Hill wrote to Brother Dominic to inform him of his appointment as principal of St Francis Xavier's, to commence at the beginning of the 1997 school year.

### CQP's evidence

CQP was a student of Marist Brothers Hamilton in the 1970s. He gave evidence that he was sexually abused by Brother Dominic in 1972 and 1973 and that he saw Brother Dominic sexually abusing other boys in the class.

In 1996 CQP was deputy principal of a Catholic school. CQP gave evidence that in 1996 he read an article in the *Newcastle Herald* announcing the prospective appointment of Brother Dominic as principal of St Francis Xavier's.

CQP met with Mr Michael Bowman of the CEC and 'told him I was concerned that Brother Dominic was coming back to St Francis Xavier's College because of what he had done to me and other kids when we were students there'. CQP said that Mr Bowman indicated to him that he would take the matter up with Bishop Michael Malone, who was then the Bishop of the Catholic Diocese of Maitland–Newcastle, and the Provincial, Brother Hill.

We heard from CQP that within the next few days he received a phone call from Brother Hill. Brother Hill told CQP that Bishop Malone had informed him that CQP had made allegations about Brother Dominic. CQP said he told Brother Hill what Brother Dominic had done to him, and he believed he made it clear that Brother Dominic's conduct was sexual.

### Bishop Malone's evidence

Bishop Malone told us that he remembered there was an issue with regard to the character of the new principal, although he could not remember who the Brother in question was. He said that he was informed that there were 'warning bells' and that these were 'around issues of inappropriate sexual behaviour'. He did not know what the nature of the behaviour was.

Bishop Malone stated he was 'vague' on the source of that information but that he thought it was the director of schools in the Diocese, who was Mr Bowman. He said that his diary reflected a meeting with Mr Bowman on 13 August 1996 and that he assumed, but was not certain, that the information came from Mr Bowman. That is consistent with CQP's evidence, and we are satisfied that this was the case.



## Brother Hill's evidence

Brother Hill's evidence was that he received a phone call from Bishop Malone shortly after Brother Dominic's appointment was announced. Bishop Malone 'raised serious reservations about the appointment due to several statements that he had received from men reporting inappropriate behaviour by Dominic'.

Following the call from Bishop Malone, Brother Hill said he contacted CQP, who was an acquaintance and who had been a student of Brother Dominic at Marist Brothers Hamilton. He said he did so in an attempt to find out more information about the reported inappropriate behaviour.

Brother Hill denied that Bishop Malone had identified CQP as a person who had raised a complaint about Brother Dominic's appointment and that this was the reason Brother Hill called CQP. He told us it was a 'total coincidence' that he happened to contact the very person who made the complaint to Bishop Malone.

Brother Hill said at no point did CQP say he had himself been abused by Brother Dominic.

CQP presented as an honest and forthright witness, whose recollection of his experiences and his discussion with Brother Hill about Brother Dominic was clear. When questioned by counsel for Brother Hill, CQP said that he did not doubt he told Brother Hill that the conduct was sexual. We are satisfied that CQP's memory of the conversation is reliable.

Counsel for Brother Hill submitted that the explanation Brother Hill gave for contacting CQP was plausible, given they had met in the Brotherhood, CQP looked up to Brother Hill and Brother Hill knew that CQP was taught by Brother Dominic.

We do not agree. There had been no contact between CQP and Brother Hill for 20 years. Further, Brother Hill's purported reason for contacting CQP (to assist Brother Hill in explaining a decision he had already made to revoke Brother Dominic's appointment) is not credible. We consider it is entirely implausible that it was a 'total coincidence' or 'sheer chance' that Brother Hill phoned the very person who was the source of the complaint to Bishop Malone, referred to by Mr Bowman.

We also consider it is entirely implausible that, had this coincidental phone contact occurred, CQP would not have indicated to Brother Hill that he had contacted Mr Bowman with a complaint that he had himself been abused by Brother Dominic. The only logical conclusion is that Brother Hill contacted CQP because he was informed that CQP had made an allegation that he was sexually abused by Brother Dominic.

We are satisfied that the conversation with Brother Hill occurred as described by CQP.

We reject Brother Hill's evidence regarding the conversation with CQP. Brother Hill's account of this conversation was not truthful.

## Brother Hill's response to CQP's complaint

Brother Hill should have consulted his predecessor, Brother Turton, to determine if other allegations had been made against Brother Dominic.

Brother Hill should have checked the files on Brother Dominic, particularly if he was unable to or did not make inquiries with Brother Turton. We are satisfied that, had he done so, he would probably have seen that there had been at least two prior allegations against Brother Dominic.

Brother Hill took no action to seek to have Brother Dominic removed from his position as principal of Riverview in the latter half of 1996, even though there had been objections to his appointment to St Francis Xavier's. This was a serious failure on his part.

## Minutes misleading

The minutes of the meeting of the Provincial Council dated 16 August 1996 record that Brother Dominic 'is unable to go to Hamilton next year because of health reasons'.

The reason recorded in the minutes of the Provincial Council meeting for Brother Dominic not taking up the appointment – because of his health – were false. Whatever issues there were with Brother Dominic's health at the time, we are satisfied that the appointment was withdrawn because concerns were raised about sexually inappropriate behaviour by Brother Dominic at Marist Brothers Hamilton in the 1970s.

It was the collective responsibility of the Provincial Council, including Brother Hill, to record accurate and frank minutes. To record in the minutes that ill health was the reason Brother Dominic had not been appointed served to conceal the true reason.

Brother Hill provided no explanation as to why he approved minutes which were misleading.

## Wellsprings Program and return to Australia

In 1997, Brother Dominic travelled to the United States and attended the Wellsprings Sabbatical/Renewal Program. Brother Hill told us that he arranged for Brother Dominic to attend Wellsprings because he believed that this program would assist Brother Dominic to 'address the issues' that had been reported to Brother Hill, including 'boundary violations'.

Brother Hill later wrote to Brother Dominic proposing that he consider taking up a position as Director of the Novitiate in Lomeri, Fiji, at the end of the year. Brother Hill said that he proposed the appointment because it would give Brother Dominic something to do but it would not put him in any unsupervised contact with minors.

Brother Dominic was subsequently appointed to Provincial House, Drummoyne, as the Province secretary and Community Leader. Brother Hill gave evidence that 'part of the reason' he gave Brother Dominic this appointment was to avoid him having unsupervised contact with children.

Brother Hill ceased as Provincial in 2001. He said that he would have had a conversation with the Brother who took over from him and told him that Brother Dominic should not have unsupervised contact with children. There is no documentary record of that conversation or of Brother Hill's conclusion.

## Appointment to Marist College Ashgrove

Brother Dominic remained in Drummoyne until the beginning of 2005, when he was appointed as personal assistant to the headmaster of Marist College Ashgrove, Queensland (Ashgrove).

That appointment was made despite Brother Hill's conclusion that Brother Dominic was not fit to have unsupervised access to children. Although it was not a teaching position, it was an appointment to a school and there was an obvious risk that Brother Dominic could have unsupervised contact with children. Brother Hill has accepted in his submission that the appointment involved an unacceptable risk.

In light of the history and frequency of complaints against Brother Dominic, the decision to place Brother Dominic at Ashgrove in 2005 was wrong. It put children at that school at risk of sexual abuse.

## Brother Patrick

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After leaving Marist Brothers Hamilton at the end of 1980, Brother Patrick held teaching positions at Kogarah Marist High and Marcellin College Randwick.

In 1989, Brother Patrick was appointed to Ashgrove in Queensland as a remedial teacher. He continued to tutor students until his retirement in 2001.

## Brother Turton's response to CQY, CNJ and the two boys from Ashgrove

By September 1992, Brother Turton had received three complaints concerning Brother Patrick: a complaint by CQY in early 1991, a complaint by CNJ in August 1992 and a complaint regarding two male students from Ashgrove, aged 13 or 14, in September 1992.

The only action taken in response to those complaints was the system of 'supervision' and 'vigilance' that he directed the principal and school counsellor to exercise. That system was not altered following the complaint by the two boys.

Brother Turton's evidence was that he relied upon the advice of Father Lucas and/or Father John Usher in Sydney in relation to the CQY and CNJ complaints and on the advice of Father Jim Spence and Father Peter Dillon in Brisbane for the Ashgrove complaint. That was consistent with the Church protocols that were in place at the time, which nominated different persons to respond to complaints in different regions.

We accept that any advice that Brother Turton received from those persons to whom he was encouraged to report pursuant to the Church Protocol for responding to allegations of child sexual abuse then in operation is significant.

However, there is no evidence that Brother Turton informed Father Lucas or Father Usher of the allegation regarding the two boys from Ashgrove. Also, there is no evidence that Brother Turton informed Father Spence of the previous complaints by CQY or CNJ. Those matters were obviously significant for any person making an assessment of Brother Patrick's conduct and deciding on the necessary response. They indicated that Brother Patrick had engaged in a pattern of inappropriate behaviour and that the behaviour was ongoing.

Brother Turton told us that he thought the arrangements were working because he was informed of the incident involving the two boys before something more serious happened. In fact, it ought to have been obvious to Brother Turton that the arrangements were inadequate and ineffective. Brother Patrick was left in a position where he had the opportunity to touch students in a sexually inappropriate way, and he did so.

That Brother Turton failed to appreciate this, even in hindsight, in his evidence in September 2016 indicates he did not understand, and has not until very recently understood, the risks posed by Brother Patrick and the type of response that was required. However, we note that subsequently, in his submissions, he accepted that supervision arrangements were inadequate and inappropriate. At least by the time Brother Turton received the report regarding the two boys at Ashgrove, Brother Turton should have appreciated the need to remove Brother Patrick from a school environment immediately. In failing to do so, he did not have due regard to the safety and welfare of the students at Ashgrove, who were left at ongoing risk.

Brother Turton accepted in his submissions that he should have removed Brother Patrick from the school environment earlier.

## CQZ

On 12 July 1993, Brother Turton met with CQZ, another former student of Marist Brothers Eastwood who complained about Brother Patrick's conduct towards him between 1959 and 1961.

Brother Turton said he did not take any action in relation to CQZ's complaint because 'there was nothing different there, nothing new' and this was 'certainly not more serious than the others, if anything, less'. He said the supervision and vigilance arrangements regarding Brother Patrick were in place.

There is no record of CQZ's complaint having been reported to Father Lucas or Father Usher or anyone else pursuant to the Church Protocol.

CQZ's report added to the increasingly compelling picture that Brother Patrick had a tendency to touch children in an inappropriate manner. Brother Turton should have recognised this. It was obvious.

Brother Turton should have taken steps to remove Brother Patrick permanently from a school environment where he continued to have access to children. He did not do so. This was a serious failure on his part.

## CNK

In August 1993, Brother Turton received a complaint from CNK, who had been a student at Marist Brothers Hamilton from 1973 to 1976. There is no record of CNK's complaint having been reported to Father Lucas or Father Usher or anyone else pursuant to the Church Protocol.

In September 1993, CNK made a statement to NSW Police in Lismore. The criminal matter regarding CNK's complaint did not proceed. Brother Turton told us that CNK informed him he had reported to police.

The documents suggest police were awaiting confirmation from CNK as to whether he wished to proceed with the matter. There is no evidence about whether CNK communicated with police as to his intentions.

## Brother Turton telephones Brother Patrick

In August 1993, Brother Turton telephoned Brother Patrick about the complaint from CNK and ‘four other accusations of a touchy, feely, type from three other schools’.

Brother Patrick denied the allegations and was ‘somewhat broken up’. Brother Turton said he doubted the denial of the allegations and had no reason to disbelieve those who had made the complaints.

Brother Turton said he advised the Superior of the Ashgrove community and the principal of Ashgrove of the situation but not in detail.

Brother Turton ought to have appreciated that the supervision arrangements in place were inadequate. Further, Brother Turton said he understood CNK’s complaint to relate to sexual conduct, which Brother Turton took seriously. The earlier advice that Brother Patrick could remain in a supervised school environment was in response to the August 1992 incident. There is no evidence that the adequacy of the supervision arrangements was reconsidered in light of this, more serious, complaint.

We are satisfied it was unreasonable for Brother Turton to conclude that Brother Patrick was not a danger to children.

We are also satisfied that Brother Turton did not tell the principal or the Superior of the Ashgrove community the whole story regarding CNK’s complaint.

It should have been obvious to Brother Turton that those required to supervise Brother Patrick should have been given all of the relevant information. This was a plainly inadequate response.

## Brother Patrick attends Crossroads program

Brother Patrick attended the Crossroads program from March to August 1994, following which he returned to a tutoring position at Ashgrove. He remained in this role until his retirement in 2001.

We are satisfied that at least part of the reason for sending Brother Patrick to Crossroads was that there had been complaints against him and to have him counselled. Brother Turton did not seek or receive a report from Crossroads about the results of the treatment Brother Patrick received. Brother Turton was not entitled to take the view that Brother Patrick was safe to return to ministry based only on his attendance at the course without learning more about its results. Brother Turton was wrong to place Brother Patrick at Ashgrove without being satisfied that the treatment he received was sufficient to make him suitable for that position.

## Brother Hill's knowledge upon becoming Provincial

Brother Michael Hill became Provincial of the Sydney Province, taking over from Brother Turton, in July 1995. He remained in that role until the end of 2001.

We are satisfied that, by the time Brother Hill became Provincial, he knew that several complaints had been made about Brother Patrick, that Brother Patrick was tutoring students at Ashgrove and that Brother Patrick was subject to supervision arrangements.

Sometime in June 1995, CNK called Brother Patrick directly. Brother Patrick subsequently met with Mr Howard Harrison of Carroll & O'Dea Solicitors (who represented the Marist Brothers) about the matter. The file note of that meeting records that Brother Patrick told Carroll & O'Dea he had 'no memory of difficulty with this person, but concedes that there may be people who have a cause for complaint against him'.

Brother Turton said he had no recollection of Mr Harrison reporting this exchange to him, including the admission by Brother Patrick, but he said it may have happened.

Given the significance of the matter, we are satisfied that Brother Hill was probably made aware in June 1995 or soon thereafter of the substance of what Brother Patrick had said to Carroll & O'Dea.

## Letter from Bishop Malone to Brother Hill

A complaint about Brother Patrick inappropriately touching students at Marist Brothers Hamilton in the 1970s was received by Bishop Malone in October 1996. Bishop Malone passed that information on to Brother Hill.

Brother Hill knew at this time that Brother Patrick was tutoring boarders at Ashgrove and he knew that some other allegations had been made against Brother Patrick in the past.

In light of this further information, Brother Hill should have made enquiries to satisfy himself that Brother Patrick did not have access to children in a way that might create an ongoing risk of inappropriate touching. There is no evidence to suggest he did so. Such enquiries would include consulting the records held by the Marist Brothers relating to Brother Patrick, which would have led him to the incident with the two boys at Ashgrove only four years prior.

## CNJ reports to police

In February 1998, CNJ (who had complained to Brother Turton about Brother Patrick in August 1992) made a statement to Newcastle police. CNJ described in detail multiple occasions of sexually inappropriate conduct by Brother Patrick during the 1970s, when CNJ was a student at Marist Brothers Hamilton.

In May 1998, Carroll & O’Dea Solicitors wrote to Brother Hill advising him that Newcastle police wished to interview Brother Patrick. Brother Patrick was not charged in respect of CNJ’s complaint. There is no evidence as to why the matter did not proceed.

## Brother Patrick’s continuing tutoring arrangements

Although it appears that Brother Patrick initially provided tutoring to students in the presence of other adults in a classroom, those arrangements had changed in the years leading up to 2001.

It is unlikely that Brother Patrick was effectively supervised by 2001. The evidence does not suggest that other adults were present in the room to supervise him. Allowing him unsupervised access to children was reckless and should not have occurred.

When CNJ reported to police in 1998, the Marist Brothers had available to them detailed information about the allegations of sexual abuse made by CNJ. As Provincial, Brother Hill instructed Carroll & O’Dea in relation to CNJ’s claim. The allegations that CNJ made in his police statement were of a very serious nature. If Brother Hill did not know the details, he could have sought further information from Carroll & O’Dea or the police.

Brother Hill knew that Brother Patrick was tutoring students four nights a week at the boarding school at Ashgrove in 1998. Although he said Brother Patrick was subject to supervision arrangements, he took no steps to ensure that any arrangements were followed. Brother Patrick described to Brother Hill his engagement with particularly vulnerable children who were underprivileged or had learning difficulties.

Even though police did not proceed to charge Brother Patrick regarding CNJ’s complaint, Brother Hill ought to have recognised that Brother Patrick was a potential danger to children. He ought to have removed him from the school environment altogether. He did not do so. This was a serious failure on his part.

We agree with Brother Hill’s submission that he is not solely responsible for Brother Patrick having remained in a school environment. However, Brother Hill must bear a significant part of the responsibility given his role as Provincial during this time.

Brother Hill’s failure to take appropriate action meant that children at Ashgrove, including particularly vulnerable children, were at risk of being sexually abused by Brother Patrick.



## CNI

On 3 April 2001 CNI, a year 7 boarding student at Ashgrove, made a complaint against Brother Patrick. CNI reported his complaint to the Queensland Police Service and it was referred to Task Force Argos, which was a child sexual assault investigation unit.

### Queensland Police Service's request for information

On 10 April 2001, Detective Sergeant Geoff Marsh of the Queensland Police Service wrote to Brother Hill requesting information regarding Brother Patrick. The terms of the written request were broad. It was a request that the Marist Brothers check the files regarding Brother Patrick to identify 'any history or circumstances which may suggest that the brother has acted in any inappropriate manner with any child during his extensive teaching career' (the Written Request).

The terms of the Written Request were disputed by Brother Hill. Brother Hill told us that the information sought by the Queensland Police Service was actually more limited than the Written Request. His evidence was that the Queensland Police Service only wanted information regarding complaints that had been the subject of a police investigation. According to Brother Hill, that limitation was conveyed to him by Detective Sergeant Marsh in a telephone conversation on 10 April 2001.

The limitation that Brother Hill said was placed on the request is important in assessing his response. When Brother Hill responded to the Queensland Police Service the following day, he only referred to one other allegation – the complaint by CNJ. That allegation had been the subject of a police investigation in New South Wales in 1998, but the matter did not proceed.

When he responded to the Queensland Police Service, Brother Hill did not inform them of:

- the allegation by CQY
- the allegation by CQZ
- the allegation by CNK
- the incident regarding the two boys at Ashgrove
- the fact that Brother Patrick was subject to special supervision arrangements at Ashgrove.

All of those are matters that fell within the terms of the Written Request. That is, they are matters recorded in the Marist Brothers' files and they constitute relevant 'history or circumstances' regarding Brother Patrick of the kind described in the Written Request.

However, we note that, even if the request was limited to complaints that had been investigated by police, as alleged by Brother Hill, there were in fact two complaints that would have met the request. First, CNJ's complaint had been reported to Newcastle police in 1998. Second, CNK had reported his complaint to police in Lismore in 1993. The fact that CNJ and CNK had reported their complaints to police are both matters recorded in the Marist Brothers' documents regarding Brother Patrick.

We reject Brother Hill's evidence that Task Force Argos narrowed or qualified their request for information from the Marist Brothers to only those complaints which were the subject of a police investigation. His evidence is illogical. It is inconsistent with the documents recording the request made to Brother Hill and the logical aim of the enquiry.

We reject Brother Hill's evidence that he informed Detective Sergeant Marsh verbally of the other complaints documented on Brother Patrick's file. That evidence is inconsistent with the contemporaneous documentary records.

## Deficiencies in information management

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During the period that Brother Turton and Brother Hill served as Provincials, where complaints about a Brother were made, they were (on occasions) not documented adequately or at all.

There was no adequate handover process between Brother Turton and Brother Hill when the former ceased as Provincial and the latter took over. This compounded the poor state of information in the records relating to complaints against Brother Dominic and Brother Patrick. It is not unreasonable to expect this level of detail about matters of this significance in a handover of leadership of the Order.

These deficiencies in recordkeeping and the absence of any handover process impeded the Marist Brothers from responding adequately and appropriately to complaints of child sexual abuse and put other children at risk.

## Brother Carroll's apology

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Brother Carroll is the current Provincial of the Marist Brothers in Australia.

At the conclusion of the public hearing, Brother Carroll delivered an apology to those who have been affected by sexual and physical abuse by the Marist Brothers. Brother Carroll was visibly moved by the numerous survivors who gave evidence during the public hearing. Brother Carroll was right to acknowledge the past failings of the Marist Brothers, and his apology on behalf of the Order was appropriate.

# 1 The Catholic Diocese of Maitland–Newcastle

In Case Study 43, the Royal Commission into Institutional Responses to Child Sexual Abuse inquired into:

- the response of the Catholic Diocese of Maitland–Newcastle (the Diocese) to instances and allegations of child sexual abuse against Father Vincent Ryan
- the response of the Marist Brothers to allegations of child sexual abuse made against Marist Brothers including Francis Cable (Brother Romuald) and Mr Thomas Butler (Brother Patrick).

This volume of the report examines the response of the Diocese to allegations against Father Ryan.

## 1.1 The Diocese

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The Catholic Diocese of Maitland was established by papal brief in 1847. In 1995 it was renamed the Catholic Diocese of Maitland–Newcastle.<sup>1</sup> It is located in the Hunter and mid North Coast regions of New South Wales.

The Diocese is made up of 39 parishes,<sup>2</sup> each of which has a parish priest. A more junior priest, called an ‘assistant priest’, may also live and minister within the parish.

The leader of the Diocese is the bishop.

## 1.2 Bishops and the Vicar Capitular

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Bishop William Wright is the current bishop of the Diocese and has been since June 2011.

Amongst others, he was preceded by:

- Bishop Michael Malone (November 1995 – June 2011)
- Bishop Leo Clarke (June 1976 – November 1995)
- Bishop John Toohey (1956 – October 1975).

There was a period of eight to nine months between Bishop Toohey’s death and the date that Bishop Clarke assumed office. During that period, from October 1975 to June 1976, Monsignor Patrick Cotter served as the ‘Vicar Capitular’. A Vicar Capitular is effectively a caretaker for the bishop, but he does not have the full powers of a bishop under canon law. Bishop Wright said that a Vicar Capitular may appoint priests to parishes on a temporary basis, but the incoming bishop must validate those appointments.<sup>3</sup>

## 1.3 Previous accounts provided by Bishop Clarke and Monsignor Cotter

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Of particular importance in the case study was the knowledge of Monsignor Cotter and Bishop Clarke of allegations of child sexual abuse made against Father Ryan in the mid-1970s.

Bishop Clarke and Monsignor Cotter are both now deceased, but they each previously provided a number of accounts of their recollections of the relevant events. Their accounts are contained in interviews with police, lawyers and loss adjustors between 1995 and 1999 and statements that appear to have been prepared following those interviews.

Monsignor Cotter's accounts are contained in:

- a transcript of interview between Monsignor Cotter and Senior Constable Troy Grant dated 24 January 1996 (1996 Cotter Police Interview)<sup>4</sup>
- an unsigned document titled 'Statement of Monsignor Patrick Daniel Cotter taken at Wangi Wangi on the 20 October 1997' (1997 Unsigned Cotter Statement)<sup>5</sup>
- a transcript of interview of Monsignor Cotter by Mr Paul Firman of Arrow Insurance Adjusting dated 4 November 1997 (1997 Cotter Interview)<sup>6</sup>
- a transcript of interview of Monsignor Cotter at Carroll & O'Dea Solicitors dated 7 July 1999 (1999 Cotter Interview).<sup>7</sup>

Bishop Clarke's accounts are contained in:

- the signed police statement of Leo Morris Clarke dated 16 July 1996 (1996 Clarke Police Statement)<sup>8</sup>
- a transcript of interview of Bishop Clarke by Mr Michael White of Phillips Fox and Mr Gerard Phillips of Carroll & O'Dea Solicitors, undated (Clarke Interview)<sup>9</sup>
- an unsigned document titled 'Statement by Bishop Leo Clarke taken on 12 November 1997' (1997 Unsigned Clarke Statement).<sup>10</sup>

We are mindful of the fact that we did not have the benefit of sworn evidence at the public hearing by either Monsignor Cotter or Bishop Clarke. We have also borne in mind the fact that the transcripts of the interviews and some of the statements prepared are unsigned. However, we do not consider the accounts unreliable. Indeed, none of the parties suggested that they ought not to be relied upon as evidence of what Monsignor Cotter or Bishop Clarke said.

## 2 Father Vincent Ryan

Father Ryan was born in 1938 in the Maitland–Newcastle region. He was ordained as a priest in the Diocese in 1966. During the next three decades he held various appointments throughout the Diocese, including:<sup>11</sup>

- assistant priest at St Joseph’s parish, Merewether / The Junction (August 1973 – December 1975)
- assistant priest at Newcastle, undertaking duties at the Marriage Tribunal (December 1976 – July 1978)
- assistant priest at Hamilton parish and undertaking duties at the Marriage Tribunal (July 1978 – January 1984)
- parish priest of East Gresford (January 1984 – March 1988)
- parish priest of Cessnock (March 1988 – January 1995)
- parish priest of Taree (January 1995 – October 1995).

Father Ryan was the first Catholic priest in the Maitland–Newcastle region to be charged with child sexual abuse. He was charged in October 1995.

In the first criminal proceedings, Father Ryan pleaded guilty to 11 counts and admitted a further nine offences. He was sentenced on these charges, being indecent assaults and other offences committed against a number of boys when Father Ryan was an assistant priest at St Joseph’s parish and five counts of sexual intercourse with one boy from Cessnock parish. He was sentenced to four years’ imprisonment for those crimes in 1996.<sup>12</sup>

Father Ryan pleaded guilty to further charges in 1996 and 1997. He was ultimately sentenced to 14 years’ imprisonment for an additional 53 offences against 28 boys.<sup>13</sup>

As Bishop Wright properly acknowledged, Father Ryan was a ‘sexual predator who used his status as a priest and the power that gave him to gain access to boys ... and to conceal his abuse’.<sup>14</sup> Bishop Wright also said that ‘The seriousness of the abuse and its terrible effects on the children are clear from the primary documents’.<sup>15</sup>

### 2.1 Early concerns

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Before Father Ryan was ordained as a priest in 1966, he attended the seminary – a place of study for men wishing to become Catholic priests. There is evidence that Father Ryan discussed his sexual inclinations towards children with a priest before he entered the seminary.

Sister Evelyn Woodward gave evidence in the public hearing about the events in 1975 concerning Father Ryan, set out later in this report.

Sister Woodward is a Sister of St Joseph of Lochinvar. The Sisters of St Joseph of Lochinvar are an Australian Congregation of nuns founded by Julian Tenison-Woods and Saint Mary of the Cross MacKillop. The Sisters established schools and pastoral ministries throughout the Diocese and beyond.

Father Ryan was charged with child sex offences in the mid-1990s. In 1995 Sister Woodward was assigned to be his 'support person' under the applicable Church protocol. In that capacity, she had some contact with him while he was in prison.<sup>16</sup>

After Father Ryan was charged, he wrote to Sister Woodward. The letter Father Ryan wrote to Sister Woodward was not produced, and Sister Woodward told us she has since destroyed it.<sup>17</sup> However, Sister Woodward described its contents in an interview with loss adjustors for the Diocese in 1997.<sup>18</sup>

In the 1997 interview, Sister Woodward was asked about her understanding of whether Father Ryan had made admissions in the past about his 'problem'. She told the interviewer:

I think the problem had been evident before he went to the seminary. Now I know that, believe it or not, from a letter I received from Vince yesterday, from in jail. He's starting to come to grips with what he's done and the damage he's done.<sup>19</sup>

She went on to describe the letter in the following way:

It's a private letter. But it said something like 'I went to confession and said to the priest, maybe I should not think about going to the seminary, and the priest said something like "Oh, don't be swayed by anything. Say your prayers and God will look after you"', that sort of stuff. Well, that was in 1955, it'd be typical I suppose ...<sup>20</sup>

The Church parties submitted that it was not an accurate summary of the evidence to say that Father Ryan told the priest of his sexual inclinations towards children.<sup>21</sup>

We do not agree. That interview was conducted by loss adjustors when they were preparing a report on the Diocese's exposure for compensation claims against it. The claims considered were those regarding alleged child sexual abuse by Father Ryan. The report considered, among other things, evidence of when the Diocese knew of suspicions or allegations of Father Ryan's misconduct.<sup>22</sup> It was in that context and in light of Sister Woodward's receipt of complaints of child sexual abuse against Father Ryan in 1975 that she was asked about Father Ryan's 'problem'.

We consider it plain that the ‘problem’ being discussed with Sister Woodward during the interview was Father Ryan’s sexual inclinations towards children and not other conduct, such as his sexual inclinations towards adults or his sexual urges more generally. That is supported by the fact that Sister Woodward said that Father Ryan wrote to her in the context of reconciling himself with his crimes, not merely his conduct. Further, while Sister Woodward said she no longer had the letter, she was asked about her memory of it and its contents:

Q. ... you described in one of your interviews back in 1997 ... in one of those letters he actually talked about having known of his sexual attraction to boys for a considerable time, in fact, before he entered the seminary; do you remember that?

A. Yes I do.

Q. He had actually raised that with a priest before he entered the seminary?

A. Yes.

Q. And the effect of what the priest had told him was, effectively, to reassure him that if he said his prayers, God would look after him?

A. Yes.<sup>23</sup>

Although Sister Woodward did not describe the precise words Father Ryan used during the confession, we consider it clear from reading the transcript of her interview that what Father Ryan conveyed in his letter to her was that he had discussed his ‘problem’ (that is, Father Ryan’s sexual inclinations towards children) with a priest.

In the absence of any further information about the circumstances of this, we are not able to draw any other conclusions about precisely what he said.

## 3 St Joseph's Parish 1973–1975

Father Ryan was appointed as an assistant priest at St Joseph's parish in Merewether / The Junction in August 1973. He lived in the presbytery, which was located on the grounds of St Joseph's Primary School.<sup>24</sup>

The parish priest at the time was Monsignor Cotter.

### 3.1 CNA

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We heard from CNA, who told us that her two sons were sexually abused by Father Ryan at St Joseph's.

CNA said that in 1974 she volunteered to type up the weekly church bulletin. She sometimes used a room at the presbytery to do this. On one occasion her sons accompanied her and played at the school while she worked.<sup>25</sup>

That night, when CNA was putting her six-year-old son to bed, he said to her, 'Fr RYAN touched me on my dickie bird'. He said this had happened when he and his older brother were playing at the school. CNA went immediately to speak with her older son. He was more reserved and did not say much, but he made a coy admission that Father Ryan had touched him as well.<sup>26</sup>

CNA sought the advice of a police prosecutor, Mr John Scrogings. She said that Mr Scrogings explained that she could make a complaint to police to press charges and that her sons would be required to appear in court. CNA said she did not want her sons to have to do that. Mr Scrogings suggested that she could speak with Monsignor Cotter.<sup>27</sup>

In 1974, Monsignor Cotter was the parish priest of St Joseph's and Father Ryan's direct superior.

CNA told us that she and her husband went to see Monsignor Cotter at the presbytery about a week later. She told Monsignor Cotter that she had a complaint against Father Ryan. She said her two boys had told her that Father Ryan touched them on their private parts. When CNA told Monsignor Cotter this, she said the colour drained from his face. He looked anguished and shocked. After a short time, CNA said that Monsignor Cotter said words to the effect of 'I thought something like this ...' but did not complete the sentence.<sup>28</sup>

CNA said that Monsignor Cotter immediately summoned Father Ryan to the room. CNA repeated that her boys had said that Father Ryan touched them on their private parts. Father Ryan denied that this had happened. CNA offered to bring the boys in to put the allegation to Father Ryan directly, but both he and Monsignor Cotter said that would not be necessary.<sup>29</sup>



CNA told us that it was her impression that Monsignor Cotter believed her. She formed that impression based on his reaction to the allegation and the fact that he called Father Ryan into the office.<sup>30</sup>

After the meeting with Monsignor Cotter, CNA said she was ‘at a bit of a loss’. She did not know where else to turn, as she did not want to put her boys through the court process.<sup>31</sup>

## Monsignor Cotter’s accounts regarding CNA’s allegation

Monsignor Cotter told police in 1996 that he had no recollection of receiving any complaints from parents in 1974, but he was not asked whether he received a complaint from CNA (or her husband) specifically.<sup>32</sup>

In the 1997 Cotter Interview, Monsignor Cotter said he did not remember a meeting with CNA and did not recall a family with CNA’s surname living in the parish.<sup>33</sup> He later said:

There was every opportunity for a young child to speak to me but they told me nothing, and if they tried to tell their mother something, no mother came to see me. I had no interview with [CNA] whoever she is ...<sup>34</sup>

In the 1997 Unsigned Cotter Statement, Monsignor Cotter is recorded as having said he had no recollection of ever being approached by any mother or any victim with a complaint regarding Father Ryan. He had no recollection of CNA coming to see him. He said he could ‘quite confidently assert’ that CNA did not make a complaint to him because no mother ever came to see him.<sup>35</sup>

However, Monsignor Cotter appears to have relaxed his position somewhat in the 1999 Cotter Interview. There, Monsignor Cotter accepted that it was possible that CNA came to see him but that he did not recall it happening.<sup>36</sup>

## Father Ryan’s accounts of CNA’s allegation

In an interview with police in August 1996, Father Ryan said that parents with CNA’s surname came to him and accused him of ‘touching’ a boy. When asked if it was possible he did touch the boy, Father Ryan said, ‘Oh, yeah, I, I really didn’t, I couldn’t remember really doing anything but I knew that I clowned around like that’. He said that he had denied the accusation at the time because he could not remember the alleged incident. Father Ryan told police he did not think Monsignor Cotter knew anything about the incident, beyond that the parents had come to speak to Father Ryan and that Father Ryan was upset.<sup>37</sup>

In a later statement in August 1998, Father Ryan described the meeting with CNA and her husband in greater detail. He said that Monsignor Cotter called him downstairs to see CNA's husband. CNA's husband accused him of making an inappropriate comment to the younger boy and of touching one of the boys on the genitals. Father Ryan said he may have done so accidentally. CNA then said that the older son had said that Father Ryan touched him on the penis. In his statement Father Ryan said that he did not admit the allegation, other than suggest it was accidental touching, in order to defuse the situation. Father Ryan said that, as far as he knew, the only involvement of Monsignor Cotter at that stage was to tell him that CNA and her husband were there to see him. He said he had no idea whether the parents made a complaint to Monsignor Cotter and that Monsignor Cotter never raised the matter with him.<sup>38</sup>

### Monsignor Cotter's knowledge of CNA's complaint

CNA presented well as a witness. She had a clear and specific recollection of reporting the matter to Monsignor Cotter. Given the significance of the meeting to her, that is unsurprising. Her evidence is in many, although not all, respects supported by the documents setting out Father Ryan's recollection of the event. Father Ryan also described being confronted by CNA and her husband with a complaint that he had touched the genitals of their son. Unlike CNA, Father Ryan said Monsignor Cotter was not in the room when this confrontation took place. However, he said he was unaware of what was said to Monsignor Cotter beforehand. His accounts are not inconsistent with the matter having been raised with Monsignor Cotter before it was put to him.

Monsignor Cotter's accounts are problematic. On some occasions he said he did not receive any complaint in 1974. He later said it was possible he did receive a complaint but could not recall it. That Monsignor Cotter did not receive a complaint is inconsistent with a letter he wrote in 1975, which concerns other allegations of child sexual abuse perpetrated by Father Ryan. In the letter he referred to having known of the 'problem' in relation to Father Ryan for about a year.<sup>39</sup> We consider this letter in more detail in section 3.8. It is clear that the reference to the 'problem' in the letter is to Father Ryan's sexual offending against children. It supports CNA's evidence that a complaint was made to Monsignor Cotter in 1974.

Further, and as set out later in our report, we consider that Monsignor Cotter's recollections of events involving Father Ryan as recorded in the documents tendered ought to be treated with caution. They are generally vague or evasive. On a number of occasions he sought to downplay the seriousness of complaints or disclaim any recollection of them.

We accept CNA's evidence. We are satisfied that in 1974 Monsignor Cotter (then the parish priest at St Joseph's) received a complaint from CNA and her husband that Father Ryan had touched their two sons on their private parts. As Bishop Wright acknowledged, Monsignor Cotter 'abjectly failed to do anything meaningful to protect the children, who should have been his primary concern'.<sup>40</sup>

## 3.2 Father Ryan's sexual abuse of altar boys at St Joseph's

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We heard from two survivors who were sexually abused by Father Ryan at St Joseph's.

Mr Gerard McDonald told us he was abused by Father Ryan in 1975, when he was 10 years old. At that time, Mr McDonald attended altar boy practice at St Joseph's church twice a week. He told us that he was abused by Father Ryan after every altar boy practice for almost all of that year. The abuse that Mr McDonald described occurred in the sacristy after altar boy practice (in the presence of other boys) and also in Father Ryan's car. It was extremely serious. Mr McDonald told us that Father Ryan performed oral sex on him, masturbated him and attempted to anally rape him. He said that Father Ryan also encouraged him to try to anally rape another altar boy, and for that boy to attempt to rape him.<sup>41</sup>

We also heard from Mr Scott Hallett, another former altar boy and a friend of Mr McDonald. Mr Hallett told us that in 1975 Father Ryan fondled his genitals on multiple occasions and masturbated in front of him and other altar boys. He said that Father Ryan also performed oral sex on him and encouraged him to have anal sex with other boys.<sup>42</sup>

Both Mr McDonald and Mr Hallett spoke of the devastating impacts of the abuse on them and their families.<sup>43</sup>

There were a number of other survivors who were not witnesses in the public hearing but whose police statements were tendered into evidence.<sup>44</sup> Their statements reveal the scale and gravity of Father Ryan's offending. They reveal repeated, serious and brazen offending. Father Ryan has been convicted of offences against 20 boys for acts committed during the time he was at St Joseph's parish. Most of those convictions are for offences committed against altar boys who were, at the time, primary school students.

## 3.3 The sports carnival

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We heard evidence that a number of boys made disclosures of sexual abuse by Father Ryan at the end of the school term in December 1975. These events followed an incident on the second-last day of the school term at a sports carnival to farewell the grade 6 students, held at a national park.

Mr McDonald told us that he attended the sports carnival. At the carnival there was a confrontation between Father Ryan and one of the other boys that led to Mr McDonald calling Father Ryan a 'poofter'. CNC, the mother of another altar boy, was there and heard the comment. She intervened to ask Mr McDonald what was going on. He said he told her that Father Ryan had been 'touching' them.<sup>45</sup>

CNC was not a witness in the public hearing, but she provided a statement to police in the 1990s. In it, she said that Mr McDonald told her that day that Father Ryan had taken his penis out of his pants, that 'stuff had come out' of it and that Father Ryan made him wipe it up with a handkerchief.<sup>46</sup>

### 3.4 Allegations reported to Sister Geatches

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Sister Margaret-Ann Geatches is a Sister of St Joseph of Lochinvar. In 1975, she was the principal of St Joseph's school.

She told us that on the day of the sports carnival she heard people returning to the school and to her office. They were very agitated and talking very loudly. She recalled that CNC and Mrs Phyllis McDonald (Mr Gerard McDonald's mother) were among those present.<sup>47</sup>

Sister Geatches said that, although she remembered speaking to CNC, she did not have a clear recollection of what CNC said. However, she recalled that CNC told her Father Ryan had been touching some boys down at the park and she believed CNC mentioned it had also occurred in the sacristy.<sup>48</sup>

After the conversation with CNC, Sister Geatches spoke briefly with the group of about 12 to 15 grade 5 boys, who had also returned from the carnival. The boys started calling out what had happened to them at the park.<sup>49</sup> She said:

They were saying that they were being touched and they pointed to their crotch area and said that Father Ryan had been touching them and that it also had happened over at the presbytery in the cupboard.<sup>50</sup>

Sister Geatches said that it was clear that the boys were describing sexual touching and that Father Ryan had been touching them for some time.<sup>51</sup> She said that they did not describe oral sex,<sup>52</sup> but she agreed that they were being fairly graphic in describing what Father Ryan had done.<sup>53</sup> She told us that she believed them and she was alarmed.<sup>54</sup>

Before Sister Geatches gave evidence to the Royal Commission, she provided a number of other statements about these events. In them she described the allegations as Father Ryan 'interfering' with altar boys<sup>55</sup> and 'playing with them', 'touching them' and 'fondling them and that sort of thing'.<sup>56</sup> Those statements are consistent with her evidence to us.

Sister Geatches told us that there was no policy or protocol in place for dealing with the situation.

Sister Geatches said she felt alarmed and that she had to do something about the allegations.<sup>57</sup> She thought she had to make sure that Father Ryan was not near the children again.<sup>58</sup> She assured the children, Mrs McDonald and CNC that she would report what had happened to ensure that it did not happen again.<sup>59</sup>

That day, Sister Geatches told her deputy principal, Sister Patricia Jackson, about the allegations.<sup>60</sup>

Sister Geatches said she then decided to inform Sister Woodward. Sister Woodward was a counsellor and someone whom Sister Geatches thought would have the skills to deal with the matter.<sup>61</sup> As discussed in section 3.7, Sister Geatches told Sister Woodward that evening.<sup>62</sup>

At some time during the summer holidays, Sister Geatches also reported what she had heard to the Superior of the congregation, Mother Cletus.<sup>63</sup>

Sister Geatches told us that she did not ever discuss the matter with Bishop Clarke or with Monsignor Cotter.<sup>64</sup>

### 3.5 Conversations between Sister Geatches and Mr Hallinan

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In 1975 Mr Christopher Hallinan was the grade 5 teacher at St Joseph's school. Mr McDonald and Mr Hallett were students in his class.

Mr Hallinan told us that towards the end of 1975 Mr Hallett and Mr McDonald approached him during class. He could not recall the exact words of his conversation with them, but they indicated they had been sexually assaulted by Father Ryan on several occasions while they were attending altar boy practice.<sup>65</sup>

After this conversation, Mr Hallinan decided to interview Mr McDonald and Mr Hallett to obtain the details of what had occurred. He said he started doing this in a morning in class the next school day after the initial conversation with them.<sup>66</sup>

#### A Church matter

Mr Hallinan told us that while he was interviewing the boys Sister Geatches came to the classroom. He said that Sister Geatches called him outside to the hallway and directed him to stop talking to the children and also not to talk to their parents. Mr Hallinan did not recall her exact words, but what she said was to the effect that it was a Church matter and he was not to take any further part in it.<sup>67</sup>

Sister Geatches did not recall telling Mr Hallinan not to discuss the matter with anyone.<sup>68</sup> She said she told him not to discuss the matter any further with the boys that afternoon but that this was so that the boys could be calmed down and made ready to go home.<sup>69</sup> Sister Geatches said, 'I just asked him would he help to settle the children down and that they didn't need – that there was to be no more discussion that afternoon about the matter'.<sup>70</sup>

Sister Geatches told us that she recalled only one conversation with Mr Hallinan, which was on the afternoon of the sports carnival.<sup>71</sup> She was asked whether she would have told Mr Hallinan that the issue was a Church issue and not a school one. She said, 'Yes, I would have done that and just to let him know that it was something the Church had to deal with'.<sup>72</sup> She had no recollection of saying to Mr Hallinan that he was to take no further action. When asked whether she would have told Mr Hallinan that he need not take the matter further because it was a Church issue, Sister Geatches said, 'I may have said that because at the time I thought it was a Church issue'. She agreed that she could have conveyed that to Mr Hallinan, who was a young teacher and a lay person.<sup>73</sup> She later said, 'I don't think I told [Mr Hallinan] that he wasn't required to deal with the issue. I just said the issue would be dealt with'.<sup>74</sup>

Sister Geatches' statement to police in 1995 also contains an account of a conversation with Mr Hallinan. In it, she said that she and Mr Hallinan managed to settle the children down before the school bell sounded. She and Mr Hallinan then had a conversation on the verandah at the school, after the students had gone home. Sister Geatches stated, '[w]e discussed the matter and I remember telling him I [w]as going to do something about it and tried to reassure him, I told him that these sorts of things happen to the best of people'.<sup>75</sup>

Mr Hallinan accepted that Sister Geatches told him on one occasion to stop talking to the boys in order to settle them. He thought she probably also said that they should quell the commotion.<sup>76</sup> However, Mr Hallinan said:

To be clear, on a day after the commotion, on a separate day, in the morning, around 10am, she talked to me outside the classroom ... and she told me that I should stop talking to the children ... and to take no further part, and in an assured way said it was a Church matter and provided to me sufficient confidence at the time that the Church would take care of it.<sup>77</sup>

Mr Hallinan's evidence was that there were several days of commotion at the school about the matter. He also said that he did not think his conversation with Sister Geatches or the boys occurred immediately before the school term ended.<sup>78</sup> However, the school records show that the sports carnival was on the second-last day of term,<sup>79</sup> which is when the boys first disclosed the sexual abuse. Therefore, any subsequent conversations with the boys must have occurred on either the last or second-last day of term.

## Alleged additional remark

Mr McDonald told us that he recalled Sister Geatches entering the class room while he was speaking to Mr Hallinan. He said that he could not hear all that was said but that Sister Geatches was waving her arms around and said to Mr Hallinan, ‘Don’t listen to those boys. You will never work in a Catholic school again’.<sup>80</sup> Counsel for the Church parties put to Mr McDonald that Sister Geatches did not say those words. He responded, ‘Well, I couldn’t really hear but it sounded something like that’.<sup>81</sup>

Sister Geatches said she never made a comment to Mr Hallinan about the effect of his actions on his teaching career.<sup>82</sup>

Mr Hallinan said he did not recall Sister Geatches saying he would never work in a Catholic school again or words to that effect.<sup>83</sup> Mr Hallinan agreed that he perceived his involvement in any further investigations could be a risk to his future employment, and he said that any breach of a direction from an employer could result in adverse consequences. However, when asked whether Sister Geatches said anything to that effect to him, he said, ‘Not that I recall in 2016’.<sup>84</sup>

## Conclusions

There are conflicting recollections of the conversation between Sister Geatches and Mr Hallinan. We do not consider that the evidence establishes that Sister Geatches said anything to Mr Hallinan about the potential impact of his actions on his future employment. Neither Mr Hallinan nor Sister Geatches told us that this was the case.

The other differences between the recollections of Sister Geatches and Mr Hallinan are not, in fact, great. If there is an error in Mr Hallinan’s recollection of the precise timing of events, that does not significantly affect the reliability of his evidence overall. Mr Hallinan’s evidence was that on an occasion Sister Geatches told him that the issue was a Church matter and he was not to take any further part in it. Sister Geatches accepted that she may have said that she would deal with the matter herself and there was no need for Mr Hallinan to do so, but she disputed that she gave him any direction forbidding him from acting.

We accept that Mr Hallinan perceived from his conversation with Sister Geatches that the complaints against Father Ryan would be dealt with by the Church, that Mr Hallinan should not take any further action and that, if he did not cease his involvement, there could be a risk to his future employment. Even though Sister Geatches did not expressly convey or intend to convey that risk, it is understandable that a junior teacher in Mr Hallinan’s position would have formed this view based on what he was told.

## 3.6 Dr CND

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Mr McDonald said that after the sports carnival the boys decided they would go home and tell their parents what had happened.<sup>85</sup> That evening, the mother of another boy came to the McDonalds' home. This woman told his mother, Mrs McDonald, that her son had made accusations against Father Ryan. When Mrs McDonald called Gerard into the room, he told her that Father Ryan had sucked his penis.<sup>86</sup>

Mrs McDonald has passed away, but she gave a statement to police in 1995. She described in her statement that her son told her that Father Ryan had been touching him 'down there' and indicated his crotch area.<sup>87</sup>

The woman who attended the McDonalds' house also made a statement to police. She said that Gerard said something like 'He put our wee wee in his mouth'.<sup>88</sup>

Mrs McDonald told police that later that night Dr CND, the father of another boy, came to the house and they spoke about the incident. Mrs McDonald told him what her son had told her. Dr CND said that he was going to speak to Monsignor Cotter about it.<sup>89</sup> We do not know whether Mrs McDonald told Dr CND that Gerard had been touched 'down there' or if she also described oral sex. It is not necessary to resolve the issue. On either view, the matters he spoke of were serious.

Dr CND is deceased and did not provide a statement to police about these matters. However, as set out below, he did speak to Monsignor Cotter about the matter and he subsequently provided Monsignor Cotter with a letter of referral for Father Ryan to see a psychiatrist.

## 3.7 Allegations reported to Sister Woodward

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Both Sister Geatches and Sister Woodward told us that they discussed the allegations against Father Ryan. However, there were differences in their accounts as to what the allegations were.

Sister Geatches said that she thought she just told Sister Woodward that the boys were saying Father Ryan had been touching them, sexually, and that it had evidently been going on for some time.<sup>90</sup>



Sister Woodward told us that she could not recall the exact words of the conversation but that it was to the effect that Sister Geatches had received reports that Father Ryan had sexually molested boys. She said it was not clear to her how long it had been going on, but it was clear that there had been more than one incident and it involved the altar boys from the primary school.<sup>91</sup> As to the specifics of the allegations, Sister Woodward said that, from memory, genital handling and masturbation were mentioned and possibly more. She then said, 'I'm thinking ahead because I heard a list later on, so I'm a bit muddled'.<sup>92</sup> However, when asked if she recalled that Sister Geatches conveyed to her that the incidents also involved oral sex, she said, 'Yes, I do'.<sup>93</sup> That is consistent with what Sister Woodward said in an earlier interview about the matter in 1997. In that interview, Sister Woodward said that Sister Geatches 'spoke of sexual touching in the Sacristy with altar boys and she intimidated [sic: intimated] oral sex'.<sup>94</sup>

Later in her evidence, Sister Woodward said that she told Monsignor Cotter what Sister Geatches conveyed to her. She said that this was 'oral and anal penetration, penis sucking and attempts at masturbation'.<sup>95</sup> It is not clear from the documents or oral testimony of witnesses that any of the boys disclosed that they had been anally raped at the time.

Sister Woodward recollected that Sister Geatches told her that Dr CND had given her the information, and her memory that Sister Geatches mentioned Dr CND was 'quite strong'.<sup>96</sup> However, Sister Geatches said that she had no recollection of speaking to Dr CND about the matter.<sup>97</sup>

The Church parties submitted that Sister Geatches was unequivocal about what the students reported to her, while Sister Woodward accepted that her memory may not be completely clear. They also submitted that Sister Geatches' recollection was more likely to be accurate, as she had received the accounts from the boys firsthand.<sup>98</sup> As the accounts were conflicting, the Church parties submitted that the evidence was inconclusive. They submitted that Sister Woodward's evidence ought not to be preferred to Sister Geatches'.<sup>99</sup>

We do not think there is any reason to conclude that Sister Geatches' recollection is more reliable. We accept that both Sister Woodward and Sister Geatches gave evidence of their best recollections as to what occurred.

In the circumstances, we do not do not think it is necessary to resolve this point. It was not disputed that the allegations were serious. They involved multiple incidents with multiple young boys over a period of time. The matters reported, on either view, included allegations of masturbation and genital fondling of primary school boys by Father Ryan.

## 3.8 Allegations reported to Monsignor Cotter (Vicar Capitular)

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### Sister Woodward's evidence

Sister Woodward said that she was horrified by the allegations. She said she perceived Father Ryan to be a predator in that he was satisfying his own needs or wants by abusing children.<sup>100</sup>

Both Sister Geatches and Sister Woodward told us that they decided to report the matter to Monsignor Cotter and that Sister Woodward undertook to do that.<sup>101</sup>

Sister Woodward travelled to see Monsignor Cotter that night (in December 1975). She said she described to Monsignor Cotter what she knew, which she said was 'oral and anal penetration, penis sucking and attempts at masturbation'.<sup>102</sup> Sister Woodward did not recall referring to the ages of the boys, but she said it was clear that the allegations were in relation to altar boys who attended the primary school.<sup>103</sup>

When Sister Woodward told Monsignor Cotter about the allegations, he was horrified and looked confused and embarrassed.<sup>104</sup> He asked her what she thought he should do.<sup>105</sup> She told him he needed to get Father Ryan away from children immediately and send him to get psychiatric help.<sup>106</sup> She suggested Dr Peter Evans, a qualified psychiatrist with the Order of Franciscan Friars, whom she knew of but did not know personally. Monsignor Cotter told her he would contact Dr Evans as soon as he could.<sup>107</sup>

### Monsignor Cotter's accounts of the matters reported to him

#### The 1997 Cotter Interview

In the 1997 Cotter Interview, Monsignor Cotter said that the first 'real knowledge' he had of Father Ryan's crimes was when they were reported in the media following his arrest in 1995. However, he said, 'I did have some shadow that there was something going on between [Father Ryan] and the altar boys'. He said that this knowledge was a result of comments, possibly by teachers.<sup>108</sup> When asked about his awareness of allegations against Father Ryan before December 1975, he said that he heard rumours in the months leading up to December 1975, but he had no precise or definite information.<sup>109</sup> He said that he did observe that Father Ryan was 'involving himself very much' with the altar boys, but he did not think it unhealthy. He also said he observed Father Ryan taking altar boys upstairs, where his bedroom and study were located, but he said that this did not seem suspicious.<sup>110</sup>

Monsignor Cotter told the interviewers that he did recall Dr CND approaching him. What he recalled of this visit was Dr CND saying, 'Get that priest out of here, straight away'. He said he otherwise had very little recollection of the conversation.<sup>111</sup>

There is no description in the 1997 Cotter Interview or 1997 Unsigned Cotter Statement of Sister Woodward approaching Monsignor Cotter to report allegations of sexual abuse of children. Rather, Monsignor Cotter says he consulted Sister Woodward following a visit from Dr CND.<sup>112</sup>

Monsignor Cotter said that the thought on his mind at the time was homosexuality and that he had not thought of children.<sup>113</sup>

### The 1997 Unsigned Cotter Statement

In the 1997 Unsigned Cotter Statement, Monsignor Cotter is recorded as having said that the only complaint that was brought to his attention was from Dr CND in late 1975. That document records:

The one thing that sticks in my mind from that conversation was [Dr CND] saying 'Get that priest (meaning [Father Ryan]) out of here immediately'.

I do not recall whether he gave me any reasons why [Father Ryan] should be removed immediately.

I don't believe [Dr CND] had any specific matters to raise ...

As I had no experience of this particular area or problem, I consulted Sister Evelyn Woodward ... who was a qualified psychiatrist.

I told her that [Father Ryan] was having problems pertaining to homosexuality and she mentioned that a Dr Evans in Melbourne would be able to help.

I cannot be sure but I think I arranged for [Father Ryan] to have an appointment with Dr Evans for assessment and then what I thought would be a course of treatment.<sup>114</sup>

### The 1999 Cotter Interview

Monsignor Cotter did refer to a report from Sister Woodward in the 1999 Cotter Interview, which was conducted with solicitors for the Diocese. In that interview, he said he received a report from Sister Woodward at around the same time as his conversation with Dr CND. He said that Sister Woodward spoke to him about matters he thought had been conveyed by some of the school teachers or nuns in the school.<sup>115</sup>

Monsignor Cotter told interviewers that Sister Woodward possibly did speak to him about allegations of Father Ryan and 'sexual touching' but that he had 'no recollection whatever of oral sex'. He said he thought at the time that Father Ryan was sent to Melbourne 'for such things as maybe touching up or something like that, but as regards oral sex or anal sex, I would have no notion of that'. He said he only became aware of those matters when they were reported in the media, when Father Ryan was charged.<sup>116</sup>

In relation to the visit from Dr CND, Monsignor Cotter said again that he could not remember the substance of Dr CND's complaint – only that Dr CND's purpose was to seek Father Ryan's removal from the parish.<sup>117</sup>

It was put to Monsignor Cotter that, whatever the allegations conveyed by Dr CND and Sister Woodward were, they must have been pretty serious. He agreed.<sup>118</sup> When asked whether he recalled an allegation of Father Ryan interfering with the children, Monsignor Cotter said:

The thing that came to my mind at that time was that [Father Ryan] was homosexual. Now, what I raised with him at this stage I cannot say, but I am just telling you that to show you that's the extent to which my thinking had come. There is another word beyond that called paedophilia. That word was not in my vocabulary, nor the impact of it. It would not have been in my mind. Just what exactly might be involved and what expression I gave to it in my conversation with Father Ryan, I am not sure. But I had in mind that he was homosexual and I believe he admitted that, and there and then without knowing very precisely what I was after, I started to find somebody to get him help for it. It never entered my mind that there might have been a legal matter involved. That did not come into my mind.<sup>119</sup>

## Father Ryan is confronted and admits allegations

Following the reports from Dr CND and Sister Woodward, Monsignor Cotter confronted Father Ryan.

We heard evidence that during this confrontation Father Ryan admitted some wrongdoing to Monsignor Cotter. Sister Woodward told us that she got a call from Monsignor Cotter shortly after she reported the allegations to him. He told her that Father Ryan had 'knelt at his feet, wept, and admitted what he had done'.<sup>120</sup>

That evidence is, in part, supported by what Father Ryan told police in 1995. Referring to the events in December 1975, he said that Monsignor Cotter told him there was an allegation that he had 'interfered with' altar boys and that he admitted the allegation. He could not recall any details of the conversation, but he said that Monsignor Cotter told him he could not stay in the parish and would need counselling.<sup>121</sup> When he later made a statement to police in 1996, Father Ryan said he was 'not sure' whether he had admitted to Monsignor Cotter that he had interfered with boys. He said he denied an allegation in relation to one particular boy.<sup>122</sup>

However, in a statement prepared in 1998, Father Ryan said that, when Monsignor Cotter confronted him, he admitted to interfering with boys.<sup>123</sup>

In the 1997 Cotter Interview and the 1999 Cotter Interview Monsignor Cotter described confronting Father Ryan. In 1997, Monsignor Cotter said that Father Ryan ‘confessed that he needed attention’ and consented to treatment.<sup>124</sup> As set out above, in the 1999 Cotter Interview, Monsignor Cotter characterised the issue as one of homosexuality, which Father Ryan admitted, rather than child sexual abuse.<sup>125</sup> The interviewer put to Monsignor Cotter that the suspension of Father Ryan’s faculties seemed a very severe reaction to an admission of homosexuality, but Monsignor Cotter said that was a judgment by today’s standards and that ‘The mentality of the priesthood at that stage, the fact that one of us was homosexual would be in itself I do believe, sufficient to seek treatment’.<sup>126</sup>

## Withdrawal of Father Ryan’s faculties

In the 1997 Cotter Interview, Monsignor Cotter said that he suspended Father Ryan from pastoral activities immediately when he received the complaint from Dr CND.<sup>127</sup> The Unsigned 1997 Cotter Statement records that, when Monsignor Cotter told Father Ryan to leave the parish, Father Ryan ‘had his faculties as a priest withdrawn’.<sup>128</sup>

However, as Bishop Wright acknowledged, there is no contemporaneous documentary evidence that Father Ryan had his faculties withdrawn, was suspended or was dismissed.<sup>129</sup>

## Contemporaneous documents

There are several documents from the time of the events in December 1975 that indicate Monsignor Cotter was aware of allegations of child sexual abuse against Father Ryan.

The most significant of those is a letter dated 16 December 1975 from Monsignor Cotter to Dr Evans, enclosing a referral from Dr CND. In that letter, Monsignor Cotter first referred to the report from a year earlier (as set out above). He wrote:

I am indebted to Sister Woodward, R.S.J., Ph.D., for information about you and the nature of your apostolate as Priest-Physician and Psychiatrist. I also have an acquaintance of yours as parishioner, [CND], whose letter of referral in respect of Father Vincent G. Ryan is enclosed herewith.

Father Ryan has been my assistant at St. Joseph’s, Merewether for the past two years. The problem which now brings him under your care became known to me about one year ago. The circumstances then were such that he knew that I was aware of what happened, and thinking the embarrassment he suffered from so knowing, would

have been more eloquent than any possible advice of mine, I decided to say nothing. Unfortunately this was a mistake on my part because apparently such a condition does not come right without the help of treatment. The current incident is more serious, involving altar boys and more than one.

Father has left the parish and gone to his parents' home where he has asked to be permitted to stay until about mid-January. After that he will go to 'La Verna' Retreat House under your care, to stay for as long as you might suggest. I shall be grateful to you also for advice as to whether he should take a chaplaincy in Melbourne for a year or so or whether he might attend some tertiary Institute such as the Institute of Catechetics, or a course at a theological Faculty ...

I think Sister Evelyn has told you the necessary details and there is perhaps no need for me to say more. I hope you will be able to help him with his problem, because I know that if he can be cured he can be a most effective priest.

I shall be anxious to hear from you, and be assured of my co-operation in any manner of treatment that you might think necessary.<sup>130</sup>

Monsignor Cotter's letter was contained in Father Ryan's personnel file, which police took from the Chancery Office when he was charged.<sup>131</sup>

Also contained in Father Ryan's personnel file, with a copy of the letter to Dr Evans, were:

- a handwritten memo with a list of boys' names on it, including the names of Scott Hallett and Gerard McDonald
- a handwritten note with Dr Evans' address and phone number. The note also states, 'There is accommodation at La-Verna'.<sup>132</sup>

### 3.9 The knowledge and response of Monsignor Cotter (Vicar Capitular)

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We are satisfied that in December 1975 Monsignor Cotter was made aware of allegations that Father Ryan had sexually abused multiple altar boys who were primary school students at St Joseph's school.

We accept Sister Woodward's evidence that she told Monsignor Cotter the allegations known to her. Again, while there is some ambiguity as to how much detail she knew at the time, it was at least that there were allegations of a number of incidents of masturbation and genital fondling by Father Ryan involving a number of altar boys from St Joseph's school.

There was no suggestion in the evidence of Sister Geatches or Sister Woodward that the children were not believed. They both understood the conduct to be serious. Further, Sister Woodward's evidence, and the accounts that Father Ryan provided, support the conclusion that Father Ryan admitted to sexually 'interfering' with altar boys to Monsignor Cotter.

We are also satisfied that Monsignor Cotter received a complaint from Dr CND in relation to these allegations, although the evidence as to what exactly Dr CND alleged is inconclusive. Dr CND is deceased and never gave an account of his conversation with Monsignor Cotter. According to Mrs McDonald's police statement, Dr CND was at least aware that Father Ryan had touched Gerard McDonald on his crotch area.

We are also satisfied that Father Ryan admitted to Monsignor Cotter that he had sexually abused altar boys at St Joseph's.

Despite the serious allegations reported to him directly, in his accounts Monsignor Cotter professed to have little or no recollection of those events and the substance of the complaints. Given the gravity of the matters, his claimed lack of recollection defies belief. Monsignor Cotter's accounts were generally unspecific, unclear or evasive. In them, Monsignor Cotter sought to minimise the gravity of the conduct reported to him and to present the information provided to him as having been vague or inconclusive, when that was not the case.

Monsignor Cotter's explanation that the allegations were of homosexual rather than paedophilic conduct is impossible to reconcile with the evidence of witnesses before us and the documents which indicate that the reports made to Monsignor Cotter were about sexual abuse of children. Monsignor Cotter's contemporaneous letter to Dr Evans refers expressly to 'altar boys' – that is, children. He also knew, as set out in the letter, that there were multiple boys involved. That is further supported by the notes in Father Ryan's personnel file produced with that letter, which record the names of multiple boys, including the two former primary school students who gave evidence to us that they were sexually abused. Although the word 'paedophile' may not have been in common usage, the fact that Father Ryan had committed serious crimes against children was clearly known to Monsignor Cotter. Further, regardless of Monsignor Cotter's understanding of the word 'paedophilia' in 1974 or 1975, he did not acknowledge in his interviews in 1997 or 1999 how wrong his earlier attitude was.

Monsignor Cotter, who was at the time the most senior priest in the Diocese, did not take appropriate or adequate steps to respond to these serious allegations. No official reprimand or sanction was put in place. The allegations were not properly documented and recorded in the Diocese's files. The only step taken was to refer Father Ryan to Dr Evans and remove him from the parish. That was completely inadequate. It plainly demonstrated an attitude that protected the Church and Father Ryan. No steps were taken to protect the welfare of the children in the Diocese.

### 3.10 Monsignor Casey (diocesan consultor)

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There is also evidence that the 1975 incidents were reported to Monsignor Vincent Casey, who was one of the diocesan consultors at the time. He later became the Vicar General of the Diocese.

In the 1999 Cotter Interview, Monsignor Cotter said that he discussed Father Ryan with another consultor at the time of the events. He said that he and the other consultor 'discussed it thoroughly between the two of us'. He later identified the consultor as Monsignor Casey.<sup>133</sup>

Monsignor Cotter also wrote of his discussion with Monsignor Casey in a letter to Bishop Clarke written in June 1996, following media reports on Father Ryan's conviction and sentence. Monsignor Cotter said in that letter:

I discussed it only with Mgr Casey and he agreed with what I was doing. The other Consultors were Simms, Flatley, Sylvester and Saunders. I did not fully discuss it at a meeting. I did tell them there was a problem with Vince Ryan and Casey & I had decided to send him to Melbourne for treatment. They were happy with that, and, having spoken to some of them, I find they are still pleased at having heard no more about it then.<sup>134</sup>

Monsignor Casey is deceased. In an unsigned statement that was prepared on behalf of Monsignor Casey in July 1999, he is recorded as saying that Monsignor Cotter told him 'that there had been some trouble with Father Vincent Ryan' and that Father Ryan had been sent to see a specialist in Melbourne. Monsignor Casey said, 'My recollection is that Monsignor Cotter told me that there has been some trouble with the altar boys although I do not recall whether or not Monsignor Cotter told me details of what the trouble was'. He could not recall whether he had any other conversations with Monsignor Cotter about Father Ryan after that time.<sup>135</sup>

Monsignor Casey said in the unsigned statement that he received no complaints about Father Ryan, and Bishop Clarke did not discuss the problem regarding Father Ryan with him during the time he was Vicar General. He said that during the time he was a consultor there was never any discussion of any 'perceived impediment' to Father Ryan being moved or placed in a particular parish.<sup>136</sup>

We are satisfied that Monsignor Casey, another senior priest in the Diocese, knew that there had been 'trouble' with Father Ryan and altar boys and that Father Ryan had been referred to a specialist as a result. Monsignor Casey could not recall if he knew the substance of the allegations. However, Monsignor Cotter said it was discussed in detail. We are satisfied that Monsignor Casey knew that allegations had been made that Father Ryan had sexually interfered with altar boys.



## 3.11 Other issues

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### No counselling or support for the boys

Sister Geatches said that there was no counselling available to assist the children at the time and that in hindsight she should have made that available to the affected children and parents.<sup>137</sup> She said:

Looking back, I regret that I did not take any further action in relation to the children in the school. I did not think about getting counselling for the children who were involved, or talking further with the parents about what had occurred. I would do both those things today.<sup>138</sup>

Sister Woodward told us that she suggested to Monsignor Cotter that counselling should be offered to the children and she said she thought he agreed. She did not know whether counselling was offered. When Sister Woodward was asked if anyone approached her for counselling, she said, 'Nobody, not one'.<sup>139</sup>

Sister Woodward said she had no clear memory of discussing the provision of counselling with Sister Geatches but said she expected she did.<sup>140</sup>

Sister Geatches told us she was not aware that Sister Woodward had suggested to Monsignor Cotter that counselling should be arranged for the children.<sup>141</sup>

In 1976, Sister Geatches was transferred to Muswellbrook and Sister Ursula Kauter became the principal at St Joseph's school. In that year, a number of the altar boys who had been abused by Father Ryan in 1975 were still at the school, in grade 6.

Sister Geatches told us that she never discussed the matter with Sister Kauter and there was no handover process. She said this was because the appointment was unusual: it occurred only four days before the start of the new school term and 'there was very little time to do any communicating about matters like that'.<sup>142</sup>

In a statement to police, Sister Kauter said she was not made aware of the issue before she became principal. She said that Monsignor Cotter (who was Vicar Capitular when Sister Kauter became principal) never discussed the matter with her.<sup>143</sup>

We are satisfied that no counselling or support was provided to those primary school students at St Joseph's who reported being sexually abused by Father Ryan. Also, the principal who replaced Sister Geatches in the new year was not informed of the allegations at the time she commenced in her role, when she would have been in a position to arrange for the necessary supports to be provided.

## Criminal allegations not reported to police

No one in or associated with the Church authorities reported the allegations against Father Ryan to the police.

Sister Geatches told us that there was never any discussion with anyone within the school or the Congregation about reporting the matter to police at the time.<sup>144</sup>

Sister Geatches also said that she did not think of Father Ryan's behaviour as a crime in 1975, although she would today. When asked to explain that position, she said, 'It was a different era. There wasn't – there hadn't been anything like this before'.<sup>145</sup> However, Sister Geatches said that she would have viewed a sexual assault of a young girl as a crime at the time. When asked why she did not view sexual assault of a boy as a crime, she said, 'I just think that we weren't informed enough to be able to make those decisions at the time'. She agreed that Father Ryan should have been reported to police and the matters dealt with by the criminal law. When Sister Geatches was asked why that did not occur, she said, 'Because I really didn't know how to deal with the event that had occurred'.<sup>146</sup>

She said:

Looking back on it now, I am very conscious that there was nothing in place at that time to provide me with any guidance about what I should do in those circumstances. Today I would be much better equipped to respond, and I would take any such report to the police as well as to Church authorities.<sup>147</sup>

Sister Woodward also told us that she did not think of reporting the matter to police in 1975. At that time she thought her responsibility was to report the issue to the most senior Church official in the Diocese, which she did. She said, 'In those days it would have been unthinkable for a nun to go around the Bishop. The status of women in the church then would not have contemplated that happening'.<sup>148</sup> She said that, looking back, she regretted that she did not do more and that if she received similar complaints today she would notify both the police and the Church authorities.<sup>149</sup>

It was put to Sister Woodward that, given Monsignor Cotter was seeking her advice and she recommended referring Father Ryan to Dr Evans, she could have equally suggested going to the police. She said, 'I suppose I could, yes', but it did not occur to her to do so.<sup>150</sup>

When asked whether she understood Father Ryan's conduct to constitute a crime, Sister Woodward said, 'I don't think I thought like that at the time'. She said she would 'probably' have thought it a crime if it were a man doing the same things to a girl.<sup>151</sup> Later in her evidence, Sister Woodward said she had only one thought in her mind when this was reported to her and that was to get Father Ryan away from the children. Sister Woodward was asked whether she thought Father Ryan needed to be dealt with by the criminal justice system. She said, 'I don't think I thought like that. I kept asking what must we do and there was no precedent, so I had nothing that I could go back to; so the answer is probably no'.<sup>152</sup>

The Church parties submitted that both Sister Geatches and Sister Woodward reported the allegations immediately. Sister Geatches reported the matter to Sister Woodward. They decided Sister Woodward would report them to Monsignor Cotter, who was in charge of the Diocese at that time. They submitted that Sister Geatches and Sister Woodward gave evidence that this was an attempt to ensure that it did not happen again.<sup>153</sup>

In a letter to Bishop Clarke written in June 1996, following media reports on Father Ryan's conviction and sentence, Monsignor Cotter explained that he did not report 'what was going on' because he had 'no firm evidence'. He wrote he had only heard 'rumours' and a complaint from one parent, who only said Father Ryan should be removed from the parish.<sup>154</sup>

For the reasons set out earlier, that position is inconsistent with the evidence before us.

Irrespective of that position, in his letter to Bishop Clarke of June 1996 Monsignor Cotter went on to address what he would have done if he had had 'direct evidence'. He wrote:

I ask myself whether, even if I had direct evidence, would I have reported to the police. Probably not. In the context and circumstances of today – yes; of twenty years ago probably no, I think I would have tried to keep it in-house.<sup>155</sup>

We accept that Sister Geatches and Sister Woodward may have felt constrained in the actions they could or should have taken because of their lack of experience, positions within the Church and the absence of any established protocols or procedures to assist them in responding to the allegations. They ensured that the matter was reported to the most senior person in the Diocese and left the decision whether to refer Father Ryan to the police in his hands. They both acknowledged their regret over not having done more at the time.

However, as acknowledged by both Sister Geatches and Sister Woodward, these were serious allegations. There was no suggestion that the children were not believed.

We consider it is extraordinary that any person in 1975 would not view:

- a report that a man had been touching primary school boys sexually on their crotch area for some time (being Sister Geatches' evidence of the allegations reported to her)
- a report that a man had been engaging in masturbation and oral and anal sex with primary school boys (being Sister Woodward's evidence of what she was told),

as criminal conduct.

We are satisfied that there was a failure on the part of those informed of the allegations to recognise the conduct as criminal and that the matters ought to have been dealt with by police.

Further, Monsignor Cotter's admission in his letter to Bishop Clarke in June 1996 was that he would have preferred to deal with matters 'in-house' rather than report them to police. That approach was wrong. The allegations should have been referred to the police, and not doing so was an abject failure to act in the best interests of the children of St Joseph's Primary School and the Diocese.

Monsignor Cotter's admission plainly demonstrates an approach that protected the Church and the perpetrator over the welfare of the children in the parish and the school.

This was an opportunity to stop Father Ryan preying sexually on children within the Diocese. Missing that opportunity had devastating consequences for those children Father Ryan went on to abuse in the future.

## 4 Father Ryan's Treatment

The following facts are uncontested:

- After the allegations were made against Father Ryan in December 1975, Monsignor Cotter removed him from St Joseph's parish. Father Ryan was sent to reside for a time with his parents, out of the area.
- In around late January 1976, Father Ryan arrived at the Franciscan retreat house, 'La Verna', in Kew, Melbourne.
- Dr CND referred Father Ryan to Dr Evans at La Verna – the person to whom Sister Woodward had recommended Father Ryan be sent for treatment.
- Father Ryan had only one consultation with Dr Evans in 1976 and did not attend any other sessions with any other psychologist or other person in relation to his sexual offending against children while he was in Melbourne.
- Father Ryan spent the academic year in Melbourne studying at the National Pastoral Institute before he returned to a parish appointment in the Diocese at the end of 1976.

There was conflicting evidence about the circumstances of Father Ryan's referral, the nature of the service that Dr Evans was to provide and what further psychological treatment or other steps (if any) Dr Evans proposed.

We consider this evidence below.

### 4.1 Dr Evans

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In December 1975, Dr Evans was the director of La Verna. At that time he was a member of the Order of Friars Minor (commonly known as the Franciscans) and an ordained priest.

He told us that towards the end of 1975 he decided to leave the priesthood and the Franciscan religious order. He said he commenced the process of laicisation between the end of 1975 and early 1976.<sup>156</sup> He said that in December 1975 he had not made any public announcement of that fact and his policy, if anyone inquired, was to say that he would not be stationed at La Verna after the end of the year.<sup>157</sup>

### 4.2 Father Ryan's referral

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On 12 December 1975, Dr CND wrote a referral for Father Ryan to see Dr Evans. Dr CND wrote that Father Ryan was the parish curate who had a 'problem' that he believed Dr Evans would be asked to try to resolve. No further detail of the problem was set out in the referral letter.<sup>158</sup>

Dr CND was a medical colleague of Dr Evans. Dr Evans was well known to Dr CND from his time as a student and young practitioner. However, Dr Evans said that, apart from the referral letter, he did not have any correspondence with Dr CND in relation to Father Ryan. Dr Evans said that he did not discuss with Dr CND the 'problem' for which Father Ryan was referred, either at the time or later.<sup>159</sup> Dr Evans said the reference to a 'problem' was 'doctor talk' and that 'doctors are never specific to me when they refer to priests, ever'. He agreed the language used in relation to priests was more euphemistic than that in relation to referrals of lay people.<sup>160</sup>

As set out above, Monsignor Cotter sent Dr CND's referral to Dr Evans on 16 December 1975, together with Monsignor Cotter's covering letter.<sup>161</sup>

On 2 January 1976, Dr Evans replied to Monsignor Cotter's letter to say that Father Ryan would be expected at La Verna in January and the length of his stay and postgraduate studies would be discussed with Father Ryan upon his arrival.<sup>162</sup>

In the 1996 Cotter Interview, Monsignor Cotter said that he did not recall ever having a conversation with Dr Evans about Father Ryan.<sup>163</sup> Monsignor Cotter said he had no recollection of the letter to Dr Evans. When asked if it was possible he wrote the letter, he said, 'Evidently. My name is to it. Is it possible? I suppose'.<sup>164</sup>

There is no evidence to indicate this was not Monsignor Cotter's letter. We are satisfied he wrote it.

Dr Evans told us that he could not now recall receiving the letter from Monsignor Cotter or his response to it, but he accepted that he did receive it. He said that the letter's contents reflected his understanding of what the allegation was at the time.<sup>165</sup>

Dr Evans stated that he never spoke to Monsignor Cotter directly about Father Ryan's referral.<sup>166</sup>

We note that Sister Woodward said that Monsignor Cotter told her at the time of the events that he had phoned Dr Evans and asked if he could send Father Ryan and Dr Evans agreed.<sup>167</sup> It is not necessary to resolve this point.

### 4.3 Conversations with Dr Evans

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Sister Woodward and Dr Evans had different accounts of how the information regarding Father Ryan was conveyed to Dr Evans. Sister Woodward said that she contacted Father Peter Cantwell, another friar at La Verna, and told him to let Dr Evans know that Monsignor Cotter would be contacting him. She said she did not ever speak to Dr Evans.<sup>168</sup>

Dr Evans recalled that he spoke to Sister Woodward directly.<sup>169</sup>

## Sister Woodward's evidence

Sister Woodward said that she told Father Cantwell the details of the abuse that had been reported to her and Father Cantwell said he was sure Dr Evans would welcome Father Ryan to the community, which had no links to children.<sup>170</sup>

Sister Woodward was asked whether she recalled conveying to Dr Evans either directly or through Father Cantwell that the allegation concerned adolescent boys. She said she would not have used the word 'adolescent'. She said she would not describe primary school boys as adolescents.<sup>171</sup>

Sister Woodward said her memory was 'a bit flawed' and it was possible that she spoke to Dr Evans. However, she said that she had always thought that she spoke to Father Cantwell, who passed the information on to Dr Evans.<sup>172</sup>

Sister Woodward was asked about the passage in Monsignor Cotter's letter to Dr Evans which refers to Sister Woodward having told Dr Evans the 'necessary details'. She said she never gave a clear undertaking to pass the details on to Dr Evans, and it was news to her that Monsignor Cotter thought she did so.<sup>173</sup>

## Dr Evans' evidence

Dr Evans' evidence was that he spoke directly to Sister Woodward. He said that in December 1975 he received a phone call from Sister Woodward. He said it was not a long conversation but that Sister Woodward asked whether he would be willing to see Father Ryan, because he had 'been involved sexually with adolescent boys'. Dr Evans said that Sister Woodward did not go into detail about what the allegation was, but he knew it had come to her attention and to the attention of Monsignor Cotter and Dr CND. He said he understood from the conversation with Sister Woodward that the allegation was in relation to altar boys from the parish and that there was more than one boy involved, although he did not know how many were involved.<sup>174</sup>

Dr Evans said that he could not recall whether the words used in the conversation were 'adolescent boys' or 'altar boys' but that altar boys would largely be adolescent boys. He was asked whether he would consider primary school boys as adolescents. He said, 'No, depending what age. I'd consider them to be adolescents if they'd reached puberty'. He agreed it would be unlikely that 10- or 11-year-olds would be adolescents. He said, 'they would be children'.<sup>175</sup> Dr Evans said it was his understanding that altar boys were generally between 13 and 15 years old and could be older.<sup>176</sup> He said that he did not recall the word 'children' being used in his conversation with Sister Woodward.<sup>177</sup>

Dr Evans was asked whether he recalled discussing the referral with Father Cantwell. He said, 'I don't remember any great discussion with him. He may have mentioned the name Sister Woodward, but it was Sister Woodward that I spoke to on the telephone'.<sup>178</sup> In relation to Sister Woodward's evidence regarding Father Cantwell, Dr Evans said:

I don't recollect Peter Cantwell being an intermediary. I don't know why that would be the case. I was Superior of the house; there's no reason why she wouldn't speak to me, if I was to provide the service.<sup>179</sup>

When asked if he had a clear recollection of his conversation with Sister Woodward, Dr Evans said, 'Yes ... I'd forgotten the name but it came back to me in a flash when I saw the letter from Monsignor Cotter, which also comments on the fact that Sister Woodward had already spoken to me'.<sup>180</sup>

## Conclusion

We consider that the evidence as to whether Sister Woodward and Dr Evans spoke to each other directly about Father Ryan is inconclusive. As Sister Woodward accepted in her evidence, it is possible that the conversation occurred. Ultimately, little turns on the point. It is clear from the evidence that, whether by way of a direct conversation between Sister Woodward and Dr Evans or through a combination of other communications, the referral occurred and some level of detail about the alleged offending was conveyed to Dr Evans.

## 4.4 Dr Evans' assessment

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### The consultation

Dr Evans only saw Father Ryan once, in late January or early February 1976. Dr Evans said he conducted a standard psychiatric interview. He observed that Father Ryan was highly intelligent, well dressed and affable. He said that Father Ryan's history revealed a range of psychosomatic symptoms but that he assessed there was no evidence of major depressive illness.<sup>181</sup>

Dr Evans took notes of that consultation, including the following:

Presents: Sexual attraction to boys in or from adolescence precipitated by the reporting of the events ...<sup>182</sup>



During the consultation, Dr Evans said that Father Ryan admitted that he had a sexual attraction to and had had sexual contact with adolescent boys, but he did not go into detail about what he had done. Dr Evans described the interview as ‘non-directive’. Dr Evans did not ask Father Ryan about the detail of what had happened.<sup>183</sup>

Dr Evans said that he ascertained from Father Ryan that he was sexually attracted to adolescent boys – that is, ‘those boys who had reached puberty and were capable of some sort of sexual activity themselves’.<sup>184</sup> However, Dr Evans agreed that it was self-evident that the acts that Father Ryan described were criminal. He said, ‘They were under the age of 18. I would have thought that that’s sexual abuse of a child, of an adolescent, anyway’. When asked if that was evident to him at the time, he said, ‘Oh, yes, yes’.<sup>185</sup>

Dr Evans made the following assessment of Father Ryan:

Assessment: Not depressed but feels worried. He had a personality disorder, in my opinion, with immature features both emotionally and sexually.<sup>186</sup>

Dr Evans said that he judged Father Ryan ‘to be an immature but insightful personality exploring his homosexual orientation’. Dr Evans said, ‘I did not assess him to be a hard-core paedophile at that time but a homosexual seizing opportunities to act out his immature homosexuality with adolescent boys’.<sup>187</sup>

In a statement to police in May 1996, Father Ryan said all he remembered of his consultation with Dr Evans was ‘feeling upset’ about discussing the incidents. He said he recalled Dr Evans consoling him and ‘Your [sic] not the only one to have done something like this’.<sup>188</sup>

## Father Ryan’s postgraduate studies at the National Pastoral Institute

One of the disputed matters concerning Father Ryan’s assessment by Dr Evans was whether Dr Evans recommended that Father Ryan undertake postgraduate studies at the National Pastoral Institute.

Shortly after his arrival at La Verna, Father Ryan wrote to Monsignor Cotter and said:

When I first spoke to [Dr Evans], just at the table, he seemed to favour my doing something in theology at one of the theology faculties. However, yesterday we had the first real session and after that he said that the [National] Pastoral Institute is obviously the place for me since ... it’s [sic] purpose is more the spirit of things and is community based. He went then immediately to ring the institute.<sup>189</sup>

Monsignor Cotter replied to Father Ryan on 28 January 1976. He said, 'I accept completely the advice of Fr. Peter Evans re the [National] Pastoral institute'. He also wrote:

While you are away from the Diocese you will I hope have a most thorough health check and subsequent programme of treatment according as may be necessary. Please make the most of the opportunity. You seem to have taken kindly to Fr. Peter Evans and this is really great.<sup>190</sup>

He signed off, 'Give my kind regards and thanks to Fr. Evans and please keep me informed of progress'.<sup>191</sup>

However, the version of events set out in Father Ryan's letter to Monsignor Cotter is contrary to Dr Evans' evidence to us.

Dr Evans said that the National Pastoral Institute was not a psychotherapeutic institution. He did not recall discussing with Father Ryan that he should attend the National Pastoral Institute. He said he would have told Father Ryan that it was inappropriate for him to do so and it would not have been good therapy. Dr Evans said it would have been inadvisable to send someone with a psychological problem to an institution such as the National Pastoral Institute, where they would be separated from their normal supports and those who were aware of the problem and could act as a constraint.<sup>192</sup>

When he was interviewed by police in October 1995, Father Ryan said that he spent 1976 living at Kew with the Franciscans.<sup>193</sup> However, Dr Evans told us that there was no arrangement for Father Ryan to stay at La Verna. He said, 'La Verna was a house of spirituality, it was not a treatment centre, so ... I would have no-one staying there for treatment over a long period of time'.<sup>194</sup>

We consider it is unlikely that Dr Evans would have recommended that Father Ryan undertake postgraduate study at the National Pastoral Institute. There is no record of a recommendation to that effect contained in Dr Evans' notes of his consultation with Father Ryan. It is contrary to Dr Evans' evidence (set out below) that Father Ryan should undergo therapy in the Maitland–Newcastle region.

However, we consider it is clear from the correspondence between Father Ryan and Monsignor Cotter that Monsignor Cotter believed that Dr Evans had recommended this course of action.

## Service to be provided by Dr Evans

The other matter that was the subject of some controversy in the evidence was the nature of the service that Dr Evans was to provide and any services he subsequently recommended.

Dr Evans told us he was reluctant to see Father Ryan, as he was preparing to leave La Verna, so he agreed to see him for assessment only. However, he said that he would not have told Sister Woodward that he was about to leave the priesthood and religious life, and he did not know what Sister Woodward's expectations would have been of his assessment of Father Ryan. In his statement to us, Dr Evans said he would have just said, 'I'll make an assessment'. However, in his oral evidence, he said he could not recall if he used the word 'assessment'.<sup>195</sup> He said an assessment would ordinarily involve making a diagnosis and a proposal for management. He said that he did not explain or specifically address the distinction between 'assessment' and 'treatment' when he spoke to Sister Woodward.<sup>196</sup>

As to the ongoing treatment options, Dr Evans' evidence was that he told Father Ryan it was unrealistic for him to seek treatment in Melbourne, where he was unknown and away from his supports. He said he recommended that Father Ryan see a therapist in his local area and that he take the matter up with his referring doctor.<sup>197</sup>

That account is consistent with Dr Evans' notes of his assessment of Father Ryan, which state:

Therapy more appropriate in Maitland area. Not accepted for therapy here. I'll be finishing practice here next week – U.K. Patient responsibility for own treatment. Essential for this personality disorder.<sup>198</sup>

There is no evidence that Dr Evans' recommendation was communicated to Monsignor Cotter, to anyone else in the Diocese or to Dr CND.

Dr Evans said he would not have undertaken to write or provide a report on Father Ryan to Dr CND and did not arrange for Father Ryan to see anyone else. He said that would be a matter for Father Ryan's referring doctor and that specialist-to-specialist referrals were contrary to best practice.<sup>199</sup> Dr Evans said that he was treating the consultation as confidential, as he would ordinarily, and he did not convey to anyone in the Diocese his views about Father Ryan. He said, 'Father Ryan undertook to take that responsibility himself'.<sup>200</sup> When asked whether this obligation was something that he discussed with Father Ryan specifically, he said he would have told Father Ryan the importance of him taking responsibility for his own treatment as a component of effective therapy.<sup>201</sup>

Dr Evans agreed that it was fair to say from Monsignor Cotter's letter to him that Monsignor Cotter was passing Father Ryan over to him to deal with the problem as Dr Evans saw fit.<sup>202</sup> In relation to Monsignor Cotter's expectation that Father Ryan would receive treatment that could lead to him being cured, Dr Evans said:

Well, that's what he implied in the letter, but that was without any consultation with me and before I'd even seen the patient. And I would – I mean, I wouldn't accept a letter which virtually prescribes the treatment to be given. I was a professional person and I make the decisions about treatment.<sup>203</sup>

Dr Evans said that Monsignor Cotter misunderstood the role of La Verna and Dr Evans' role. He agreed with the proposition that Monsignor Cotter's expectations were unrealistic, but he said he never spoke to Monsignor Cotter or anyone else within the Diocese to say that their expectations of what could be achieved were unrealistic.<sup>204</sup>

Dr Evans said that, when he wrote to Monsignor Cotter in 1975 and said the length of Father Ryan's stay at La Verna and the possibility of postgraduate studies would be discussed with Father Ryan on his arrival, he 'was saying that I would discuss the issues with him, not saying that I would recommend those issues or that they would happen'.<sup>205</sup>

Dr Evans accepted that he understood from Monsignor Cotter's request that one of the issues to be discussed with Father Ryan was whether he might undertake studies in Melbourne, but he said Monsignor Cotter was imposing his view of what would happen on Dr Evans and 'that was not going to happen'.<sup>206</sup>

It was put to Dr Evans that Monsignor Cotter relied on the lack of communication from Dr Evans to conclude that Father Ryan was cured. Dr Evans said:

I had no obligation to communicate with Monsignor Cotter. If Monsignor Cotter wanted to do that he could have contacted me and I would have insisted on a joint interview with Monsignor Cotter and Vincent Ryan, all face to face.<sup>207</sup>

When asked whether, looking back, Dr Evans thought there was an opportunity to correct the misunderstanding on Monsignor Cotter's part about what he expected of Dr Evans, he said, 'No, I relied on Vincent Ryan to communicate that. That may have been misplaced but it was, on the evidence I had available, a reasonable assumption'.<sup>208</sup>

Dr Evans said that, from what he had learned subsequently, Father Ryan was not honest with him or with his superiors; however, at the time he drew the conclusion that Father Ryan was honest. He said this was based on his personality, intelligence and appearance of being honest with Dr Evans and wanting to do something about the issue.<sup>209</sup>

## 4.5 Reports sought by Monsignor Cotter

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In the 1997 Cotter Interview, Monsignor Cotter was asked whether he sought reports on a regular basis when Father Ryan was in Melbourne. He said:

Well, I, I (cough) I don't think I did, but I, well, as far as I know he had examination and treatment ... what I should have done is insisted with the doctor, but I insisted to Father Ryan that he get treatment, even found a place for him to board – live, at the IPA, and er my impression was that he was going for regular counselling with Dr. Evans. I found out later that that was not so, but ... then he came back to us,

he came back to us afterwards, we had no advice or instructions from the doctor as to what, subsequent to then, or anything like that, it was not mentioned, so we thought he was cured.<sup>210</sup>

When asked whether Father Ryan told Monsignor Cotter he was not following a particular program or getting treatment, Monsignor Cotter said:

Not progressively. At the beginning, I do recall a stage at which he said he had at that time only one session, and I told to him to see to it and get more sessions with ongoing treatment, and I have no recollection of what happened after that.<sup>211</sup>

In the Unsigned 1997 Cotter Statement, Monsignor Cotter is recorded as having said:

During 1976 I spoke to [Father Ryan] from time to time on the telephone.

He distinctly gave me the impression that he was having ongoing counselling in Melbourne. It came as a great surprise to me last year (1996) when it turned out that he only saw Dr Evans the once. That was not the impression that I was given by [Father Ryan].<sup>212</sup>

That document also records Monsignor Cotter as saying he relied on the fact that Father Ryan had been sent to a professional and he thought that Dr Evans would report back to him if there was any problem. He said that:

As there was no report, either oral or in writing, and I had been under the impression that Vince had been receiving treatment, I assumed that the treatment had been of benefit to him.<sup>213</sup>

In the 1999 Cotter Interview, he said that Father Ryan told him he was attending counselling regularly. Monsignor Cotter said he had contact with Father Ryan over the year, but he did not know how frequently. He said he recalled impressing upon Father Ryan the need to ensure he was attending counselling regularly, but he said, 'I didn't hear very much, if at all, from the psychiatrist'.<sup>214</sup>

In a letter from Monsignor Cotter to Bishop Clarke in October 1997, he said, 'the specialist allowed him back without any advice or warning so we thought he was cured. Now we know different'.<sup>215</sup>

In an unsigned statement taken on 4 August 1998, Father Ryan is reported to have said that he recalled talking to Monsignor Cotter during 1976, he thought once in person, once on the phone and once in writing. He said that Monsignor Cotter once inquired how he was going and he said things were fine and he was okay.<sup>216</sup>

In his evidence, Dr Evans said that he never advised anyone that Father Ryan was suitable to return to a parish appointment.<sup>217</sup> We accept his evidence.

All of Monsignor Cotter's accounts consistently support the proposition that Monsignor Cotter had only minimal contact with Father Ryan throughout 1976 and did not ask Dr Evans about Father Ryan or his progress. That is consistent with Father Ryan's recollection that he had only three conversations with Monsignor Cotter in 1976.

We are satisfied that Monsignor Cotter did not have any contact with Dr Evans directly. He did not seek from Dr Evans any recommendation or assurance that Father Ryan was 'cured' or that he was fit to return to ministry.

## 4.6 Father Ryan returns to the Diocese

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On 14 November 1976, Father Ryan wrote to the newly installed bishop, Leo Clarke. Father Ryan wrote:

The academic year at the National Pastoral Institute is drawing to a close. I suppose you already know this but I thought I had better write to you rather than just arrive back in the Diocese without any word. I would expect to be back in Maitland in early December ...

The year has served me well and I believe I have learned a lot at the NPI. It has been valuable not only from the point of view of formal lectures but also from spending a year in close contact with all the elements which make up parish life. I feel I have gained a lot of understanding from this experience. No less valuable has been a year spent in a religious house. This has been a unique experience for me and a very profitable one.<sup>218</sup>

Father Ryan was appointed assistant priest in the Parish of Newcastle, with effect from 18 December 1976.<sup>219</sup> In that role he had some duties as chaplain to Newcastle hospital. In July 1977, Father Ryan was also appointed to the diocesan Tribunal for Matrimonial Causes.<sup>220</sup>

After his return to the Diocese and parish ministry in 1976, Father Ryan was not subject to any restrictions that would prevent him from interacting with children.

## 4.7 Effectiveness of treatment

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Monsignor Cotter arranged for Father Ryan to be sent to Dr Evans with an expectation that Dr Evans would treat him on an ongoing basis. However, that expectation does not appear to have been clearly communicated to Dr Evans by Monsignor Cotter or anyone else. It is

inherently unlikely that Dr Evans would have agreed to see Father Ryan on an ongoing basis given he was soon to leave the priesthood and the Franciscan religious order. We accept his evidence that he did not agree to do so.

There was a breakdown in the communications between Dr Evans and the Diocese such that neither party had a clear understanding of the expectation of the other, even of the service to be provided. No adequate explanation was provided to Dr Evans that the Diocese was awaiting and relying upon his advice in relation to Father Ryan, which would have enabled Dr Evans to disabuse Monsignor Cotter and anyone else of those false assumptions.

The Church parties submitted that to describe the decision to refer Father Ryan for treatment as one of convenience only would ignore the context of the time, in which medical treatment was viewed as an option to address the condition of paedophilia.

In the Unsigned 1997 Cotter Statement, Monsignor Cotter reportedly said, 'I thought at the time by removing him immediately I got the report from Dr CND and sending him to a professional for assessment and treatment, that I was doing the right thing'.<sup>221</sup>

However, at the time of the referral Dr Evans was residing in Melbourne, more than 1,000 kilometres away from Merewether and the Newcastle region. Sister Woodward accepted in her evidence that there may have been someone more local, but she said the 'thinking behind' sending Father Ryan to Melbourne was that he would be away from the children he had molested.<sup>222</sup>

The decision to treat Father Ryan was in part based on a belief that treatment would be effective. However, we are also satisfied that the decision to send Father Ryan for treatment in Melbourne was at least in part motivated by a desire to remove Father Ryan from the parish and the area where his continued residence was likely to cause a scandal for the Church.

Further, whatever view Monsignor Cotter held as to the potential for Father Ryan to be 'cured', his actions to verify the effectiveness of the treatment were completely inadequate. He failed to make any proper inquiries as to Father Ryan's progress and condition.

It was wrong for Monsignor Cotter to rely on the fact that he had received no adverse report from Dr Evans as a basis to conclude that Father Ryan had been 'cured' and could return to parish ministry. If Monsignor Cotter was relying on professional advice regarding Father Ryan's condition and appropriate appointments, he ought to have sought that advice directly. He did not.

We are satisfied that it was convenient for Monsignor Cotter to describe Father Ryan as rehabilitated. This avoided the need for the Diocese to take any special steps to prevent him from having contact with children or otherwise to deal with what would have been an ongoing management problem and likely scandal.

## 5 Bishop Leo Clarke

Leo Clarke was ordained as a priest in the Catholic Archdiocese of Melbourne in 1949. He served as a priest in the archdiocese until June 1976, when he was appointed Bishop of the Diocese of Maitland–Newcastle.<sup>223</sup>

When Bishop Clarke was appointed, Monsignor Cotter ceased to be Vicar Capitular. Monsignor Cotter then became the Vicar General and a consultant to the new bishop.<sup>224</sup>

The allegations of child sexual abuse that resulted in Father Ryan being sent to Melbourne occurred before Bishop Clarke's appointment and while Bishop Clarke was in a different region altogether. In June 1976, when Bishop Clarke took up his appointment and residence in the Diocese, Father Ryan was in Melbourne and studying at the National Pastoral Institute. However, Bishop Clarke was in office when Father Ryan returned to the Diocese and was appointed as the assistant priest of the Newcastle parish at the end of 1976.

In this section we consider the evidence of the nature and extent of Bishop Clarke's knowledge of Father Ryan's sexual abuse of children at St Joseph's in the 1970s.

### 5.1 Bishop Clarke denies knowledge

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In all of the documents setting out Bishop Clarke's accounts of his dealings with Father Ryan, Bishop Clarke maintained that he was unaware of the allegations that Father Ryan had sexually abused boys at St Joseph's in the 1970s. Bishop Clarke said that he only became aware of the allegations when Father Ryan was charged in 1995.

#### 1996 Clarke Police Statement

Bishop Clarke told police in 1996 that he was never informed by Monsignor Cotter or anyone else of the events that took place at St Joseph's in 1974 or 1975. He said he was aware that Father Ryan was in Melbourne at the National Pastoral Institute but was unaware of the reason he had been sent there.<sup>225</sup> Had he known, he said that he would have sought further advice on how to handle the matter. He said he was never made aware of any allegations or 'any inkling' of Father Ryan's situation.<sup>226</sup>

In relation to Father Ryan's return to the Diocese, Bishop Clarke told police that he received a phone call from Father Ryan in late 1976 seeking an appointment in the Diocese. He said it was customary for the bishop to consult with the board of advisers (of which Monsignor Cotter was one) before an appointment was made. Bishop Clarke said he had no clear memory of speaking to Monsignor Cotter about Father Ryan's subsequent appointment to Newcastle parish but stated it was possible that Monsignor Cotter had 'input' into it.<sup>227</sup>



## Clarke Interview and 1997 Unsigned Clarke Statement

When he was subsequently interviewed by lawyers, Bishop Clarke said that Monsignor Cotter would have told him in 1976 that Father Ryan was in Melbourne studying at the National Pastoral Institute, but Monsignor Cotter did not tell him why.<sup>228</sup> Bishop Clarke was asked whether Monsignor Cotter sent him some kind of report on why Father Ryan had gone to Melbourne. He said, 'No, no. No, that is not true. Monsignor Cotter never in any way informed me of anything that was alleged to have happened at Merewether in 1975'. An interviewer then said to Bishop Clarke, 'Not even in the vaguest terms?', and Bishop Clarke said, 'No, not even in the vaguest of terms'.<sup>229</sup> Bishop Clarke told the interviewers that if he had known he would never have appointed Father Ryan to Newcastle parish, which was a neighbouring parish to St Joseph's, and would never have put Father Ryan in charge of the Marriage Tribunal.<sup>230</sup>

Bishop Clarke was asked whether he would have allowed Father Ryan to return to the Diocese if he had known why Father Ryan was sent to Melbourne. He said:

Well, that's a tough question looking back to over 20 years ago. I'd – yes, I'd possibly would have but I would not have ... appointed him to a neighbouring parish ... that would have been ... just so absolutely ridiculous ... and I would never have given him these other positions of importance ... I possibly – had I known, I think I would have seen him before he came back and had a discussion with him and tried to ascertain, you know, just what did take place and what this alleged treatment he was sent down to Melbourne for. How did that turn out?<sup>231</sup>

When asked if he had any reason to suspect Father Ryan was involved in some kind of unusual conduct, Bishop Clarke said, 'None whatsoever'.<sup>232</sup>

Bishop Clarke's statements to the effect that he would not have appointed Father Ryan to positions of responsibility had he known of the allegations against him are repeated in the 1997 Unsigned Clarke Statement.<sup>233</sup>

## 5.2 Conversations with Monsignor Cotter

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Contrary to Bishop Clarke's accounts, in which he denied all knowledge of allegations against Father Ryan, Monsignor Cotter has said that he did discuss Father Ryan's situation with Bishop Clarke around the time that he became bishop in 1976.

## 1997 Cotter Interview and Unsigned 1997 Cotter Statement

When Monsignor Cotter was interviewed by a loss adjustor in 1997, he was asked whether he told Bishop Clarke about Father Ryan when Bishop Clarke took up the position. Monsignor Cotter said, 'I guess I did ... that's for him to say'.<sup>234</sup> Later in that interview he was asked whose decision it was to allow Father Ryan to return to the Diocese at the end of 1976. He said it was not his decision but that he did not think there was any reason for Father Ryan not to return because he believed Father Ryan to have been rehabilitated. He said he was still an adviser to the bishop at that time and that, as a matter of 'common sense and prudence', there would not have been any 'initiating procedure' that the bishop would not have discussed with him.<sup>235</sup>

The interview does not otherwise address either the nature of any advice Monsignor Cotter provided regarding Father Ryan or the occurrence or substance of any other conversations.

More detail is provided in the Unsigned 1997 Cotter Statement. It contains a statement that Monsignor Cotter had a conversation with Bishop Clarke about the matters that needed addressing in the Diocese. Monsignor Cotter said he 'spoke with Bishop Clarke about Father Ryan's problems'.<sup>236</sup>

The statement continues:

In about May 1976 [Bishop Clarke] was Bishop-elect. There was a conference at the Sacred Heart Fathers Centre in Randwick and Bishop Clark [sic] was at that conference. I went and saw him at the conference and I remember him saying the words to me 'What's that priest doing in Melbourne?'

I can't recall my answer specifically but I certainly told the Bishop that he was getting treatment of some sort in Melbourne, which was the impression that I had gained from [Father Ryan].<sup>237</sup>

Monsignor Cotter also said that he informed Bishop Clarke on his appointment 'of all relevant matters that were going on in the Diocese', including Father Ryan's 'position in Melbourne'.<sup>238</sup>

## 1999 Cotter Interview

When Monsignor Cotter was interviewed by solicitors in 1999, he said that he told Bishop Clarke that Father Ryan 'was homosexual and that there had been some problems with children and that was the extent of our conversation on the matter'.<sup>239</sup>

Monsignor Cotter was asked about whether Father Ryan's return was discussed between the bishop and consultors. Monsignor Cotter said he would have informed Bishop Clarke that he believed Father Ryan 'cured' or that he would not be impeded in his pastoral activities by his condition and that he thought it would be 'a pity to lose the services of a fairly young priest for the Diocese without any adequate reason, as I thought at the time'.<sup>240</sup>

### 5.3 Conversation with Sister Woodward

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The effect of Sister Woodward's oral evidence to us was as follows:

- She spoke to Father Cantwell on a couple of occasions in 1976 and he told her that Father Ryan was studying at the National Pastoral Institute and had had only one counselling session with Dr Evans.
- She told Bishop Clarke at or around the time of Father Ryan's return to the Diocese (in 1976) that Father Ryan had been sent to Melbourne because he had sexually abused boys in 1975.

Her evidence to the Royal Commission was the first occasion that Sister Woodward gave an account of these alleged conversations with Bishop Clarke and Father Cantwell. That is despite the fact that she has been asked to provide an account of her actions in relation to Father Ryan on three previous occasions:

- in her statement to the Royal Commission dated 26 August 2016
- in her statement to police in November 1995, around the time of Father Ryan's arrest
- in an interview with a loss adjuster in 1997.<sup>241</sup>

None of those accounts contains a description of a conversation with Bishop Clarke regarding the allegations against Father Ryan in or around 1976. Also, in those documents Sister Woodward does not refer to any discussions with Father Cantwell during the time Father Ryan was in Melbourne.

#### Father Cantwell

In her oral evidence to us, Sister Woodward said that she spoke to Father Cantwell a couple of times while Father Ryan was in Melbourne. These were not formal reports but more casual conversations and there 'wasn't much mention of treatment'. Rather, she said Father Cantwell made statements like 'Well, [Father Ryan's] fitting in well here and he seems to be enjoying the [National] Pastoral Institute'.<sup>242</sup>

Sister Woodward did not learn from her conversations with Father Cantwell that Dr Evans had left for London; she was unaware of that fact until the public hearing.<sup>243</sup> However, Father Cantwell told her that he ‘knew of only one treatment process’ between Dr Evans and Father Ryan, and Sister Woodward said she presumed that they had had only one session.<sup>244</sup> She told us she was appalled to learn this and agreed this was because she knew Father Ryan’s condition would not be cured in one session.<sup>245</sup>

When Sister Woodward was questioned again about the content and timing of these conversations, she said that her knowledge of the fact that Father Ryan only had one session with Dr Evans ‘may have come from [Father] Cantwell; otherwise I’m not quite sure’. She said that any conversation with Father Cantwell would have occurred ‘somewhere around’ 1976. She told us she did not have any conversations with Father Cantwell about Father Ryan after Father Ryan returned to the Diocese.<sup>246</sup>

Sister Woodward’s oral evidence does not sit easily with her statement to the Royal Commission. In her statement, she said that she assumed Father Ryan had been treated and cured. The Church parties submitted that Sister Woodward was not entirely confident in her evidence that she learned from Father Cantwell that Father Ryan only had one session with Dr Evans. Sister Woodward said she only learned the reason for that (that is, because of Dr Evans’ departure) in 2016. They said that the reason for Dr Evans’ departure would have logically been discussed in any conversation about Father Ryan’s treatment. The Church parties submitted that there is a ‘real possibility’ that Sister Woodward may have been confused about whether she spoke to Father Cantwell after Father Ryan’s session with Dr Evans or before, for the purpose of arranging it.<sup>247</sup>

Given Dr Evans told us he did not discuss publicly the fact he was leaving the priesthood and moving to London, we do not consider it would necessarily have formed part of any conversation between Sister Woodward and Father Cantwell.

Sister Woodward’s oral evidence is difficult to reconcile with her statement to the Royal Commission, in which says she thought Father Ryan was cured when he returned to the Diocese. She could not have held that assumption if she knew he had only seen Dr Evans once. However, when questioned by Counsel Assisting, Sister Woodward appeared to have a quite specific recollection of receiving this information while Father Ryan was in Melbourne, although she was unclear on the precise timing. She also recalled Father Cantwell telling her that Father Ryan was enjoying his studies at the National Pastoral Institute, which he did not commence until after his session with Dr Evans. That suggests they did speak after Father Ryan’s consultation.

We accept Sister Woodward’s evidence that she learned through Father Cantwell some time in 1976 that Father Ryan had only had one session with Dr Evans.

## Bishop Clarke

### Sister Woodward's oral evidence to the Royal Commission

In her oral evidence at the public hearing, Sister Woodward told us that she spoke to Bishop Clarke in relation to Father Ryan 'about a year' after the events.<sup>248</sup> Although she could not recall precisely when the conversation occurred, she said that it was around the time that Father Ryan returned from Melbourne.<sup>249</sup>

Sister Woodward said that her conversation with Bishop Clarke included a discussion about why Father Ryan had been sent to Melbourne.<sup>250</sup> When asked to explain what she said to Bishop Clarke, Sister Woodward said:

I'm not sure I can. Probably it was a conversation very like the conversation I'd had with Mons Cotter early in the piece, simply the facts – that this was happening, something had to change, the children had to be protected, and so we'd decided on this course of action.<sup>251</sup>

Sister Woodward told us that the conversation included describing the conduct that Father Ryan had engaged in with the boys, and she thought that this was in the same detail as described previously to Monsignor Cotter in 1975.<sup>252</sup> Bishop Clarke was surprised and acted as though he had not previously been informed.<sup>253</sup> She said Bishop Clarke was embarrassed by the conversation and 'He was inclined to shrug a bit and presume that everything would be all right when Father Ryan came back'.<sup>254</sup>

When asked whether she understood Bishop Clarke to have been in any doubt that Father Ryan had abused the boys in 1975, she said, 'Well, he shouldn't have been, because we told him pretty clearly'.<sup>255</sup>

Sister Woodward said she would have told Bishop Clarke that there was only one session between Father Ryan and Dr Evans. She said was confident she told Bishop Clarke that.<sup>256</sup>

### Previous accounts

As set out above, Sister Woodward's account of a conversation with Bishop Clarke about Father Ryan in or around 1976 is not set out in her prior accounts:

- In her Royal Commission statement, Sister Woodward said she could not be sure whether she had spoken to Bishop Clarke before 1995 about the allegations against Father Ryan.<sup>257</sup>

- In her 1995 police statement, Sister Woodward said that she ‘had no further input or knowledge of the matter’<sup>258</sup> after she reported it to Monsignor Cotter and recommended Father Ryan be sent to Dr Evans in December 1975.
- In her 1997 interview, Sister Woodward said that she visited Bishop Clarke in 1995, when she heard that Ryan could be the subject of criminal investigation. She said she thought it fair to say to him, ‘Look, this is what happened, you’d better prepare yourself’, and he said, ‘Well, what’s the story?’ so Sister Woodward told him what she knew about the 1975 allegations. Bishop Clarke responded by saying, ‘Oh, I didn’t know all that ... I knew vaguely that something had happened in relation to Vince, because he was sent away for a year, but I presumed it was all okay when he came back’.<sup>259</sup>

### Assessment of Sister Woodward’s evidence

On each of the above occasions before she gave evidence to us, Sister Woodward had the opportunity to detail her recollection of any conversations she had regarding Father Ryan’s sexual offending against children. On none of those occasions did she provide an account of a conversation with Bishop Clarke in or around 1976.

Her statement to the Royal Commission is not inconsistent with such a conversation having occurred, as Sister Woodward said only that she could not be sure whether she had spoken to Bishop Clarke about Father Ryan before 1995. Sister Woodward accepted in her evidence to us that her police statement was untrue insofar as it did not describe her dealings with Father Ryan after 1975.

The omission is particularly relevant in the context of the 1997 interview. In that interview Sister Woodward said that Bishop Clarke told her he did not know ‘all that’ when she spoke to him about the allegations against Father Ryan. If Sister Woodward had informed Bishop Clarke of those allegations in around 1976, she would have known that his statement was incorrect. Counsel Assisting put to Sister Woodward that it could only be that Bishop Clarke had forgotten the details, and she agreed.<sup>260</sup> Nevertheless, one might expect Sister Woodward to have addressed Bishop Clarke’s apparent error or absence of recollection of their earlier conversation in her 1997 interview.

Sister Woodward’s evidence in the public hearing was also contrary to the account that Bishop Clarke provided in the 1997 Clarke Interview. During that interview, Bishop Clarke was asked whether Sister Woodward ever told him she had cause for concern about Father Ryan. He said, ‘Only when that case she came to see me about ... ’95’. Bishop Clarke said that Sister Woodward told him she’d been to see Father Lucas and told him to get Father Ryan to see Father Lucas. He went on to say ‘that’s the only time she told me about that’.<sup>261</sup>

In light of the fact that her evidence in the public hearing differed from her previous accounts, Sister Woodward was questioned closely, both by Counsel Assisting and the Church parties, about the clarity of her recollection of the alleged conversation.

Following her account of the conversation with Bishop Clarke in 1976, counsel for the Church parties (Ms Needham SC) took Sister Woodward to parts of her previous accounts. The following exchange then took place:

Q. Having seen your statement to the Royal Commission, your police statement and the interview that you gave in 1997 –

A. Yes.

Q. – the parts that I've taken you to, are you now able to give any further evidence about when that conversation with Bishop Clarke might have happened?

A. No.

Q. Do you have a clear recollection of it happening in 1976?

A. Yes, I think so. I'm a bit muddled about dates.

Q. Perhaps I can re-ask that question. Do you have a clear recollection of telling Bishop Clarke about the abuse by Father Ryan?

A. Yes.

Q. Do you have a clear recollection when that might have happened, taking into account the matters that you have now seen?

A. I think so but I'm not sure.

Q. What are you not sure about?

A. The actual timing.

Q. Is it possible that it took place in 1995?

A. Yes, it's a possibility.<sup>262</sup>

However, in re-examination by Counsel Assisting, the following exchange took place:

Q. – you have said, a few moments ago, you think you are a bit muddled about the timing and your evidence yesterday was that you had a conversation with Bishop Clarke around 1976?

A. Yes.

Q. I understood the effect of your evidence yesterday to be that you had a conversation with Bishop Clarke relating to Father Ryan’s return from Melbourne and you weren’t sure whether it was before or after that, but it was around the time of his return from Melbourne?

A. Yes, that’s right.

Q. Do you have a fairly clear recollection that you did have a conversation with him around that time, and it was a conversation in which you conveyed to him what you knew about the abuse?

A. Yes.<sup>263</sup>

Sister Woodward generally presented as a candid, credible and forthright witness. Even though she did not refer to her discussions with Bishop Clarke in 1976 in her prior statements, she affirmed she had a reasonably clear recollection of that conversation occurring at around that time and not in 1995. When giving oral evidence about these matters, she gave her evidence by reference to a sequence of events in 1975 and 1976 which make it likely that the conversation with Bishop Clarke occurred in or around the end of 1976. Particularly given that her evidence was connected with surrounding events, it is implausible that Sister Woodward is mistaken by a matter of two decades.

We accept her evidence regarding the conversation with Bishop Clarke in or around 1976.

## 5.4 Other documents indicating knowledge of Bishop Clarke

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There are also other documents that indicate that Bishop Clarke had knowledge of the allegations against Father Ryan before Father Ryan was arrested.



## Special Issues Incident Report

On 8 June 1994, Bishop Clarke completed and signed a document titled ‘Special Issues Incident Report’. The report was requested by the Diocese’s insurer, Catholic Church Insurance Ltd. It specified:

For our review purposes we need to have updated information on all matters which may give rise to civil claims for criminal sexual misconduct. Your co-operation is requested in completing this form in relation to all known incidents which may later become subject to claims or litigation.<sup>264</sup>

Bishop Clarke completed and signed the form, detailing certain matters in relation to Father Ryan. He wrote:

In the early 1970 [sic], during the time of Bishop Toohey’s death & my appointment as Bishop, the Vicar Capitular, acting on a complaint against Fr Ryan sent him to the National Pastoral Institute, Melbourne for 1 year. On his return he has served in a number of parishes & I have not received any accusations that could be investigated ...<sup>265</sup>

This was more than a year before Father Ryan was charged.

The insurer’s request was directed specifically to known incidents that could give rise to claims for criminal sexual misconduct.

That Bishop Clarke completed that document in relation to Father Ryan in 1994 shows that he knew by that point that Father Ryan could be the subject of a claim for criminal sexual conduct arising from the events of the 1970s. It is inconsistent with his stated position that before 1995 he knew nothing at all about the events.

## Letter from Father Cahill to Bishop Malone

On 3 November 2007, Father Cahill, another priest in the Diocese, wrote to Bishop Malone. He wrote:

Mons. Cotter & I became good friends during his stay with me in Maitland. I know he was a good Irishman who played his cards close to his chest. But sometimes he would talk about Vince Ryan, and would share confidences. He told me how he had refused to answer the detectives’ questions as to whether he had discussed Vince with Bishop Clarke. But he certainly did talk to Bishop Leo about Vince. He told me that it was himself who recommended to Leo to take Vince back into the diocese.

He used to mention how he could not understand why Bishop Leo had let Vince take on such a high profile in the diocese.

The baton had certainly been passed on to Leo. And I can't help but think that Leo would later drop Paddy into it all by his own 'knowing nothing.'

So I was angry that one of the best priests that ever came into the diocese was left to take all the flak. And I believe that Leo got off very lightly for an incompetent handling of various episodes ...

Perhaps it would be best to destroy this letter ...<sup>266</sup>

Bishop Malone responded on 20 November 2007 and thanked Father Cahill for his letter. He wrote:

It has helped to explain a lot about the handover to Leo Clarke. Despite denial of knowledge by Leo, I've always wondered.

I don't know that we ever lay these matters to rest satisfactorily. There are so many loose ends, unfinished business and angry people out there. I've noticed that a number of leaders duck for cover and try to justify their decisions or those of their predecessors.

Your letter is an important insight into past matters, so for that reason I will not destroy it. However, I will file it carefully.<sup>267</sup>

Bishop Malone gave evidence that he could not recall discussing the matter with Father Cahill. He said he was conscious by this time that Bishop Clarke denied having known about Father Ryan's offences but that he doubted those denials. When asked how he came to have those doubts if he had not interrogated Bishop Clarke about the matter, Bishop Malone said he was not sure but that he got the sense from Bishop Clarke that he knew more than he was letting on.<sup>268</sup>

Bishop Malone was asked whether it was implausible that Bishop Clarke allowed Father Ryan to return to the Diocese without knowing the reason he had been sent to Melbourne. He said it was possible that Bishop Clarke thought Father Ryan was in Melbourne for study. He agreed that that would have been a complete misapprehension of the situation and that anyone who conveyed that to the Bishop would have been lying.<sup>269</sup> Bishop Malone said he was sympathetic to the fact that Monsignor Cotter was taking all of the blame when other people involved also shared that blame. When he was asked if that included Bishop Clarke, he said, 'I think so, yes'.<sup>270</sup>

## 5.6 Bishop Clarke's knowledge of allegations against Father Ryan in 1976

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We are satisfied that Bishop Clarke spoke to Monsignor Cotter and Sister Woodward in relation to the allegations against Father Ryan in 1976.

Monsignor Cotter's accounts of conversations with Bishop Clarke in 1976 indicate that Bishop Clarke knew that Father Ryan was in Melbourne for treatment in relation to homosexuality and 'problems' with children. That makes plain he was aware that Father Ryan was the subject of allegations of a sexual nature in relation to children.

Further, the evidence establishes that, at or around the time that Father Ryan returned to the Diocese in December 1976, Sister Woodward informed Bishop Clarke of the allegations that Father Ryan had sexually abused altar boys from St Joseph's, that he had been sent to Melbourne to be treated by Dr Evans and that he had only had one session with Dr Evans.

These conclusions based on the evidence of Sister Woodward and the accounts given by Monsignor Cotter are inconsistent with Bishop Clarke's position that he only became aware of the allegations in 1995, just before Father Ryan's arrest. However, Bishop Clarke's position is also inconsistent with other documents – in particular, the 1994 Special Issues Incident Report completed more than a year earlier and before the police were involved.

Further, it is inherently unlikely that the bishop would have allowed Father Ryan to return to the Diocese without understanding the reason he was in Melbourne.

Therefore, we consider that Bishop Clarke was not honest when he later claimed that he had no awareness of Father Ryan's offending until 1995.

There is no evidence that Bishop Clarke made any inquiries or sought advice from anyone except Monsignor Cotter as to whether Father Ryan was, in fact, 'cured'. The only evidence of any report to Bishop Clarke was Sister Woodward's evidence that she had reported that Father Ryan had only seen Dr Evans once.

Father Ryan was returned to ministry and later to parish appointments without any special steps being taken by the bishop to restrict Father Ryan's access to children. That was a gross neglect of duty to the children of the parishes in which Father Ryan was placed and enabled Father Ryan to continue to sexually abuse children.

## 6 Marist Brothers Hamilton

After Mr McDonald finished primary school at St Joseph's, he attended the Marist Brothers High School in Hamilton.

He told us that in 1977 he saw Father Ryan give a church service at the school to mark the beginning of the school year. When he got home he told his mother, and she was 'furious'. She phoned the school (Marist Brothers Hamilton). Mr McDonald said of this conversation:

I'm pretty sure she spoke to the head honcho, who I think was Brother ALEXIS [Turton] ...

Mr McDonald said he overheard his mother say on the phone something like 'How dare you have that filthy man there. I don't want him at that school, with what he has done to the altar boys.'<sup>271</sup>

Mr Hallett (who also attended Marist Brothers Hamilton) also gave evidence that he recalled Father Ryan saying mass at the school hall.<sup>272</sup>

Mrs McDonald has passed away. She told police in 1996 that she phoned Marist Brothers Hamilton in 1977. She said that she spoke to Mr McDonald's form master and she told him she was not impressed about Father Ryan having contact with Gerard 'after what had happened in 1975'. She told police that she named the boys to the form master. Mrs McDonald did not tell police the name of the form master to whom she reported.<sup>273</sup>

Mrs CNC also told police that she saw Father Ryan at the church. She subsequently received a phone call from Mrs McDonald, who said Gerard was afraid to go to school and was worried he would get into trouble. CNC said she advised Mrs McDonald to phone a person at the school.<sup>274</sup>

When Father Ryan was interviewed by police in October 1995, he said that he was not at Hamilton until 1978 but that it was 'not impossible' that he had said mass at Sacred Heart Church, Marist Brothers Hamilton, in 1977. He also said he could recall saying a mass at Marist Brothers once.<sup>275</sup>

The evidence establishes that Father Ryan said a mass at Marist Brothers Hamilton in 1977 and that Mrs McDonald rang the school to complain. Although Brother Alexis Turton was at Marist Brothers Hamilton as principal in 1977 and 1978, Mrs McDonald did not identify him as the person to whom she spoke. Her statement to police was that she spoke to Gerard's form master. There is no reason to doubt that Mrs McDonald made a complaint to the school at the time and there should be such a finding. We are unable to determine on the evidence to whom the complaint was made. There was no evidence that the report was forwarded to the Diocese.

The reappearance of Father Ryan was a cause of considerable distress and disillusionment for those students who had been abused by Father Ryan and for the families of those boys.

## 7 Subsequent Parishes

There is evidence that Father Ryan continued to sexually abuse children after he returned to the Diocese in 1976.

In an unsigned statement taken in August 1998, Father Ryan is recorded as having said that he thought his first offence occurred only about one year after he returned from Melbourne.<sup>276</sup>

Father Ryan has been convicted of offences regarding the sexual abuse of children in Hamilton, East Gresford and Cessnock.

As was the case in relation to his prior offending, the offences by Father Ryan after 1976 included extended periods of offending involving multiple incidents against some victims.

We have included the stories of some of the survivors of sexual abuse by Father Ryan in this section. It is not intended to be a comprehensive record of the allegations against Father Ryan, but it demonstrates the gravity of his offending.

### 7.1 Hamilton 1978–1984

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In 1978 Father Ryan was appointed as the assistant priest at Hamilton parish, where he continued his duties at the Marriage Tribunal. While he was at Hamilton, he lived in the presbytery with Monsignor Cotter.<sup>277</sup>

A man who has said he was abused as a child by Father Ryan at Hamilton made a statement to police in July 1996. He told police he was abused by Father Ryan between 1978 and 1984,<sup>278</sup> beginning when he was seven or eight years old. He said the abuse started one day after school, when Father Ryan invited him and another boy into Father Ryan's room at the presbytery. Father Ryan gave them soft drinks and invited them to get undressed. He said Father Ryan then proceeded to masturbate in front of them. The man told police that these incidents happened two to three times a week.<sup>279</sup> He also told police that between 1979 and 1982 Father Ryan showed him pornographic videos and performed sexual acts on him, including oral sex.<sup>280</sup> He said that the abuse continued until he was 13 or 14 years old. It stopped after an occasion when he and another boy refused to masturbate with Father Ryan and called him a 'Dirty old man'. He said that at that time he believed Father Ryan knew that they had 'grown out of his games'. He said he estimated the abuse occurred around 50 times a year.<sup>281</sup>

In 1997, Father Ryan was convicted of multiple counts of indecent assault and sexual assault in relation to this man.<sup>282</sup>

## 7.2 East Gresford 1984–1988

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CNE told us that he was sexually abused by Father Ryan at East Gresford from around 1983 to 1985. CNE did not live in the parish, but he often visited his grandparents there and served as an altar boy on the weekends. He described a number of incidents of sexual abuse by Father Ryan, including masturbation and oral sex. He told us that on one occasion a male parishioner came into the sacristy and saw Father Ryan abusing him but walked out without saying a word. Later, when CNE was convicted of sexually assaulting a child, he was sent to prison and was housed in the same prison and same wing as Father Ryan.<sup>283</sup>

Father Ryan pleaded guilty to charges against CNE in 2016.

## 7.3 Cessnock 1988–1995

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### CNG

CNG provided a statement to us. He told us he was sexually abused by Father Ryan in the late 1980s, when he was a boy. He said the abuse occurred numerous times after altar boy practice, which he attended twice a week. At the time, CNG said his mother was ill and Father Ryan would visit her at the family home, where CNG said he was also sexually abused. CNG said he told his mother about what Father Ryan had been doing in 1989 and she then arranged for a different priest to attend the house.<sup>284</sup>

### CNF

Father Ryan was convicted of five counts of sexual intercourse with a boy, CNF, for offences committed between 1989 and 1993.<sup>285</sup>

CNF's mother told police that Father Ryan befriended her and became a father figure to her children. She said that CNF came to spend more time with Father Ryan by himself, staying over at the presbytery at weekends or during holidays. She said that CNF stayed with Father Ryan with other altar servers for video nights and that CNF continued to have contact with Father Ryan when he transferred from Cessnock to Taree parish in 1995.<sup>286</sup>

## CNH

CNH is the wife of a man who said he was abused by Father Ryan in the 1970s, when Father Ryan was at St Joseph's, Merewether. She provided a statement to police in January 1997.

CNH told police that at some time in 1990 her husband disclosed to her that Father Ryan used to 'interfere with' boys at St Joseph's. CNH's husband said that Father Ryan had 'tried it' on him and referred to Father Ryan fondling and rubbing himself.<sup>287</sup>

CNH told police that in around April or May 1991 she phoned Father Ryan and said to him that she knew what he did to little boys. CNH said that Father Ryan responded by saying, 'Yes but I've stopped I've had help I went to Melbourne it's alright now', and he later said, 'All I can say is I'm sorry'.<sup>288</sup>

After this conversation, CNH said she immediately phoned the 'Bishop's office' and was told she was being put through to Monsignor Cotter. CNH heard a male voice say 'hello'. CNH said, 'Are you aware that Father RYAN is molesting boys'. She said she heard a gasp and the response, 'Yes we are aware he has been to Melbourne to get Psychiatric help'. CNH asked what was going to be done about it, and the person responded, 'He's not doing it anymore'. CNH said it was hypocritical for Father Ryan to preach about goodness as a criminal, and the person responded, 'We'll deal with it'. CNH hung up.<sup>289</sup>

CNH then telephoned Cessnock police station and said she believed Father Ryan was molesting boys because her husband had told her so but that he would not come forward. She did not give her real name.<sup>290</sup>

CNH's husband subsequently came forward to police and made a statement in 1997.<sup>291</sup>

In the Clarke Interview, Bishop Clarke said the only complaint he received in relation to Father Ryan was an anonymous one he received from a woman, who he said phoned him at Maitland. He said the woman claimed that Father Ryan had interfered with her husband years ago, but she would not give her name or other details and he did not hear from her again.<sup>292</sup>

In the 1997 Unsigned Clarke Statement, Bishop Clarke is recorded as saying:

In the early 1990s when the police were running one of their phone-ins, I received a telephone call which was anonymous. It was a woman who was somewhat hysterical and would not give me her name. She stated that she had seen Vince Ryan's picture in the paper and her husband had seen it too. When he (her husband) saw it he described to her how he had been interfered with by Vince. I asked her to get her husband to contact me so I could take the matter further, but I never heard back from them. Indeed when the police came here to interview me in 1995, I described that telephone call to them and they agreed that you could not act on an anonymous complaint, particularly when they didn't come back to me with details. I did not raise this anonymous complaint with Father Ryan.<sup>293</sup>

The conversation that Bishop Clarke referred to is consistent with the substance of the conversation recorded in CNH's police statement. We are satisfied that the complaint Bishop Clarke referred to is the one from CNH. It is not necessary to resolve whether CNH spoke to Bishop Clarke and not Monsignor Cotter or whether she spoke to both of them.

Bishop Clarke admitted he had received an allegation that Father Ryan had interfered with a woman's husband years before. The fact that the complainant was anonymous did not mean that Bishop Clarke could not put that allegation to Father Ryan, and it was wrong to treat it as a barrier to taking action.



## 8 Criminal Investigation

### 8.1 Bishop Clarke is informed of the police investigation

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Sister Woodward told us that she received a phone call from Mrs McDonald, the mother of Mr Gerard McDonald, in 1995. Mrs McDonald told her that a group of boys from St Joseph's who had been interfered with by Father Ryan in 1975, including her son, were planning to go to the police. Sister Woodward said Mrs McDonald, who was still a secretary at a diocesan school, held fears for her job and asked Sister Woodward to keep the information in confidence.<sup>294</sup>

Sister Woodward said she was confused about what she should do. She felt she had a duty to report the matter to the bishop. At the time, Sister Woodward was on the National Professional Standards Committee with Father Brian Lucas. After consulting with Father Lucas, she said she decided to tell Bishop Clarke. Sister Woodward gave evidence that she was also seeking confirmation that Mrs McDonald's job was not in jeopardy.<sup>295</sup> Sister Woodward said she consulted with Father Lucas about her dilemma about whether to break Mrs McDonald's confidence because he was someone who 'understood the ethics of it'.<sup>296</sup>

Sister Woodward did report the matter to Bishop Clarke in September 1995. Sister Woodward agreed that the effect of what she told Bishop Clarke was that there was likely to be a police investigation in relation to Father Ryan, because one of the boys from 1975 was going to the police.<sup>297</sup>

Sister Woodward said that she later learned from Father Lucas that Father Ryan was about to be arrested, although she did not know how Father Lucas had learned of that. Sister Woodward then relayed this to Bishop Clarke.<sup>298</sup>

Sister Woodward was asked whether she held any concerns at the time that telling other people within the Diocese about the impending police investigation or charges in relation to Father Ryan could interfere with what the police were doing. She said, 'No, I didn't think like that because the question was to tell the Bishop, not anybody else in the Diocese', and that she expected the bishop to keep the information to himself.<sup>299</sup>

### 8.2 Father Ryan is informed of police investigation

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Father Ryan told police in 1996 that he met with Monsignor Cotter on 10 October 1995. Monsignor Cotter said that Bishop Clarke had asked him to let Father Ryan know of 'some sort of talk' about allegations that Father Ryan had sexually assaulted someone. Monsignor Cotter told him not to worry too much about it, that it might go away and that it was 'sort of vague'.<sup>300</sup>

We are satisfied that Bishop Clarke directed Monsignor Cotter to inform Father Ryan of the criminal investigation. It was wrong of Bishop Clarke to do so. He and Monsignor Cotter should have appreciated that informing Father Ryan of potential or pending criminal investigations could have prejudiced those investigations.

### 8.3 Father Ryan's arrest and withdrawal of his faculties

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Father Ryan was arrested on 11 October 1995 at the presbytery at Taree by Senior Constable Troy Grant and other officers.<sup>301</sup>

When Father Ryan was arrested, he asked to phone Father Lucas (then a priest of the Archdiocese of Sydney), whose number he had been given by Monsignor Cotter.<sup>302</sup> When Father Ryan spoke to Father Lucas, he told a police officer that Father Lucas had said that he should seek independent legal advice, as Father Lucas only advised bishops.<sup>303</sup>

Father William Burston travelled to Taree following Father Ryan's arrest to provide him with support.<sup>304</sup>

Bishop Clarke wrote to Father Ryan on 19 October 1995 and said that the events made it 'impossible' for Father Ryan to fulfil his duties as parish priest and that he had appointed another priest as parochial administrator of the parish.<sup>305</sup>

## 9 Bishop Michael Malone

Michael Malone was ordained as a priest in 1964 and ministered in parishes in the Archdiocese of Sydney between 1965 and 1986. After that, he spent three years in Parramatta diocese and then about seven years as the parish priest of Gosford in the Broken Bay diocese.<sup>306</sup>

Towards the end of 1994, Bishop Malone was appointed the co-adjutor bishop (a priest with the right of succession to the bishop) of the Diocese of Maitland–Newcastle.<sup>307</sup>

Bishop Malone arrived in the Diocese in February 1995.<sup>308</sup> He told us that he had no familiarity with the Diocese before he was appointed.<sup>309</sup>

He also said that between 1 and 30 October 1995 (which includes the date on which Father Ryan was charged) he was away from the Diocese on annual leave.<sup>310</sup>

### 9.1 Co-adjutor Bishop Malone’s alleged knowledge of the police investigation

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We received conflicting accounts from Sister Woodward and Bishop Malone about the nature of any discussions between them about Father Ryan before his arrest on 11 October 1995.

At the time that Sister Woodward became aware of the criminal investigation (in around September 1995), Bishop Malone was the co-adjutor bishop of the Diocese.

In her statement to the Royal Commission, Sister Woodward said:

With respect to Bishop Malone, although my recollection is not entirely clear, I believe that I also informed Bishop Malone about Ryan’s conduct. I am not completely sure when that discussion occurred, but I think it was after my discussion with Bishop Clarke in 1995.<sup>311</sup>

Sister Woodward was asked about this in her oral evidence. She said she had ‘an idea’ that this conversation occurred just before Bishop Malone took over as the bishop of the Diocese. She thought it occurred then because she recalled that, when she told Bishop Clarke about the criminal investigation regarding Father Ryan, he said to her ‘rather dismissively’ that she should tell Bishop Malone.<sup>312</sup>

Sister Woodward said that she told Bishop Malone ‘the whole story’ in relation to Father Ryan. She said she conveyed that the allegations involved sexual touching and that boys had been touched in a sexual way over a prolonged period of time. Sister Woodward was not certain if she said that multiple boys were involved, but she presumed she would have said that.<sup>313</sup>

Sister Woodward told us that she felt as though Bishop Malone accepted what she said. She said he did not convey to her that he doubted what she said.<sup>314</sup>

Bishop Malone said that he had no knowledge of a police investigation of Father Ryan before October 1995.<sup>315</sup> When asked if he had any indication that Father Ryan had been the subject of complaints or had previously committed abuse of children, he said, 'No, none whatsoever'.<sup>316</sup>

Bishop Malone told us that there was an occasion on which Sister Woodward visited him at his residence. He said they had a general conversation about the Diocese and that Father Ryan's name came up. He said:

it came up in a very innocent kind of way, insofar as she mentioned to me that if there was anybody in the Diocese that was going to be in trouble, it was Vince Ryan.<sup>317</sup>

Bishop Malone said that he did not seek any further details from Sister Woodward. He said that for all he knew Sister Woodward was counselling Father Ryan for a raft of issues which would have been confidential, so he did not pursue it.<sup>318</sup>

Sister Woodward did not refer to a conversation with Bishop Malone in her statement to police in November 1995 or in the interview with the loss adjuster in 1997.<sup>319</sup>

Sister Woodward agreed that her police statement does not refer to her having discussed Father Ryan with Bishop Malone.<sup>320</sup> However, she accepted Mr Harben SC's proposition that her statement was not true insofar as it said she had no further input or knowledge in relation to Father Ryan after December 1975, without referring to the report that she received before Father Ryan's arrest.<sup>321</sup>

In the 1997 interview, Sister Woodward said that Bishop Clarke asked her to inform Monsignor Cotter (not Bishop Malone), which she did. She said:

I did go see Bishop Clark [sic] ... I told him that I thought [Father Ryan] would be arrested, probably pretty soon ... So he was quite horrified, and I said, 'Well, you know the police are going to be asking you questions, I'm sure.' And he said, 'Well, they'd better talk to Monsignor Cotter.' I said, 'Well, you'd better get in touch with Monsignor Cotter.' And he said 'No, you get in touch with Monsignor Cotter.' So I did that. I rang Monsignor Cotter and said the same things I'd said to the Bishop ...<sup>322</sup>

Counsel for Bishop Malone put to Sister Woodward that she spoke to Monsignor Cotter and not Bishop Malone. Sister Woodward said she did not now remember doing that but agreed that her recollection was likely to have been better at the time of that interview (in 1997) than it was in 2016. She agreed it was more likely that her evidence to the Royal Commission was confused as to the discussion with Bishop Malone.<sup>323</sup>

Sister Woodward said it was ‘a possibility’ that the extent of the conversation about Father Ryan that she had with Bishop Malone was to the effect that she said to him if there was ever to be any trouble in the Diocese it would be with Father Ryan.<sup>324</sup>

Counsel for Bishop Malone submitted that Sister Woodward’s evidence to us was totally unreliable and should be rejected. He submitted it was inconceivable that Sister Woodward would not have referred to a conversation with Bishop Malone in her statement in 1995 or interview in 1997 and that this alone should have been sufficient to entirely discount her evidence.<sup>325</sup> He submitted that we ought to find that Sister Woodward did not tell Bishop Malone ‘the whole story’.<sup>326</sup>

We do not agree that Sister Woodward’s evidence was unreliable.

Sister Woodward’s account of being directed by Bishop Clarke to speak to the bishop elect (Bishop Malone), particularly given Bishop Clarke’s imminent retirement, is both credible and logical.

However, she said in her statement to us that her recollection of a conversation with Bishop Malone was ‘not entirely clear’. While she gave a more detailed account in her oral evidence, she accepted Mr Harben SC’s proposition that her recollection of events in 1997 was likely to be more accurate than her recollection now. It is possible that Sister Woodward was directed by Bishop Clarke to inform Monsignor Cotter, not Bishop Malone, about the police investigating Father Ryan, consistent with what she told a loss adjuster in 1997.

In those circumstances and given the conflicting accounts between Sister Woodward and Bishop Malone, we are not satisfied to the relevant standard that the conversation occurred in the terms that Sister Woodward described.

## 9.2 Handover from Bishop Clarke to Bishop Malone

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On 30 October 1995, when Bishop Malone returned from holidays, Bishop Clarke informed him that Father Ryan had been arrested, he had been stood aside from ministry and his faculties had been withdrawn. Bishop Malone said he was then asked to take responsibility for handling the Church’s response to the matter.<sup>327</sup>

Bishop Malone said that he did not form a particularly good relationship with Bishop Clarke and that they did not really speak frankly with each other.<sup>328</sup> He told us that his handover from Bishop Clarke ‘lasted about five minutes’. He said he had expected the two of them would have a session to discuss serious matters in the Diocese. Instead, he said the handover consisted of Bishop Clarke sliding the bishop’s gold pectoral cross across the desk to Bishop Malone and saying, ‘This is yours now’. He said he asked Bishop Clarke whether there was anything he needed to know, and Bishop Clarke responded, ‘Oh, no, you will find out’.<sup>329</sup>

## 9.3 Immediate steps taken by Bishop Malone

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In early November 1995, Bishop Malone issued a statement to St Joseph's parish. In it he said that allegations of sexual abuse of minors had been made against Father Ryan. He wrote, 'Our primary concern must be the victims who have suffered such indignities, many of whom if not all, still carry the scars of sexual abuse'. He said that the Diocese was putting into place a number of initiatives, including free counselling for victims, and he would issue a pastoral letter to the Diocese 'expressing our response to the situation and emphasising our need to act justly and swiftly'.<sup>330</sup>

Bishop Malone told us that on 10 November 1995 he travelled to Melbourne to meet with Mr Shane Wall, then principal of the Counselling and Support Service (CASS), who had experience in dealing with survivors of sexual abuse. He said Mr Wall advised him on how to reach out and support victims and communities. After this and following Mr Wall's recommendation, Bishop Malone said he organised parish meetings and confidential counselling for victims and their families.<sup>331</sup>

On 13 November 1995, Bishop Malone wrote to the priests of the Diocese enclosing a pastoral statement regarding Father Ryan and asked that the statement be read out or distributed.<sup>332</sup>

Bishop Malone said in the pastoral statement that charges of indecent assault had been laid against Father Ryan and that in accordance with 'normal Church procedure' he had been immediately withdrawn from ministry. He again said that the 'primary concern' must be victims and their families and that he had organised for counselling of those persons.<sup>333</sup>

## 9.4 A 'moral problem'

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Bishop Malone issued a media release in relation to Father Ryan in April 1996. He said that the revelations had caused hurt and dismay and again wrote that the primary concern was for the victims. He then said:

Earlier when the problem in both Church and society was poorly understood, such abusive behaviour was treated as a moral problem. We know a great deal more now than we did, of the complex nature of sexual abuse, and the assistance that all survivors and the community need in the healing process.<sup>334</sup>

Bishop Malone told us that the reference to a 'moral problem' was to the past understanding of events. He said that 'years ago' if a priest offended it was regarded as a moral problem and that, 'if he went to confession he'd be forgiven for his sins, he'd do his penance and he would be able to continue on'.<sup>335</sup>

When he was asked how that could have been the case, Bishop Malone said:

Membership of the Church is a bit of a strange beast insofar as the Church has its own culture, its own law, its own way of obeying structures within the Church, its own sacramental system, and, as such, it's divorced from society, and that divorce from society has sometimes meant that the Church has gone along parallel lines with society, so that civil law somehow was not seen as impinging on the life of the Church, in the past. All of that, thank God, has changed.<sup>336</sup>

## 9.5 Bishop Malone's inquiries about the prior knowledge of Church authorities

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Bishop Malone agreed that by April 1996 he appreciated that the historical knowledge of the Church was an issue of concern to the community.<sup>337</sup>

However, he told us that he could not recall speaking to Sister Woodward to find out about what had happened in 1975.<sup>338</sup>

Bishop Malone said that he remembered speaking to Bishop Clarke about the matter, but he 'didn't reveal a great deal'.<sup>339</sup>

Bishop Malone said he did not speak with Monsignor Cotter about the events of 1975, even though Monsignor Cotter was still alive at the time.<sup>340</sup> Later, Bishop Malone said of the fact that he did not confront Monsignor Cotter:

it wasn't in my mind to do that. I was so busy trying to work out ways in which we could cope with this situation that had developed so quickly that I was more intent upon reaching out to current members of the Diocese than past leaders.<sup>341</sup>

It was put to Bishop Malone that it was difficult for him to be making pronouncements on behalf of the Church as to what had happened without having determined that himself. He said, 'Well, that's a view I suppose'. When asked if it was a view he would accept, he said, 'Look, yes, but I'm very fresh in the job by this time and I'm just sort of running by the seat of my pants'.<sup>342</sup> He said that if he had his time over he would 'Definitely' have interrogated Bishop Clarke and Monsignor Cotter. Bishop Malone said, 'I often wish I had been more decisive and more aware of a forward plan than I was'.<sup>343</sup>

## 9.6 Public statements made by Bishop Malone

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### Media release dated 30 May 1996

Bishop Malone issued a further media release on 30 May 1996, when Father Ryan was sentenced.

He wrote:

Today Fr. Vincent Ryan was sentenced as a result of sexual abuse charges with minors. In response I am presenting the following time-line and attachments which detail the Catholic Church's approach to this particular case.<sup>344</sup>

There is then a list headed 'Time-line Detailing Catholic Church's Response to Clergy Sexual Abuse'. The first item on the timeline is dated 11 October 1995, when Father Ryan was withdrawn from ministry following his arrest.<sup>345</sup>

Bishop Malone accepted that the timeline did not detail the response of the Church in the 1970s. When asked whether he was conscious that that was a question the community wanted answered, he said, 'No, I wasn't conscious of that. I think I was too preoccupied with trying to put in place adequate responses to the needs of both survivors and the people generally'.<sup>346</sup> The Chair put to Bishop Malone that the purpose of the timeline was to demonstrate to the community that the Church had acted appropriately. Bishop Malone said, 'Yes, I think so, your Honour, yes'. Bishop Malone accepted that the Church knew more than what was revealed in the document and that he did not tell the public that.<sup>347</sup>

Counsel for Bishop Malone submitted that the media release did not purport to explain all that had occurred regarding Father Ryan. The intent of the media release was to describe what occurred following Father Ryan's arrest and nothing more. Counsel submitted that that was consistent with Bishop Malone's evidence that he was simply trying to deal with the situation presented to him at that particular time.<sup>348</sup>

We do not agree. Bishop Malone accepted that he was attempting to demonstrate to the community that the Church had acted appropriately. The media release referred to the 'particular case' of Father Ryan and the response of the 'Catholic Church'. The timeline is not limited in any way.



## Article and radio interview May–June 1996

In an article published by the *Newcastle Herald* on 31 May 1996, Bishop Malone is quoted as saying that the Church had ‘acted with integrity’.<sup>349</sup> A few days later, Bishop Malone spoke on a radio program and said:

In retrospect, with the knowledge we have now, no, we didn’t act with integrity. But I think at the time, which is 20 years ago, our knowledge of paedophilia was not all that extensive and I think the Church regarded these sorts of situations as moral problems, you know, that a guy who offended in this way was morally responsible for that offence. Now the way in which that was handled at the time ... was to send Father Ryan off to Melbourne where he was supposed to have had a series of psychological sessions to help with his particular problem. As it turned out, he only had one session and then continued to do a pastoral education course down there before he returned 12 months later to the diocese for a pastoral placement.

Now, I’m not suggesting that that 12 months in Melbourne was a sufficient response to his problem or to the victims who came forward, but I think possibly it was consistent with the way in which the Church would have responded at the time to most of these situations ...<sup>350</sup>

In that interview, Bishop Malone also said:

There was, I think, in the mind of the Church then a sense where it’s best to cover-up the scandal and the risk of scandal, rather than just publicise everything.<sup>351</sup>

In relation to this comment, Bishop Malone said there was a sense that ‘we needed to come to the defence of the Church’ but that, as his time in the Diocese progressed, he had an epiphany where he said he chose to serve the needs of survivors rather than protect the Church. Asked why that was ever a choice, he said, ‘loyalty to the Church goes very deeply’.<sup>352</sup> He was asked whether it was the view of the Church in 1975 that it was best to cover up the scandal. He said, ‘No, “cover-up” would not be a word I’d use. Loyalty to the Church, yes’. However, he accepted that ‘cover-up’ was the word he’d used in the interview.<sup>353</sup>

## October 1997 statement

In a later statement in October 1997 for the diocesan magazine *Aurora*, Bishop Malone said:

None of us were aware of the triggers deep within Vince Ryan which were to lead to his dysfunctional and criminal behaviour.

When earlier incidents were reported to the (*then*) Diocesan Authorities, steps were taken to remove him from his pastoral duties and treatment was recommended. On his return to the Diocese his previous '*misdemeanours*' were considered to have been treated.

It was not until 1995 that a tragic scenario of sexual abuse emerged.<sup>354</sup>

It was put to Bishop Malone that the statement conveyed the impression that the Church had been kept in the dark about the level of abuse in 1975. He said, 'You could suggest that', but he said that his use of inverted commas around the word '*misdemeanours*' was to suggest it was idiotic to use that word to describe sexual abuse.<sup>355</sup> In relation to the serious sexual abuse perpetrated by Father Ryan in Merewether, '*misdemeanours*' was indeed a grossly inadequate expression. Bishop Malone said the leaders of the Diocese knew of Father Ryan's propensities back in 1975. He agreed that Monsignor Cotter knew.<sup>356</sup> It was put to Bishop Malone that a statement to the Diocese in those terms was not correct. He said, 'Okay, you could say that, yes'.<sup>357</sup>

Counsel for Bishop Malone submitted that Bishop Malone's explanation of his use of the term '*misdemeanours*' showed that he did not intend to be misleading in that statement. Bishop Malone was saying it was idiotic to regard sexual abuse as trivial. He submitted that to say the gravity of the offences was downplayed flies in the face of the various documents that there were allegations that people in the Church knew and that the matters were not trivial.<sup>358</sup>

We do not consider that this explanation of the term '*misdemeanours*' adequately deals with the misleading nature of the statements.

Irrespective of his explanation of the term '*misdemeanours*', the document includes a statement to the effect that no one was aware of Father Ryan's propensity for criminal behaviour. That is not correct.

## Letter to the editor in May 2001

Bishop Malone wrote a letter to the editor of the *Newcastle Herald* in May 2001. In that letter he referred to the reports of a journalist, Mr Geoff Corbett, whom he said continued his attack on the Church, the Diocese and him as bishop for alleged inaction. Bishop Malone said:

For Mr Corbett to accuse Church authorities of covering up this case is both incorrect and a slur on the integrity of those authorities. Church authorities learnt of a complaint made against Vince Ryan in the mid-1970s and sought help for him. Subsequent Church authorities definitely did not know of the nature and extent of his abusive behaviour.<sup>359</sup>

Bishop Malone said that the attention from the *Newcastle Herald* towards him and the Diocese was unrelenting and he thought that in 2001 there was still a sense in which he was trying to defend the Church.<sup>360</sup>

He accepted that the statement in his letter to the editor was not correct.<sup>361</sup>

## Statement to diocesan community in September 2007

In a statement in 2007, Bishop Malone said:

It is unfair of anyone to judge the decisions of Church leaders from over 30 years ago with today's knowledge of similar incidents. Back then the possibility of an adult priest abusing a child sexually was considered too abhorrent for words ...

Mgr Patrick Cotter has been judged negligent and suspicion of cover-ups hang over Bishop Leo Clarke and myself. With the benefit of hindsight more could have been done to confront sexual abuse in the Church. I truly regret that this did not happen and approach these matters with greater understanding these days.<sup>362</sup>

Bishop Malone agreed that there was never any suggestion that people disbelieved the boys who had brought complaints in 1975.<sup>363</sup> He said he never had any doubt the incidents had occurred. He accepted that, in relation to Father Ryan, the explanation of past inaction was incorrect and that they were irrelevant to the Church's response to Father Ryan.<sup>364</sup>

Bishop Malone was asked to explain his statement to the community. He said that members of the faith community generally would not have countenanced a priest doing such a thing. He said he was trying to 'touch base with the deeper feelings of the Church community generally'.<sup>365</sup> He accepted that it was incorrect to say that the past leaders did not know the true position.<sup>366</sup>

Counsel for Bishop Malone submitted that the reference to persons being disbelieved was no more than a general explanation of what was often the case. It could have been expressed more carefully, but it was not intended to be misleading.

We reject that submission. The statement refers to the attitude 'back then' by reference to the actions of the 'Church leaders' and not in any general sense. The implication is that those 'Church leaders' would not have entertained the idea that the allegations against Father Ryan were true. That is inconsistent with the evidence.

## Misleading public statements

We are satisfied that Bishop Malone made a number of public statements which misrepresented the true position in relation to the adequacy of the Diocese's response to allegations against Father Ryan in the 1970s:

- The 30 May 1996 media release is misleading in that it omits from the timeline of the Diocese's response the reports to the Diocese in 1975 and 1976.
- The October 1997 statement is misleading, as it conveys the impression that the diocesan authorities only had knowledge of the gravity of Father Ryan's sexual abuse of children in 1995. That clearly was not the case.
- The 2001 letter to the editor of the *Newcastle Herald* is misleading, as it conveys that the approach in 1975 was an adequate response.
- The 2007 statement is misleading, as it conveys that the 'Church leaders' in the 1970s did not believe the allegations against Father Ryan. That is not correct and is not an appropriate explanation of the Diocese's inadequate response.

Bishop Malone accepted that he did not seek to interrogate Monsignor Cotter or Bishop Clarke in relation to what each had known about Father Ryan in 1975 and 1976. Bishop Malone ought to have appreciated that, in order to make truthful and accurate statements about the response of the Diocese, a full understanding of what they knew and how they responded was necessary. To the extent that the public statements were misleading or incomplete because of Bishop Malone's ignorance, that is not a reasonable excuse. Bishop Malone should not have been making statements purporting to explain and justify the history of the Church's dealings with Father Ryan without having taken proper steps to investigate the true position.

As Bishop Malone acknowledged, initially his attitude in responding to allegations of child sexual abuse was, in some respects, one of defence or loyalty to the Church.

Counsel for Bishop Malone submitted that it was important to consider that concession in the context of other known evidence. Counsel submitted that Bishop Malone reacted swiftly when he became bishop and that he expressed considerable support for victims and instituted widespread change. Counsel said that there could be no deliberate intent attributed to the bishop to be inaccurate or dishonest in his statements.<sup>367</sup>

While we acknowledge these matters, we are satisfied that, in the respects identified above, his statements were misleading. Bishop Malone's failure to make complete and accurate statements based on a proper understanding of the Diocese's dealings with Father Ryan is consistent with a defensive attitude and a position of loyalty to the Church at the time.

# 10 Other Matters

## 10.1 Father Burston

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Bishop Malone appointed an independent committee to review the Church's response to crimes committed by Father Ryan. The committee issued a report in November 1996.<sup>368</sup>

The review was arranged pursuant to a request by the Australian Catholic Bishops Conference that the Diocese undertake a case study of a response to the handling of clergy sexual abuse.<sup>369</sup>

One of the authors of that report, Ms Elizabeth Seysener, provided a statement to the Royal Commission.<sup>370</sup> The other author of the report, Ms Vivienne Llewellyn, is deceased.

Ms Seysener stated that she interviewed Monsignor Cotter, who was evasive about his handling of the allegations in 1975 and 'spoke at length about how paedophilia was not well understood at the time'.<sup>371</sup>

After the committee was established, Ms Llewellyn wrote to Bishop Clarke requesting that he assist in providing his recollection of the events in 1975.<sup>372</sup> However, as detailed in the report, Bishop Clarke went overseas and did not respond.<sup>373</sup>

Bishop Malone accepted that it would have been difficult to form any views about the response without speaking to Bishop Clarke but that he was not aware of that limitation at the time.<sup>374</sup> He also said that he accepted the criticisms made of him in the report – namely, that he kept too much to himself in terms of information and knowledge and forward planning of the response.<sup>375</sup>

The report was primarily directed to the response of the Diocese in the 1990s. However, it does contain some information on the 1975 events. The report states:

Following the events of 1975 there was a small group, who were aware, in varying degrees, of the nature of the disclosures relating to Fr Ryan. This included a priest who was a trained psychologist and had a continued association with Fr Ryan.<sup>376</sup>

Ms Seysener gave evidence that the person identified in those paragraphs is Father Burston.<sup>377</sup>

The report also states in relation to Father Burston:

On a few occasions he wondered whether further inappropriate activity was occurring but had no clear evidence [REDACTED] ... Fr Ryan's response to the news led to a period of incapacity to work and this indicated to the colleague that something might be amiss in his relationship with the young man. The colleague did not approach Fr Ryan about his misgivings and did not discuss the matter with the Bishop of the day.<sup>378</sup>

Father Burston told us that in 1975 he was not aware of the incidents that led to Father Ryan being sent to Melbourne. However, he said that Monsignor Cotter told him that Father Ryan had been sent to Melbourne and that there was 'a complaint about inappropriate behaviour with boys'. He could not recall the context of that conversation.<sup>379</sup> No one else discussed with him the reasons Father Ryan was sent to Melbourne and he did not discuss the matter with Father Ryan.<sup>380</sup>

Father Burston said that he did speak to one or both of the reviewers.<sup>381</sup> When asked whether he remembered conveying to them that he had wondered whether 'further inappropriate behaviour' was occurring, he said, 'I probably did, yes. I don't recall immediately the interview with them, but I'm sure I would have said that, yes'.<sup>382</sup>

He told us that on one occasion he witnessed CNF tossing stones at Father Ryan's crotch and said this conduct struck him as overly familiar. He said, 'it was things like that that were not overtly sexual or obvious' that he witnessed between Father Ryan and CNF that were 'puzzling' to him.<sup>383</sup>

In relation to the comment that Father Ryan's reaction to an event prompted Father Burston to think that something might be amiss in Father Ryan's relationship with CNF, he said, 'Well, it didn't strike me as anything terribly serious'.<sup>384</sup> He said that he did not speak to anyone else about his misgivings and that he thought the first time he spoke about these matters was when he was interviewed by the authors of the report.<sup>385</sup>

The evidence establishes that Father Burston also knew, at or around the time that Father Ryan was sent to Melbourne in early 1976, that he had been sent there because of a complaint about sexually inappropriate behaviour with boys.

## 10.2 Insurance position

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On 14 June 1996 the national claims manager of the Diocese's insurer (Catholic Church Insurance Ltd), Mr Paul Reynolds, wrote a memo about the indemnity position in relation to claims against Father Ryan. Mr Reynolds wrote of his concern that Monsignor Cotter, in his capacity as 'caretaker' bishop, was notified of Father Ryan's activities in 1975 'so clearly under Special Issues we would have to exclude any claims that might eventuate'.<sup>386</sup>

On 29 December 1999, solicitors for the insurer wrote to the Diocese's solicitors and said that the request for indemnity was denied. They wrote:

The failure by the Diocese to ensure that Fr Ryan was treated appropriately and removed from contact with children bearing in mind that there was no official reprimand or sanction put in place, that there were no steps taken to ensure that he was properly treated, there were no steps taken to obtain a report from his treaters to ensure that the treatment was appropriate and that he was fit to return to Parish work, that there were no steps taken to monitor his activities subsequent to his return to Parish work even though he was, at the time, sharing a residence with Monsignor Cotter who was well aware of his previous problems, there were no steps taken to ensure that proper records and reports were made and provided to Bishop Clarke concerning the complaints in 1975 and the subsequent actions taken. At best the activities of various agents of the Diocese in that period can be described as reckless indifference. At worst, as you are aware, the police had considered charging Monsignor Cotter with criminal offences relating to his failure to deal with this matter appropriately.<sup>387</sup>

Those observations have significant force.

Bishop Malone responded that Monsignor Cotter's conduct could not be found to be reprehensible or reckless and that reckless conduct would need to be proved to deny indemnity.<sup>388</sup>

In February 2000, the Diocese and Catholic Church Insurance signed a heads of agreement to resolve the indemnity claim. Under the agreement, Catholic Church Insurance agreed to contribute \$2 million to the Diocese for claims against Father Ryan.<sup>389</sup>

## 10.3 Father Ryan's status as a priest

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### Bishop Malone

Bishop Malone did not take steps to seek to have Father Ryan laicised. Rather, in 2010, following Father Ryan's release from jail, the Diocese entered into a memorandum of understanding (MOU) with him that made his continued financial support dependent upon him complying with certain conditions. Those conditions included not wearing religious or clerical clothing or referring to himself by religious titles, not celebrating or administering sacraments and not having unsupervised contact with children.<sup>390</sup>

Bishop Malone told us that he thought it would not be responsible to have Father Ryan laicised, because by doing so Father Ryan would be being released into the community without any checks and balances beyond the end of his parole period.<sup>391</sup> Bishop Malone said he understood how it could appear to the community that the Church did not take steps to laicise an offender such as Father Ryan, but he said, 'I also understand that ... the community would not thank us for releasing a paedophile into its midst without any controls'.<sup>392</sup>

Bishop Malone gave evidence that the MOU was originally suggested by Towards Healing or the national professional standards body and was implemented in conjunction with discussions with probation and parole authorities.<sup>393</sup>

Bishop Malone said:

From the very beginning, I had to negotiate a very fine line. On the one hand I had to ensure victims of Father Ryan were treated with respect and compassion as the primary focus. On the other hand, as the Bishop I felt I still had an obligation to attempt to still look after the needs of Father Ryan. The performance of this obligation had the added benefit of the Diocese having the ability to continue to supervise Father Ryan and that was obviously of benefit to the safety of the community. I found this balance difficult to negotiate and was regularly publicly and privately criticized by supporters of victims, the supporters of Father Ryan, and the press.<sup>394</sup>

It was put to Bishop Malone that Father Ryan could also be required to comply with conditions by laicising him but still making financial assistance dependent on his compliance with those conditions. Bishop Malone said, 'Well, I suppose so, yes ... but he could just go his own way if he wished to'.<sup>395</sup> Bishop Malone agreed he was concerned that members of the community might consider he was providing a safe haven for Father Ryan. He said, 'It is quite a serious dilemma that I certainly faced'.<sup>396</sup>

Counsel for Bishop Malone submitted that Bishop Malone's evidence was to the effect that it was easier to control Father Ryan by retaining his status as a priest because laicising him would cut him loose. It was not the offer of financial assistance so much as the obligation to comply by virtue of being a priest that was important.<sup>397</sup>

## Bishop Wright

Bishop Wright became the bishop of the Diocese in June 2011.

He told us that after he commenced as bishop he received a detailed briefing from the manager of Zimmerman Services on Father Ryan's status as a priest and the reasons he had not been laicised. A risk assessment from Father Ryan's self-referred therapist was obtained.<sup>398</sup>



After a consideration of these issues, Bishop Wright decided that it was appropriate that the existing arrangements for the supervision and monitoring of Father Ryan continue.

Bishop Wright told us that Father Ryan's status as a priest was a matter of regular discussions amongst those on his advisory panel. Father Ryan lives alone in accommodation provided by the NSW Police and Corrective Services NSW. He continues to receive financial support from the Diocese and ongoing clinical treatment from a person who remains in contact with Zimmerman Services. This remains the principal way that Father Ryan is monitored today.<sup>399</sup>

Bishop Wright said:

I am more conscious today that there is a growing expectation in the community that priests who are convicted of child sexual abuse offences should be laicised. I understand that allowing those priests to remain within the Priesthood causes further trauma to victims of abuse, their families, and the community generally.<sup>400</sup>

We consider it is wrong that a person convicted of multiple offences of serious sexual abuse of children should retain his status as a priest. It should not be seen as a necessary evil that people are retained within the priesthood in order to maintain supervision and a level of control. In the case of Father Ryan, the evidence indicates that supervision and control may have been achieved in other ways even with laicisation, such as by making the provision of material assistance conditional on compliance with supervision arrangements and other terms. Witnesses referred to the possibility that Father Ryan might go his own way, but the Church authorities do not appear to have addressed the likelihood of that occurring.

Father Ryan's retention of his title as a priest, with all of the institutional and spiritual authority that is conveyed by that status, is likely to increase the sense of betrayal and disillusionment with the Church that Father Ryan's victims and the Church community feel.

## 10.4 Bishop Wright's evidence

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### Bishop Wright's apology on behalf of the Diocese

As the current bishop of the Diocese, Bishop Wright delivered an apology to those affected by sexual abuse by clergy. The apology was expressed in Bishop Wright's statement to the Royal Commission<sup>401</sup> and he delivered the apology during his oral evidence.

Bishop Wright said that, in his five years as bishop, he had twice been called to bear witness to a ‘terrible and shameful chapter in the history of this Diocese’. He said he is ‘called to account for how the Diocese meets its obligations to provide support to those who remain affected today by their abuse, and called to demonstrate how we are committed to ensuring that what happened in the past cannot happen again today’.<sup>402</sup>

Bishop Wright acknowledged that Father Ryan was a ‘sexual predator’ who had sexually abused boys from as early as 1972 and that Monsignor Cotter was told something of this in 1974 but ‘abjectly failed to do anything meaningful to protect the children who should have been his primary concern’. He acknowledged that, while many of those abused as boys ‘have managed to live stable and fulfilling lives, others have struggled to simply remain alive’ and some have also taken their own lives. Bishop Wright accepted that the Diocese may have aggravated the harm inflicted by Father Ryan by putting survivors through contested court processes when they sought redress.<sup>403</sup>

Bishop Wright said:

As Bishop I humbly offer an unreserved apology on behalf of the Diocese to all those men who have suffered and continue to suffer as a consequence of Ryan’s abuse and the actions and omissions of members of the Diocese. Through those failures and omissions, the Diocese failed to act according to the Gospel. I apologise to the parents and siblings of those boys whose innocence was stolen by an evil presence who was allowed to remain amongst us by flawed and failed leaders. I apologise to the spouses and children of those men for any shadows that reach out from the past to affect your lives together today.

I renew my commitment, and that of the Diocese, to support fully the work of this Royal Commission generally, and particularly its inquiries into the Diocese’s response to allegations of child sexual abuse made against Ryan. I have said previously that one of the most important and lasting benefits of holding public inquiries into these criminal and tragic stories, is that this can and should change public awareness of child sexual abuse and allow those affected to tell their truths, often for the first time publicly, with a sense of safety and acceptance. I have seen how these inquiries have significantly broken down the remaining walls of silence in the wider community and thereby reduced the sense of isolation and shame that has been one of the many burdens carried by those who were abused.

I expect that the days of this case study committed to Ryan will show the Diocese in its worst aspects. Nevertheless it is an unambiguously good and important thing that those whom Ryan has harmed are given this opportunity to give voice to their truths and I acknowledge their courage and strength in doing so. As the representative of the Diocese in which they were abused, I owe these brave men my respectful and humble attention.

Although the Royal Commission has only asked me in this statement to address the matter of Ryan, I acknowledge that devastation and hurt has been caused by other priests who have sexually abused children in the Diocese, and I extend my apology to those affected, their families and to the community as a whole.<sup>404</sup>

Bishop Wright was right to make the concessions in his statement, and his apology on behalf of the Diocese was appropriate.

### Inquiries by the Royal Commission

The Chair asked Bishop Wright if all leaders of the Church understood the dimension of the problem for the Church and the numbers of people who have told the Royal Commission of their abuse in a Catholic institution. Bishop Wright said he thought that, because of the work of the Royal Commission, all Church leaders are aware of the numbers. He said there is a feeling that the great preponderance of the offences were committed in the 1970s and 1980s and that there is a feeling that a lot has changed.<sup>405</sup> The following exchange took place:

THE CHAIR: It is apparent to us, or it has been told to us anyway, that there are some in the Church who don't really accept that the spotlight, as it is referred to in the newspapers, should have been shone on the Church to the extent that it has?

A. I myself, your Honour, you know, wonder – it sometimes seems that so many of the case studies are delving into matters of 30 and 40 years ago and I kind of wonder where the more contemporary spotlight should be falling.

Q. One of the issues there, I'm sure you understand, is it takes people many, many years before they come and tell anyone that they have a problem?

A. Yes.

Q. We all will leave the Commission with the hope that things have changed, but with an understanding that to say that is impossible because you do not know what will emerge when people are able to speak of what happened to them in the past?

A. Indeed, but, you know, you would be very aware that there is a great deal more reporting going on now, for one reason and another, than many years ago and you would be aware of the South Australian Commission into their own difficulties in youth services there and so on. I just feel that we – and it's the remit of the Commission to look at institutional responses, not the broad community stuff, but I just have this misgiving that there's an awful lot of stuff going on out there now and we spend so much time decades ago; I'm sorry, it's just my concern.<sup>406</sup>

When it was put to Bishop Wright that the Royal Commission's task involves the Church facing up to what happened in the past in a public way, Bishop Wright said:

Yes, please, I have no – I hope I haven't come across as saying that that's an exercise that should not have been performed and it's certainly absolutely right and we're answerable for that, but you asked me a spotlight question and I do have that concern as to where the balance falls, not so much between Catholics and others as between past and present.<sup>407</sup>

The Church parties cited evidence of Bishop Wright's strong support for victims' services and for redress, and his record in overseeing those matters as bishop, as relevant to assessing his evidence.<sup>408</sup> Those matters are addressed in section 11. We note that, during Bishop Wright's period as bishop, the Diocese has introduced a revised settlements protocol in recognition of the fact that some past settlements with claimants were financially inadequate and should be revisited.<sup>409</sup>

Bishop Wright's comments in response to questions from the Chair suggested a degree of concern about the focus on historical incidents as opposed to current issues. However, there is no reason to doubt the sincerity of Bishop Wright's apology to victims and his acknowledgement of past failings.

# 11 Zimmerman Services

Zimmerman Services is an agency which operates under the direction of the bishop.<sup>410</sup> Its mandate is to prevent child abuse, respond to complaints of child abuse and provide support to persons affected by child abuse (both current and historical).<sup>411</sup>

Zimmerman Services works with a number of government agencies and the police. It is staffed by lay people with specialist child protection qualifications and experience.<sup>412</sup>

We heard from Ms Maureen O’Hearn, the current coordinator of the Healing and Support Team of Zimmerman Services. She said that Bishop Malone ‘clearly saw a need that the Diocese needed to respond to those who had been affected by sexual abuse’.<sup>413</sup> She thought that Bishop Malone identified that the Church did need to respond to people. She said it had continued to respond and has become more proactive over the years.<sup>414</sup>

## 11.1 Bishop Malone establishes DCPPU

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In 2005 Bishop Malone established a centralised Diocesan Child Protection and Professional Conduct Unit (DCPPU) in the Diocese of Maitland–Newcastle.

Bishop Malone told us that Ms Helen Keevers was responsible for a Diocese-wide survey on how to put in place an effective child protection unit. The diocesan Catholic Schools Office already had a small child protection unit which was then merged with the newly created DCPPU.<sup>415</sup>

Bishop Malone said that the role of the DCPPU was:

- to create a safe environment for children
- to deal with allegations of abuse
- to adhere to all legislative requirements
- to determine due process was followed in all investigations
- to ensure the needs for support of all parties were met
- to educate and promote the message of child protection across the Diocese and address the effect on the community.<sup>416</sup>

Bishop Malone told us that the DCPPU always had the three elements of investigation, complaints handling and healing.<sup>417</sup> These roles were assumed by the manager of the DCPPU, who was also responsible for the negotiation of civil settlements.<sup>418</sup>

## 11.2 Zimmerman Services established

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In September 2007, Zimmerman House was opened as a centre providing a support and healing service for victims, in acknowledgement of the need for support services to be in a physically separate location from traditional diocesan premises.<sup>419</sup>

Zimmerman House was renamed Zimmerman Services in 2011. The investigative/prevention functions and the healing/support functions were separated, and an independent coordinator for Healing and Support was appointed.<sup>420</sup>

One purpose of this restructure was to address the potential conflict of interest that could arise when the manager of Zimmerman Services managed the negotiation of a civil claim on behalf of the Diocese with a claimant who was also a client of Healing and Support.<sup>421</sup>

### Current structure

Zimmerman Services is currently structured to have three main teams:

- the Prevention and Response Team (PaRT)
- the Healing and Support Team
- the Administrative Support Team.<sup>422</sup>

### Healing and Support Team

The Healing and Support Team provides a supportive response to those who have been directly affected by child sexual abuse perpetrated by personnel of the Diocese of Maitland–Newcastle.<sup>423</sup>

Ms O’Hearn has been head of the Healing and Support Team since December 2007.<sup>424</sup> She gave evidence that her arrival ‘was in response to a particular need that was felt to deal with survivors that were coming forward in relation to Denis McAlinden’.<sup>425</sup>

Ms O’Hearn gave evidence in the public hearing that:

Healing and Support is very much a self-contained team. Our files are all confidential so that when people come to us, anything they tell us will remain confidential. No-one else in any other part of the Diocese or other part of Zimmerman Services has any access to that information. If someone then later makes a claim, none of that information can be used; so yes, it is very much a self-contained confidential service.<sup>426</sup>

Despite this, Ms O’Hearn said that some people still perceive the Healing and Support Team to be part of a Catholic organisation. She said:

they don’t trust that the Catholic Church will not continue to cover things up. Our experience has been that sometimes people have approached us and that has been their initial response, that they’ve said, ‘You’re Catholic. How can this be that you can offer us support when this is the institution that caused the abuse?’<sup>427</sup>

Ms O’Hearn said that that is something ‘that can hinder someone approaching Healing and Support’.<sup>428</sup>

However, Ms O’Hearn gave evidence that:

[The] literature would show that people who have been abused by an institution, to have that abuse acknowledged and validated by the institution does assist for some people in their healing, and I think the practical, ongoing support that Zimmerman Services offers is a true reflection of that ongoing validation.<sup>429</sup>

Ms O’Hearn gave evidence that there is no criticism from the hierarchy of the Church as a result of Healing and Support Team working against the interests of the Church.<sup>430</sup>

The Healing and Support Team has the following functions:

- supporting individuals to make statements to police or other statutory authorities
- supporting individuals through the criminal process, including at trial, at sentencing hearings and in writing impact statements.<sup>431</sup> Ms O’Hearn gave evidence that NSW Police was probably their biggest referrer<sup>432</sup>
- conducting group work, developing peer support networks and working collaboratively with survivor community groups
- advocating to the Diocese, other Church authorities, community agencies and statutory authorities on behalf of the person or group of persons who have been adversely affected
- providing practical assistance to support victims to manage particular crises or challenges in their lives, including assistance in securing accommodation, addressing their personal legal issues (including Family Court and criminal jurisdictions)<sup>433</sup> and spiritual healing<sup>434</sup>
- providing support, including through a network of independent, third-party counsellors who have experience in working with adult victims of child sexual abuse, funded by the Diocese<sup>435</sup>
- supporting people through making civil claims against the Diocese and attending Special Commissions and Royal Commissions<sup>436</sup>
- advocacy work.<sup>437</sup>

There is no burden of proof placed on people to access Healing and Support Team services,<sup>438</sup> and anyone who has been affected by the abuse can seek support.<sup>439</sup>

In relation to counselling services, Ms O’Hearn gave evidence that the Healing and Support Team has adopted the Guideline for the Treatment of Complex Trauma and the Guideline for Trauma Informed Care and Service Delivery developed by the organisation Adults Surviving Child Abuse. The Guideline for the Treatment of Complex Trauma is for counsellors and mental health professionals, and the Guideline for Trauma Informed Care and Service Delivery is for organisations such as the Healing and Support Team to inform the way in which they provide services to survivors.<sup>440</sup>

Ms O’Hearn gave evidence that, when the Healing and Support Team refers someone to a counsellor, they look at the individual needs of the person and seek to find a counsellor who is appropriately experienced, qualified and accessible for that person:<sup>441</sup>

We would then offer to ring and make an appointment and, with the person’s permission, give the counsellor some background information so that the person doesn’t have to re-tell their story when they get there.<sup>442</sup>

The Healing and Support Team then follows up after the first session. If the counsellor is not working for the person, ‘we would then find someone else and reconnect them with another counsellor’.<sup>443</sup>

There is no limit to the length of time that a person can continue to seek support from the Healing and Support Team.<sup>444</sup> Ms O’Hearn gave evidence that ‘it’s very much a very flexible, open-ended, long-lasting service that people can come and go or stay involved with over a long period of time’.<sup>445</sup>

The coordinator of the Healing and Support Team reports to the Vice-Chancellor Pastoral Ministries rather than the manager of Zimmerman Services.<sup>446</sup> The coordinator is in communication with the manager of Zimmerman Services for day-to-day functional support and management.<sup>447</sup> This structure is designed to ensure that there is no conflict of role between the manager of Zimmerman Services and the functions of the Healing and Support Team.<sup>448</sup>

The coordinator of the Healing and Support Team also has direct access to the bishop as required, including briefing the bishop on meetings he has with victims and their families and keeping the bishop up to date on the Healing and Support portfolio.<sup>449</sup> Ms O’Hearn gave evidence that Bishop Malone ‘was always supportive’ of the Healing and Support Team and, similarly, Bishop Wright ‘has continued to support that, both Bishops have been open to meetings with survivors when I’ve asked, so, yes, I think we feel that ongoing support’.<sup>450</sup>



Bishop Wright gave evidence in the public hearing that in the year of 2015–16 the Diocese paid approximately \$75,000 in support costs for victims through the Healing and Support Team, which included approximately \$60,000 for third-party counselling services (exclusive of counselling costs that are part of civil settlements). This amount is in addition to the operating budget of Zimmerman Services.<sup>451</sup>

Ms O’Hearn gave evidence that other dioceses and institutions, including the Parramatta diocese, Armidale diocese and the Marist Brothers, have contacted the Healing and Support Team to ask them to meet with them, talk about their services and have the Healing and Support Team describe how it works.<sup>452</sup>

### 11.3 Experiences of survivors with the Healing and Support Team

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Survivors who were witnesses in the case study provided positive accounts of their experiences with the Healing and Support Team. Survivor CNE gave evidence that:

[I was] receiving counselling support which is being paid for by the Catholic Church. This was arranged through Zimmerman Services, which I have found to be excellent. They have been very supportive of me, have believed my story, and gone out of their way to care for me. I cannot fault the support of Zimmerman Services.<sup>453</sup>

Survivor CNG gave evidence that around the time of making his police statement in 2013:

Maureen O’Hearn from Zimmerman Services contacted me. I do not know how she got my number. Maureen organised numerous counselling sessions for me, starting in June 2013. Maureen said she was here to help victims who were abused by the priests, offer support and help healing. I would be dead if it weren’t for Maureen O’Hearn.<sup>454</sup>

Survivor CNQ gave evidence that he contacted Mr Sean Tynan from Zimmerman Services in 2013, who said he should get in touch with Ms O’Hearn. He said:

She ... immediately sent me through details about what to do from there. I brooded over this for about three weeks. Maureen was quite persistent and would call and leave messages on my mobile. I ended up telling her the whole story ... I did not have to try and prove my case. Maureen just wanted to know when it happened and who the offenders were. She immediately organised counselling for me and said that the Catholic Church would pay for it ... Maureen has also encouraged me to take civil action, which I am currently taking part in, in order to gain some compensation.<sup>455</sup>

Survivor CQT told us that:

Maureen O’Hearn of Zimmerman ... also arranged counselling support for me ... It’s been very good. I find it helpful because the criminal proceedings and the Royal Commission processes can be stressful. My experience with Zimmerman Services is that Maureen O’Hearn is a really nice lady.<sup>456</sup>

## 11.4 Zimmerman Services is a positive model

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Bishop Wright gave evidence about his view of some of the ways in which the Church is responding so as to ensure, as far as possible, the problems of the past do not continue.<sup>457</sup> He also gave evidence about the steps that the Diocese is undertaking, particularly the role of Zimmerman Services.

The work that the Diocese has undertaken to improve responses to and management of complaints, and provide sensitive, effective and appropriate support to survivors of child sexual abuse, is commendable and ought to be acknowledged.

The Chair asked Bishop Wright if Zimmerman Services and its role in the Diocese had any equivalent in other dioceses in Australia, observing that Zimmerman Services is ‘a bit special’. Bishop Wright agreed. He said:

[Some dioceses] rely on what they think are – and I think with reason – pretty good arrangements within their schools offices, whom they – when they have a Diocesan-level complaint call on those skills that have been refined in the school work, others have other arrangements, but Zimmerman is special, I’m happy to say so.<sup>458</sup>

Bishop Wright was asked if, as a consequence, he had done what he could to bring the other bishops around Australia to understand what he has done in Newcastle and commend its structure to them. Bishop Wright said he had not done so formally but he thought he had done everything possible to talk to others about his views.<sup>459</sup>

The Church parties submitted that Bishop Wright has discussed his views regarding Zimmerman Services with other bishops many times. They said that Zimmerman Services is a ‘positive example of a localised approach to the specific issues that the Diocese has faced’ and that the application of the model or aspects of it to other dioceses and religious institutes should be considered on a case-by-case basis.<sup>460</sup>

The approach of the Diocese in establishing and supporting Zimmerman Services is a positive model that Bishop Wright could promote for the consideration of other Church leaders.

## 12 The Marist Brothers

In Case Study 43, the Royal Commission into Institutional Responses to Child Sexual Abuse inquired into:

- the response of the Catholic Diocese of Maitland–Newcastle to instances and allegations of child sexual abuse against Father Vincent Ryan
- the response of the Marist Brothers to allegations of child sexual abuse made against Marist Brothers including Francis Cable (Brother Romuald) and Thomas Butler (Brother Patrick).

This volume of the report examines the response of the Marist Brothers to allegations against Marist Brothers in its community in Maitland–Newcastle.

The Institute of the Marist Brothers was considered in *Case Study 13: The response of the Marist Brothers to allegations of child sexual abuse against Brothers Kostka Chute and Gregory Sutton (Marist Brothers)*. The following background is drawn in part from the report on that case study.

The Marist Brothers is a Catholic male religious congregation. Marcellin Champagnat founded the Order in France in 1817, and the Marist Brothers received papal recognition in 1863.

The Marist Brothers came to Australia in 1872. They opened their first school in New South Wales. Since that time, the Marist Brothers have principally been involved in the establishment and operation of various primary and secondary schools around the country.

Since 1972, the Marist Brothers have operated 21 schools in their own right, including 12 boarding schools, and have administered a further 74 schools on behalf of parishes or dioceses at which Brothers have been placed. Since 1984 the Marist Brothers have taught approximately 200,000 children.

### 12.1 Structure and governance of the Australian arm

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Until December 2012, the Australian arm of the Marist Brothers was divided into two Provinces. The Sydney Province covered New South Wales, Queensland and the Australian Capital Territory. The Melbourne Province covered the remainder of the states and the Northern Territory. The two Provinces were joined in December 2012 to form one Australian Province.

The matters considered in the case study concern what was formerly the Sydney Province.

## The Provincial Council

The Australian Province of the Marist Brothers is administered by a Provincial Council.

The Provincial Council is charged with the administration of the Province, which means that it has overall responsibility for schools, institutions and ministries that the Marist Brothers operates. It also has pastoral responsibility for the communities of Brothers within the Province.

The Provincial Council comprises the Provincial (the leader of the Australian Province), the Vice Provincial and four advisors.

## The Provincial

The Provincial has direct authority over all Australian Marist Brothers. The Vice Provincial, Provincial Council and Mission Council assist the Provincial. Each plays an advisory role to the Provincial in the governance of the Order. In some decision-making the Provincial cannot act without the consent of the Provincial Council or must do so collegially.

We heard from the following Provincials during the public hearing:

- Brother Peter Carroll: Provincial of the Australian Province since 2015, Vice Provincial (2012–2015)
- Brother Michael Hill: Provincial of the Sydney Province (July 1995 – December 2001), Vice Provincial (1993 – July 1995)
- Brother Alexis Turton: Director of Professional Standards (January 2002 – March 2012), Provincial of the Sydney Province (June 1989 – June 1995), Vice Provincial of the Sydney Province (September 1983 – June 1989).

## Communities and Community Leaders or Superiors

The Marist Brothers generally live together in a community. In many cases, the Brothers' residence is located either at or close to the school at which they teach.<sup>461</sup>

The Provincial appoints a Community Leader (formerly known as Community Superior) to lead each community of Brothers. The Community Leader is responsible for the familial life of all Brothers living within their community.

The Provincial, or another member of the Provincial Council, aims to visit each community of Brothers at least once a year. During these visits, the Provincial would try to speak individually with each of the Brothers in the community as well as to other people who have contact with the Brothers, including lay school principals.

## 12.2 Child protection policies and procedures

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The Marist Brothers' child protection policies and procedures were considered in our *Marist Brothers* case study.

In that case study, we heard that in the early 1990s the Marist Brothers developed specific policies and procedures for responding to complaints of child sexual abuse against a Brother. At that time, allegations of child sexual abuse were referred to as 'Special Issues' matters, and each Catholic diocese was required to have a nominated officer responsible for handling them.

The *Protocol for Dealing with Allegations of Criminal Behaviour* (Church Protocol) contained guidelines for responding to allegations of child sexual abuse that included referring the issue to 'civil authorities (including the police) where this was mandatory, requested or advisable'. Any matters that related to allegations of child sexual abuse within the Marist Brothers were referred to the Provincial to manage.

The Church Protocol was amended in 1992. Pursuant to the amended Church Protocol, Special Issues Resource Groups (SIRG), consisting of personnel skilled in dealing with allegations of criminal behaviour, were to be established. Except in extraordinary circumstances, complaints received by the relevant Catholic Church authority were to be referred immediately to the relevant SIRG.

For complaints received by a Church authority in New South Wales or the Australian Capital Territory, complaints were to be referred to the Sydney SIRG. Complaints received in Queensland were to be referred to the Brisbane SIRG.

In 1994, the Sydney Province of the Marist Brothers introduced a policy on professional misconduct. This policy largely adopted the procedures contained in the Church Protocol.

In 1996, *Towards Healing: Principles and Procedures in Responding to Complaints of Abuse Against Personnel of the Catholic Church in Australia* (Towards Healing) was introduced. It comprises a set of principles and procedures established by the Australian Catholic Bishops Conference and the Australian Conference of Leaders of Religious Institutes for responding to complaints, including complaints of child sexual abuse against a priest, religious or other Church personnel.

Following the implementation of Towards Healing, complaints made through Towards Healing were referred to the relevant state professional standards director, who then worked with the Marist Brothers to resolve the matters.

From 2001, the Province professional standards officer was given authority to respond to ‘Special Issues’ matters on behalf of the Provincial.

Following the merger of the Sydney and Melbourne Provinces of the Marist Brothers in December 2012, an overarching child protection framework was developed, culminating in the release in June 2013 of a national child protection policy called *Keeping Children Safe*, with accompanying *Additional Notes for Brothers*.

## 12.3 Francis Cable, Brother Dominic and Brother Patrick

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In this case study we considered the Marist Brothers’ response to allegations of child sexual abuse against three persons: Francis Cable (formerly Brother Romuald), Brother Dominic (Darcy O’Sullivan) and Brother Patrick (Thomas Butler).

Each of those persons held teaching positions at Marist Brothers High School, Hamilton (Marist Brothers Hamilton) in Newcastle–Maitland during the 1970s.

While much of the evidence in the case study was to do with events at Marist Brothers Hamilton, we also considered allegations made against Cable, Brother Dominic and Brother Patrick while they were teaching at other Marist Brothers schools, including schools located outside the Maitland–Newcastle region.

### Francis Cable (formerly Brother Romuald)

Francis William Athol Cable was born in Sydney in 1932.

He made his final profession as a Marist Brother in 1958 and took the religious name of ‘Romuald’. He was known as Brother Romuald or Brother Romuald Cable.

Cable taught at a number of Marist Brothers schools in New South Wales and Queensland in the 1950s and 1960s before commencing at Marist Brothers Hamilton in 1971. He taught there until the end of 1974. He taught at another school between 1975 and 1977. In 1978, Cable left the Order to resume a secular life.<sup>462</sup>

In 2012, Cable was arrested for child sex offences. He was tried and convicted in March 2015 on 13 charges of indecent assault and buggery concerning two complainants.<sup>463</sup> He subsequently pleaded guilty to a further 12 counts of indecent assault involving 12 different complainants for offences during the period from 1960 through to 1974.<sup>464</sup>

Cable was sentenced to 16 years in prison with an eight-year non-parole period.<sup>465</sup>

There was also evidence that a civil claim for physical brutality was lodged against Cable in 1997 by a former student of St Patrick's Marist College in Dundas, New South Wales, where he taught between 1975 and 1977.<sup>466</sup>

Brother Carroll acknowledged that the complaints received by the Marist Brothers against Cable 'show a history of abuse at a number of the schools where he taught'.<sup>467</sup>

## Brother Dominic (Darcy O'Sullivan)

Darcy John O'Sullivan was born in 1938 in Murwillumbah in New South Wales.

When he took his vows to become a Brother in the Congregation, he adopted the religious name of Dominic and was known as Brother Dominic or Brother Dominic O'Sullivan.

Brother Dominic taught at Marist Brothers Hamilton between 1971 and 1977.<sup>468</sup> He then held positions at St Mary's High School, Casino, in Northern New South Wales (St Mary's). He was the deputy principal of St Mary's from 1978 to 1980 and the principal from 1981 to 1985. Following a period with the Lismore Catholic Education Office and some time studying overseas, Brother Dominic was appointed as the principal of St Peter Claver's College in Riverview, Queensland (Riverview).

We heard that there were complaints or concerns regarding Brother Dominic's conduct towards students at Marist Brothers Hamilton, St Mary's and Riverview.

Brother Dominic was first charged in July 2013 with 10 counts of indecent assault. In July 2014 he was also charged with indecently assaulting a boy.

In March 2016 Brother Dominic ultimately pleaded guilty to 12 counts of indecent assault, with a further 10 offences listed on a Form 1, against 12 different complainants. On 23 September 2016 Brother Dominic was sentenced to a term of imprisonment of six years commencing on 26 August 2016. He was given a non-parole period of three years and will be eligible for parole on 25 August 2019.

As at September 2017, Brother Dominic is facing other charges of child sexual abuse which have not yet been determined.

## Brother Patrick (Thomas Butler)

Thomas Joseph Butler was born in 1929. As a Brother, he adopted the religious name of Patrick. He was known as Brother Patrick or Brother Patrick Butler.

Brother Patrick taught at Marist Brothers Hamilton from 1970 to 1980. He also had an earlier placement at that school between 1963 and 1964.<sup>469</sup>

After leaving Marist Brothers Hamilton at the end of 1980, Brother Patrick held teaching positions at Kogarah Marist High and Marcellin College Randwick in New South Wales.

In 1989, he was appointed to Marist College Ashgrove in Queensland (Ashgrove) as a remedial teacher.<sup>470</sup> We heard that several reports in relation to Brother Patrick were made to Brother Turton in the early 1990s while Brother Patrick was at Ashgrove.

Brother Patrick was committed for trial on one charge of indecent treatment of a child in 2012, but the court ruled there was no case to answer and Brother Patrick was discharged on 25 February 2003.<sup>471</sup>

Brother Patrick died in 2006. He was never convicted of child sexual abuse.



# 13 Early Complaints Regarding Cable

## 13.1 Marist Brothers Maitland

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Cable taught at Marist Brothers Maitland between 1961 and 1963.<sup>472</sup>

### Complaint to Brothers Fingal and Florentine

In 2012 a man told police about incidents involving Cable at Marist Brothers Maitland. The man said that these occurred when he was in fifth class in 1959, although Cable was not at the school until 1961. He said that Cable would call him to the front of the class, pull him close and squeeze his bottom while Cable would have 'a huge bulge in his groin under his black habit'.<sup>473</sup>

A copy of the man's statement (in an unsigned form) was tendered.

The man told police that one day he told Brother Florentine, another teacher, about what Cable had been doing. Brother Florentine said he would 'sort it out' for him. The man did not remember anything happening to Cable as a result and said Cable did not stop what he was doing.<sup>474</sup>

The man also said he told Brother Fingal about the abuse but that 'nothing ever happened'.<sup>475</sup> At the time, Brother Fingal was the principal of Marist Brothers Maitland.<sup>476</sup>

Brother Carroll told us that any complaint should have been recorded, should have led to appropriate action by the school and should have led to a report to and action by the Provincial.<sup>477</sup> We agree.

The Church parties submitted that, because the man did not give evidence and Brother Fingal and Brother Florentine are deceased and cannot respond to the allegations, the police statement should not be relied upon or else it should be given appropriate weight.<sup>478</sup> While the statement being unsigned is a factor to be taken into account, we have no reason to doubt the authenticity of the record. Cable's conduct as described by the man is believable and consistent with accounts that other students gave about Cable's conduct toward children. The man's description of his reporting the conduct to Brother Fingal and Brother Florentine is also believable.

We are mindful of the fact that Brother Fingal and Brother Florentine are deceased and we were not able to take their evidence about these matters. However, the Royal Commission must proceed on the basis of the evidence that is available. We are satisfied that it is likely that the man made reports to Brother Fingal and Brother Florentine. We are not in a position to make any findings as to the precise contents of such reports or the circumstances in which they were made.

We do not know whether the information was escalated to more senior authorities in the Marist Brothers. If the report was escalated, those authorities took no effective action in response.

## 13.2 Marist Brothers Pagewood

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Cable taught at Marist College Pagewood (now Champagnat Catholic College Pagewood) in Sydney from 1965 to 1967.<sup>479</sup>

### A former student's complaint to Brother Willits

A former student at Marist Brothers Pagewood gave a statement to police in 2014. He described an incident in 1967, when he was 14 years old, in which Cable came up behind him in a science laboratory. Cable put his hand down the front of the student's pants and inside his underpants.<sup>480</sup> He told Cable to get his hands off him and bolted out of the room.<sup>481</sup>

The former student described reporting the incident to the principal, Brother Kevin Willits, soon after it happened.<sup>482</sup> He said Brother Willits quizzed him a little about what happened. The student explained what occurred and he felt he was believed. He recalled that Cable was removed from the school days later.<sup>483</sup>

The Church parties submitted that the former student's police statement should not be relied upon because he did not give evidence in the public hearing and Brother Willits is deceased.<sup>484</sup> We do not agree. There is no reason for us to disbelieve the man's account to police. The statement is signed and it is consistent with other accounts of Cable's conduct towards students. We accept his account.

We do not know whether Brother Willits reported the information to more senior authorities in the Marist Brothers, although the fact that Cable left the school shortly afterwards indicates he may have done so.

## Michael Balk's complaint to Brother Willits

Mr Michael Balk is a former student of Marist Brothers Pagewood.<sup>485</sup>

He told us that, when he was in form 4 in 1967, Cable pressed his groin against Mr Balk's bottom in a science laboratory on two occasions.<sup>486</sup> On another occasion, Cable grabbed his penis in the pool at a swim training session. Afterwards, Cable forced Mr Balk's hand onto his penis.<sup>487</sup>

One Saturday later in 1967, Mr Balk said that the principal, Brother Willits, came to his house. Brother Willits spoke with Mr Balk's father and then Mr Balk was asked to join them. According to Mr Balk, Brother Willits told him that another boy had complained about Cable, and that boy's parents had approached Brother Willits and mentioned Mr Balk's name.<sup>488</sup>

Mr Balk's evidence is that he then told Brother Willits, in front of his father, that Cable had touched him. He also said Cable had placed his hand on Cable's penis. He said Brother Willits did not seem shocked but asked him questions about when and where the incident occurred. Brother Willits assured Mr Balk's father that Cable had been spoken to and would be moved to another school.<sup>489</sup>

Mr Balk's evidence was that Cable remained at the school until the end of the year in 1967.<sup>490</sup>

In a police statement many years later, Mr Balk's father gave a slightly different account of this incident and said his son never disclosed in detail what happened to him. However, we accept Mr Balk's evidence. His evidence was clear and unequivocal. It was not challenged. We are satisfied that an event such as this would stand out in his memory, and it is unlikely Mr Balk is mistaken about disclosing what happened to him.

The Church parties submitted that Brother Willits is deceased and unable to respond to Mr Balk's evidence.<sup>491</sup> While this is true and we have taken it into account, we are satisfied that Mr Balk disclosed Cable's conduct to Brother Willits. Mr Balk's evidence that Brother Willits told him Cable would be removed from the school is consistent with events – Cable was transferred at the end of 1967.

As the Church parties acknowledged, nothing was done to protect children at Marist Brothers schools from abuse by Cable, and no appropriate action was taken in response to any complaints made to the Marist Brothers in the 1960s. The Church parties and Brother Carroll also acknowledged that complaints of this nature ought to have been recorded, should have led to appropriate action being taken within the school and should have been reported to the Provincial.<sup>492</sup> We agree.

## Mr Balk's evidence of the impacts of the abuse

Mr Michael Balk told us that the abuse had a significant impact on his sexual development.<sup>493</sup> He also told us of the continuing effects of the abuse. He said:

I am very withdrawn and don't make friends easily. I avoid getting close to people and have had few friends other than my family. I fear that in old age I will suffer from loneliness in not having close friends.<sup>494</sup>

He gave further evidence that the abuse has affected his career and other interests:

I haven't been able to settle into any career and have never reached my full potential. I have at times struggled with supervisors and others in authority if they have not lived up to my expectations. This has had a major impact on my career opportunities and my life in general.<sup>495</sup>

Mr Balk gave evidence of suffering from depression, of becoming suicidal at one time and of being distrustful and critical of work superiors and counsellors. He said:

Even today, I don't think I truly understand the full extent of the effects of the abuse on my life. I think back to that teacher that I initially respected and looked up to, someone who could have fuelled my passion for engineering and had a profoundly positive influence on my life. Instead, I remember how he deceived me and took advantage of me, and it makes me angry that he has caused so much hurt to so many boys.<sup>496</sup>

## 14 Marist Brothers Hamilton

Marist Brothers Hamilton (now known as St Francis Xavier's College) is a secondary school in the Maitland–Newcastle region in New South Wales. Although it is now a co-educational school for senior high school students, in the 1960s and 1970s it was a school for boys in grades 7 to 12. At that time there were about 950 students and over 30 staff at the school. Most of the teachers were Marist Brothers. There were some lay teachers at the school at that time, but they were few in number and had a subsidiary role.<sup>497</sup>

Brother Dominic, Brother Patrick and Cable all taught at Marist Brothers Hamilton during the 1970s. Brother Dominic was at Marist Brothers Hamilton between 1971 and 1977.<sup>498</sup> Brother Patrick taught at Marist Brothers Hamilton from 1970 to 1980. He also had an earlier placement at the school between 1963 and 1964.<sup>499</sup> Cable taught at Marist Brothers Hamilton between 1971 and 1974.<sup>500</sup>

The principals at the school in the 1970s were Brother Christopher Wade (William Wade), Brother Turton and Brother John Venard Smith.

Brother Wade was appointed to the school as a teacher and deputy principal in 1969.<sup>501</sup> He became acting principal in 1970 and was principal from 1971 to 1976.<sup>502</sup> When he became principal (taking over from Brother Alman Dwyer), Brother Wade also became Superior of the Marist Brothers community.<sup>503</sup> Brother Turton was principal of Marist Brothers Hamilton between 1977 and 1978, during which time he was also Superior of the Marist Brothers community at Hamilton.<sup>504</sup> Brother Smith was the principal in 1980.

### 14.1 The prevalence of sexual and physical abuse

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#### Sexual abuse

We heard from 11 witnesses who told us they were sexually abused at Marist Brothers Hamilton in the 1960s and 1970s.<sup>505</sup>

Of those, seven gave evidence that they were sexually abused by more than one Brother.<sup>506</sup>

In addition to the 11 survivor witnesses, over 20 police statements were tendered in which others say they were sexually abused by one or more of Brother Patrick, Brother Dominic and Cable at Marist Brothers Hamilton.<sup>507</sup>

Many of the incidents that survivors described occurred in public settings, in classrooms or in the school playground in view of other students and, occasionally, other teachers.

Mr Terrence Skippen told us that in 1960 Cable regularly called him up to the front of the classroom and fondled his genitals in front of the class.<sup>508</sup> Mr Skippen did not tell anyone what Cable had done to him at the time. He told us this was because he was embarrassed, because Cable was a Marist Brother and because he was scared he would not be believed.<sup>509</sup>

CNR told us that in 1972 Cable put his hand into CNR's pants and touched his bottom. He said the whole class witnessed the incident, but no one said anything.<sup>510</sup>

CNR said he was also abused by Brother Dominic in 1971. He told us that Brother Dominic would put his hands down CNR's shorts and touch his bottom. After a few minutes, Brother Dominic would move on to another boy. This happened on multiple occasions. CNR said that the conduct was talked about and common knowledge among the students.<sup>511</sup>

We heard from CQT that one day in the playground in 1971 Brother Patrick put his hand inside CQT's pants and fondled his bottom in plain sight, while other teachers were around.<sup>512</sup>

In 1972, Brother Dominic was one of CQT's teachers. CQT said that Brother Dominic would place his hands inside CQT's pants and underpants and fondle his bottom. CQT said he saw Brother Dominic do this to other students every week.<sup>513</sup>

CNV said that he used to go to a park owned by the Marist Brothers for school sport. In 1972, when he was in year 7, he was at the park for cricket practice. He told us that Brother Patrick came up behind him and grabbed him. CNV said that Brother Patrick put his hands down CNV's pants and felt around his pubic area and genitals. This continued for some time. CNV said that this occurred in front of all the other students who were at the practice.<sup>514</sup>

CQV told us he was sexually abused by Brother Patrick, who was his maths teacher in 1971. He said that on multiple occasions Brother Patrick stopped at CQV's desk, put his hand inside CQV's shirt and fondled CQV's nipples. CQV saw Brother Patrick do this to other students.<sup>515</sup> CQV said that, over time, Brother Patrick progressed to putting his hands inside CQV's pants and fondling his penis.<sup>516</sup>

We heard from CQQ that he was sexually abused by Brother Patrick in class in 1973. He said Brother Patrick would start tucking in CQQ's shirt from the back and then work his way around the front and grab CQQ's genitals. CQQ told us this would happen most days, and Brother Patrick would do the same thing to other boys.<sup>517</sup>

Brother Patrick was CQS's maths teacher in 1973. CQS told us that, on a number of occasions in that year, Brother Patrick approached his desk and put his hands down CQS's shirt and into his pants. CQS said that he saw Brother Patrick do this to other boys. He remembered that there were three smaller, quieter boys who were targeted by Brother Patrick in nearly every class.<sup>518</sup> CQS said it was common knowledge among the boys that this was standard behaviour by Brother Patrick and that 'As kids, we certainly knew it was weird and wrong'.<sup>519</sup>

## Physical abuse

A number of survivors also recounted their experiences of physical violence at Marist Brothers Hamilton.

Mr Peter Russ told us that physical abuse ‘was a routine part of school life at Marist Brothers’.<sup>520</sup>

CNQ gave the following evidence:

The Marist Brothers teachers were all cruel and physically abusive. They regularly hit me with their fists, with straps, canes, cricket bats, books or whatever else they happened to carrying. The physical abuse occurred on a regular basis. I was beaten for the smallest of things: for not doing my homework; talking in class; not trying in class; not trying in chorus try-outs for choir, for my uniform not being right and other behaviour. Being physically abused was always at the back of my mind and I was constantly in fear of being beaten or caned.<sup>521</sup>

CQT said he received a vicious beating by a Brother that left him with a swollen wrist and unable to close his hand. That same day he said the same Brother dragged another boy out from his desk and threw him on the floor.<sup>522</sup>

CQS told us about Brother Cassian, who taught him in 1973. CQS said:

[Brother Cassian] was very violent and aggressive in his disciplining of students. He was a strict disciplinarian and would both cane and strap students if their hair was over their collar, or a desk lid banged during class, or there was any disruption. He punched me on occasion, and I saw him punch other students. It was often talked about by the boys.<sup>523</sup>

CQP told us one day during class a Brother slapped him around the head and shoulders and belted him so hard he fell to the floor. CQP said that this was his punishment for merely nudging his classmate with his elbow. CQP said, rightly, ‘This was a level of humiliation, fear and violence that no 12-year-old boy should be subjected to’.<sup>524</sup>

Brother Wade accepted that on too many occasions there was excessive, cruel and unreasonable physical punishment, which should never have occurred.<sup>525</sup>

Former Provincial Brother Turton told us that a significant number of Brothers were physically abusive. He was unsure of the cause of this behaviour but suggested part of the issue may have been that religious training was emphasised over teacher training.<sup>526</sup> Brother Turton said there was a view among some Brothers that physical pain could be administered if a student got his work wrong.<sup>527</sup> He told us that a partial explanation for the conduct was that ‘physical

punishment was accepted in those days', but he accepted this was a tragic issue and he did not have a full explanation.<sup>528</sup> Brother Turton said that, since the 1980s, the Brothers had introduced severe controls on physical punishment.<sup>529</sup>

We accept the evidence of the survivors about the physical abuse they endured at Marist Brothers Hamilton. Their evidence was not challenged and revealed consistent themes.

## Intimidation of students

We also heard evidence of the connection between physical violence and the prevalence of the abuse and the effect of the Brothers' religious status on reporting allegations of physical and sexual abuse.

CNV told us that the 'harsh discipline meant that all of the boys at school were scared of the Brothers, and it made it virtually impossible to report anything'.<sup>530</sup>

We heard from CQT that he was taught to be obedient to the Marist Brothers and this obedience would be enforced with violence, so there was no option to stop the sexual abuse.<sup>531</sup>

CQS said he did not tell anyone about his abuse by Cable at first because 'Marist Brothers were held in high regard by members of the Catholic community. [Cable] had been a dinner guest at my house before and knew my family'.<sup>532</sup>

CNS gave the following evidence:

the physical abuse in the form of the harsh punishment, the canings, the grabbing kids around the neck and by the tie and strangling them and punching them ensured that we were constantly in fear of our teachers, and this enabled them to get away with it. We were too scared to stand up to them and say, 'No, what you are doing is wrong.' We knew in our hearts that it was wrong, that they didn't have the right to put their hands down our pants and do things like that, but we were too scared to do anything about it, and the only avenue that we had to protect ourselves were passive means like doing your belt up tight, sitting next to the window so that you weren't immediately accessible.<sup>533</sup>

The current Marist Brothers Provincial, Brother Carroll, said it 'could well have been the case' that there was a spiritual element to the physical punishment by the Brothers that inhibited the reporting of allegations.<sup>534</sup> He agreed it could be a 'long journey' for a survivor to come forward because of the combination of physical and sexual abuse.<sup>535</sup>



Evidence about physical intimidation was not limited to the students. Brother Wade was the principal of Marist Brothers Hamilton between 1971 and 1976. He gave evidence of receiving a complaint from a child of being sexually abused by Cable and having to confront Cable about the complaint. He spoke of feeling ‘extremely anxious and nervous’ to confront Cable because Cable was ‘a very physically dominating and intimidating character’.<sup>536</sup> Brother Wade said that Cable’s conduct towards others was to intimidate and frighten them and that he was also frightened of Cable.<sup>537</sup>

That the principal of the school, who had authority over Cable, could be frightened and intimidated by him is an insight into the terror that school students felt.

## The culture at Marist Brothers Hamilton in the 1960s and 1970s

We are satisfied that students at Marist Brothers Hamilton were subjected to frequent and sometimes brutal physical violence at the hands of certain Brothers and teachers in the 1960s and 1970s. The Church parties acknowledged this.<sup>538</sup> The frequency and severity of the physical punishment and the lack of any apparent proportionality between the punishment and the supposed transgression is such that this cannot be explained as merely an example of typical corporal punishment as accepted in society at the time.

The physical punishment was of such a kind as to produce a culture of fear and intimidation of the students. Physical intimidation combined powerfully with the spiritual intimidation that students felt in dealing with Brothers because of their status as figures of religious authority. Brother Carroll and the Church parties acknowledged this.<sup>539</sup> In the words of CNJ, a former student of Marist Brothers Hamilton:

When I get down on myself for having not spoken up at the time, I have to remind myself of the enormity of a child facing off with a Marist Brother. Up until that time I was taught that a Brother, Nun or Priest was ‘God’s representative on earth.’ So when God’s agent sticks his hand down your pants, life gets seriously confused.<sup>540</sup>

Brother Dominic, Brother Patrick and Cable engaged in inappropriate sexual conduct with children at Marist Brothers Hamilton that was brazen, frequent and in some cases quite blatant. The Church parties accepted that position and acknowledged that it should not have occurred.<sup>541</sup> Such conduct suggests that the Brothers perceived that they enjoyed a measure of impunity and that this was in fact the case. The culture of physical violence and the students’ fear of retribution contributed to this state of affairs.

## 14.2 The impacts of physical and sexual abuse

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Many survivors gave accounts of the long-lasting, profound effects of sexual and physical abuse at Marist Brothers Hamilton. These included psychological and psychiatric conditions, substance abuse, difficulties in social interactions, problems with authority, confusion surrounding sexuality and sexual identity, educational and career setbacks, relationship difficulties and loss of faith.

CNS said that the sexual and physical abuse he suffered definitely affected his schooling. He said, 'My grades began to get worse, and I would sometimes avoid school and go truant. I was terrified of the school, particularly of going to maths'<sup>542</sup> (where he said he was abused by Brother Patrick). CNS said that since leaving the Marist Brothers he has suffered from anxiety that at times is overwhelming. He said:

I believe that this is the result of the abuse I experienced at the school and the terror I often felt when I went to school. This anxiety was a great detriment and has negatively impacted my personal relationships. The abuse has also caused me to be hyper vigilant about my own children. I became over protective of them. I did not send my children to Catholic schools.<sup>543</sup>

CNV told us that after he was abused his grades began to suffer: 'I was in the top class, but I got a report card that indicated I was going to be dropped to the second class.'<sup>544</sup>

CNV also gave evidence of the ongoing, long-term effects of the abuse. He said:

My abuse has left me with a spiritual void. As a result, I have explored other false religions, which has detrimentally affected my marriage. I have also found myself having flashbacks to when I was 11 years old and was abused, and this is adversely impacting upon my teaching career. I was always considered one of the brightest members of my family, but an under-achiever. I have a great family, who have been very successful, but I feel that I have not lived up to my potential.<sup>545</sup>

We heard that CNQ was sexually abused by multiple Brothers at Marist Brothers Hamilton between 1977 and 1980. He said that the abuse made him feel 'ashamed, confused and unclean'. He said he became 'paranoid' about being homosexual and that people would think he enjoyed it. CNQ developed a stutter at school after the abuse had started, which he said has improved over time but has never completely disappeared.<sup>546</sup>

CNQ gave further evidence that he has had difficulty with relationships and had been through two failed marriages. He said:

I have trouble with intimacy and I am often uncomfortable with sexual relationships. Usually, these issues, combined with my alcohol and substance abuse problems, have resulted in my relationships breaking up.<sup>547</sup>

The abuse has also impacted on his relationships with his children, particularly his daughter:

She was very upset when my marriage with her mother broke down and blamed my drinking. I was an overprotective father and found it hard to cuddle them. I have not told any of my children about the abuse since I believe I would cease to be a man in their eyes if I did.<sup>548</sup>

CNQ has been diagnosed with anxiety and post-traumatic stress disorder and has spent time in hospital, as both an inpatient and an outpatient, for alcohol addiction and depression.

CNQ gave evidence that:

[I still do not] have many friends, and I do not seek to have any serious relationships with women. I suffer flashbacks from my sexual abuse and am prone to outbursts of tears. I avoid crowds and public places, and I often think that my life has been wasted.<sup>549</sup>

CNR told us that:

Everything shattered when the abuse by Br DOMINIC started. I found it bizarre that a Marist Brother, who was supposed to have sacrificed his life for the Church, would grope kids. I lost interest in school because of the sexual and physical abuse. I used to go home at lunchtime to get away. After the abuse started, sitting at a desk made me feel sick and break into a sweat. This has had a huge impact on my life.<sup>550</sup>

CNR gave evidence that the abuse had a significant impact on his education:

In my family there are several PhDs and it was a given that I would continue on to further study. Because of the abuse I left school as soon as I finished fourth form. I was in the top class so this was a shock to my family. Other boys I had witnessed being abused or who had told me they had been abused also left at the same time.<sup>551</sup>

CNR said he suffered from depression as a result of the abuse. After leaving school and starting to work as a fitter and turner, CNR gave evidence that he 'really lost it' and:

[I] felt like I didn't have any reason to live. I would go to work and come home and sleep then go back to a shift without even showering. I would ride my motorbike at high speeds and wouldn't have cared if I had been killed.<sup>552</sup>

CNR has been on antidepressants for many years. He said:

I have a problem with hoarding, which I'm trying to deal with. I have also been diagnosed with PTSD and OCD. I am on medication now which makes me calmer. I have intended to commit suicide more than once. I was detained in full-time psychiatric care for four months in 2014 because I intended to commit suicide.<sup>553</sup>

CNR gave evidence that he is 'now heavily reliant upon the care and emotional support provided by my wife to cope with everyday living and to keep me safe. Even simple decisions and emotions are too much for me to cope with by myself'.<sup>554</sup>

CQT gave evidence of his loss of faith as a result of being abused at Marist Brothers Hamilton. He said that:

[I] cannot trust any Marist Brother, Roman Catholic priest, or Sister of Mercy nun in any way. I have three children and I would not send them to a religious school. I'm extremely over protective of them.<sup>555</sup>

CQT also gave evidence that:

[A] major impact on the community in my opinion has been the number of suicides of boys who went through Marist Brothers Hamilton. Not only of my brother Andrew, but also of many former students including friends.<sup>556</sup>

CQT said that his family was shattered by his brother's death. He said his father was away on a ship when his brother died. When his father came home, he was broken and never recovered. CQT said that he was the only one who could go to the morgue to identify his brother, and he did his Higher School Certificate within weeks.<sup>557</sup>

Mrs Audrey Nash told us of the immense impact the abuse of her sons CQT and Mr Andrew Nash has had on her life and her faith. She said she spent her whole life committed to her Catholic faith and working for the Church. She said:

I don't go to church now. I still have my beliefs, but I am appalled at the lack of empathy, the lack of support, and the lack of concern for all of the people affected by child sexual abuse. I am disgusted by the efforts of the church to cover up the abuse, and to protect the abusers.

I have been devastated by what happened to CQT and Andrew, and my children and I have been just as devastated by the reaction of all of the members of the Catholic Church. I have been left feeling empty. I also feel so stupid that I used to fear and revere these people, and that I used to respect them and look up to them.<sup>558</sup>

The Church parties acknowledged that the survivor witnesses had suffered greatly. They acknowledged the devastating impact of the abuse on survivors in both the short and long term.<sup>559</sup>

### 14.3 The death of Andrew Nash

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Andrew Nash and his older brother CTQ attended Marist Brothers Hamilton in the 1970s.

Andrew Nash commenced at the school in 1973. In 1974, his second year of high school, Cable was his form master.<sup>560</sup>

In October of 1974, Andrew Nash was found dead in his bedroom. He was 13.

Mrs Nash, Andrew Nash's mother, was a witness in the public hearing.<sup>561</sup> Mrs Nash was 90 years old at the time she gave evidence.

Mrs Nash told us that one afternoon in early 1974 Andrew did not come home from school. When he returned home later in the evening, Andrew was quiet and not himself. He said he had been to Bar Beach. Mrs Nash wondered how he had got to Bar Beach, given it was some distance from the school, but she had no reason for concern at that stage.<sup>562</sup>

After the trip to Bar Beach, she said Andrew became very reluctant to go to school. He often claimed he was sick. He became subdued and withdrawn.<sup>563</sup> Mrs Nash told us that it was about six months after the Bar Beach incident that Andrew took his own life.

Mrs Nash said she had picked Andrew up from school that afternoon with his sisters. They ate dinner and he had a bath. Afterwards, Andrew asked her to iron his sports clothes for the next day. He went into his bedroom to do his homework. About half an hour later Andrew's sister tried to enter his room but was unable to open the door. Mrs Nash came and pushed the door open. She found Andrew. He had hanged himself.<sup>564</sup>

Mrs Nash asked a passing taxi driver to call an ambulance and a priest.<sup>565</sup>

#### Visit by priests and Brothers

#### Evidence of Mrs Nash and CQT

Mrs Nash said that, within two hours of Andrew's death, a priest came to the house. The priest was Father William Burston, who was new to the parish.

She said that, shortly after this, two other priests arrived – Father Tom Brennan and Father Helferty (the principal and vice-principal respectively at St Pius X High School in Adamstown).

Shortly after the priests, three Marist Brothers came to the house – Brother Wade, Cable and Brother John O’Brien (Andrew’s rugby coach).

Mrs Nash said she did not know why the priests and Brothers came to the house. She said:

I was very surprised to see them. None of them had very much to say. I asked [Cable] ‘Did anything happen at school?’ He said, ‘No’. Then he asked me ‘Did Andrew leave a note?’ I said, ‘No’. [Cable] said ‘Did he say anything?’ When I said, ‘No’, they got into a little huddle and left. Then the three priests also left.<sup>566</sup>

After the funeral, Mrs Nash told us she never heard from any of the Brothers again.<sup>567</sup>

CQT’s recollection of the priests and Brothers who attended the house that night is consistent with Mrs Nash’s account. He also gave a similar account of his mother’s conversation with Cable.<sup>568</sup>

CQT told us that none of the priests or Brothers offered his family any pastoral care, counselling or help at the time.<sup>569</sup>

## Evidence of Brother Wade and Father Burston

Brother Wade said he remembered Andrew’s suicide. He accepted that it was a very unusual event and was the only suicide of a student in his 30 years as a principal.<sup>570</sup>

Brother Wade told us he had no recollection of attending Andrew Nash’s residence that night,<sup>571</sup> but he was not saying it did not happen. He agreed he had no reason to doubt the other witnesses who recall his presence at the house.<sup>572</sup> He denied that, if he went to the house, the reason was to ascertain if Andrew had left a note.<sup>573</sup>

Brother Wade said he understood Andrew to have committed suicide. He said he never expressed the view to anyone that his death was a result of a prank gone wrong or an accident.<sup>574</sup>

Brother Wade had a specific recollection of other events around this time. He recalled attending the mass held for Andrew a few days later, the location of the mass (Sacred Heart Hamilton) and that the church was ‘packed’. He did not recall who conducted the mass or who spoke.<sup>575</sup>

It was put to Brother Wade by counsel for Mrs Nash and CQT, Mr Chiu, that it is implausible that he had no memory of visiting the Nash household on the evening of 8 October 1974, and Brother Wade said he was not lying.<sup>576</sup>

Father Burston told us that he arrived at the house to anoint Andrew. He was newly arrived as the assistant priest in the parish and only responded to the call because the parish priest was unavailable.<sup>577</sup>

Father Burston said he was the only person who attended the house. He said that he stayed for about 20 minutes and that no other priests or religious arrived while he was there.<sup>578</sup> He said that he subsequently returned to the presbytery at Hamilton and rang the parish priest. He said he also would have rung the school to inform them of the matter.<sup>579</sup>

Father Burston could not recall ever speaking to Father Brennan or Father Helferty about Andrew's death.

Counsel for Father Burston submitted that we should accept that Father Burston was not present at the Nash residence when other priests and Marist Brothers were present and there is no evidence that Father Burston was part of any conversation in relation to a suicide note.<sup>580</sup>

## Mrs Nash comes to suspect Andrew was sexually abused

In the time since Andrew's death, Mrs Nash has come to believe that he was sexually abused by Cable, although Andrew never disclosed this to her.

Mrs Nash said that in 1998 she had a conversation with her parish priest. This conversation took place after a Catholic priest in the Diocese, Father Vincent Ryan, had been charged and convicted of child sexual abuse. She told her parish priest that she was starting to think that Andrew had been sexually abused and he said he thought so too.<sup>581</sup>

When Cable was charged in 2013, Mrs Nash read a media article that mentioned Cable had sexually abused boys at Bar Beach. This reminded her of the time that Andrew had come home late and told her he had been at Bar Beach.<sup>582</sup>

In 2013, a friend of Andrew's from school wrote to Mrs Nash and said he believed that Andrew had been sexually abused at Marist Brothers Hamilton.<sup>583</sup>

In 2014, at the request of the Nash family through Zimmerman Services, the Marist Brothers undertook searches of their records for any discussions of the death of Andrew Nash. None was found. They also attempted to arrange for Mrs Nash to speak with Cable about her son, but Cable refused.<sup>584</sup>

## CQT

CQT also told us of his belief that Andrew was sexually abused. He said:

I believe that Andrew was sexually abused and that he took his own life because of the abuse. I also believe that the reason that Br ROMUALD [Cable] and Br CHRISTOPHER came to our house the night of Andrew's death was to try to find out if there was any evidence that Andrew left behind in relation to the abuse, such as a note. They certainly didn't seem to be there to provide any support to us. Following the visit on the night of Andrew's death, not one of the Brothers or priests ever called or came to our home again, not even for a cup of tea with my mum.<sup>585</sup>

## CQS

CQS is another former student of Marist Brothers Hamilton and was a witness in the public hearing. He had not previously provided a statement to police. He remembered Andrew Nash; they were in the same school year. He told us that Andrew was one of the boys targeted for sexual abuse. When asked who targeted Andrew, CQS said 'Brother Romuald [Cable], and I also understand Brother Dominic'.<sup>586</sup>

Counsel for Mrs Nash asked CQS whether this was common knowledge among the boys. CQS said:

It was knowledge on the basis that Andrew was a wonderful singer, actually, and was in Brother Dominic's choir, and I know that he was with Brother Dominic, and that's how I understand.<sup>587</sup>

CQS also gave evidence as to what the school told the students about the circumstances of Andrew's death. He said:

They told us that he – it was an accident and that he was climbing up the door in the bedroom and his brother shut the door and Andrew's tie got caught in the door and he hung himself on his tie by accident.<sup>588</sup>

CQS's initial recollection was that this was an announcement that was made at the school, but he could not recall who made it.<sup>589</sup> When questioned further by counsel for Brother Wade, CQS agreed he could not recall exactly whether there was a formal announcement or whether the teachers had said that is what had occurred. He could not say whether the principal said anything to him about the matter. He could not say that Brother Wade had told the teachers what to say about it.<sup>590</sup>



## Brother Carroll's statement

Towards the end of the public hearing, the current Marist Brothers Provincial, Brother Carroll, delivered a statement to the Royal Commission with regard to Andrew Nash's death. He said:

I want to acknowledge today, in public, that I accept on behalf of the Marist Brothers that all the evidence points to Andrew having been sexually abused and the evidence also points to Andrew having taken his own life.

Importantly, it is obvious that many things have been said about the circumstances of Andrew's death, some of which must be corrected. It has been suggested in some places that Andrew's death was a prank gone wrong involving a family member, and yesterday we heard that the school at the time told the students that Andrew might have died by an accident involving another family member. To me, it is obvious that no member of the Nash family was involved in causing his death. Any suggestion that they were is completely wrong and hurtful to the family. These ideas must be totally rejected. Such comments have immeasurably compounded the family's pain and sense of loss.<sup>591</sup>

Brother Carroll's statement was an appropriate acknowledgement to make on behalf of the Marist Brothers.

## Conclusions regarding the visit of the priests and Brothers on the night of Andrew Nash's death

As set out above, Brother Wade told us that he could not recall visiting the Nash residence on the night of Andrew's death.

Counsel for Brother Wade submitted that Brother Wade was an honest witness, who was prepared to admit to his own failings.<sup>592</sup> Counsel submitted that it was not sinister for a principal of a school to attend the residence of the family of a student who had died, and it is likely that this was the reason for Brother Wade's attendance. Counsel submitted there is 'nothing to indicate' Brother Wade was aware of an allegation that Cable had sexually abused Andrew but accepted that it was unusual that Brother Wade did not have a specific recollection of attending.<sup>593</sup> Counsel submitted that we should find that the reason Brother Wade attended the Nash residence was not because of a concern that suggestions that Andrew was sexually abused might be raised as a result of his suicide.<sup>594</sup>

Brother Wade was able to recall other matters from his past, including from the 1970s, albeit with varying degrees of precision. He recalled other events following Andrew's death more clearly, including the mass held for Andrew. It is not credible that he has no recollection of

an event as significant and unusual as attending the Nash residence on the night of Andrew's death. While it is true that Brother Wade frankly admitted his past failings in some respects, we do not consider that, as a witness, Brother Wade was ready to do so in all instances.

We are satisfied that Brother Wade was not frank or forthcoming in his evidence regarding his lack of recollection of this event.

We accept the evidence of Mrs Audrey Nash and CQT that Brother Wade visited the Nash residence on the night of Andrew's death and was present at the residence when Cable asked Mrs Nash whether Andrew had left a note. We also accept the evidence of Mrs Nash and CQT that the Brothers left soon thereafter.

The circumstances give rise to an inference that Cable asked whether Andrew left a note because Cable was concerned that Andrew's suicide might lead to suggestions being made that Andrew was sexually abused.

Given the competing accounts of Mrs Nash, CQT and Father Burston, we do not find that Father Burston was present at the same time as the Brothers or involved in any conversation about a suicide note.

## 14.4 CNP

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CNP made a statement to police in November 2013 in which he said he was touched inappropriately by Brother Dominic in his technical drawing class in 1972.<sup>595</sup> CNP said that Brother Dominic would squeeze his bottom in class and rub his hand up and down his back when inspecting his work. On one occasion Brother Dominic put his hands inside CNP's shorts and squeezed his penis. CNP said that on this occasion he told Brother Dominic to 'fuck off' and went straight to Brother Wade's office.<sup>596</sup>

CNP said he told Brother Wade what had happened. He said:

Brother CHRISTOPHER told me that Brother DOMINIC was just being friendly and he was sure that it was an accident that he touched me on the penis and that I should just return to class.<sup>597</sup>

After this, CNP said he truanted from school for three days:

When I finally got the courage to return to school I found out that our class and all other classes were told that there would not be any more technical drawing as the classroom was being renovated and we were given extra Science and English classes instead. The school actually built a Chapel in the place where the Technical Drawing Room had been. This was the last time I saw Brother DOMINIC at the school grounds.<sup>598</sup>

Brother Wade recalled the name of CNP. Initially, Brother Wade said that he believed the conversation with CNP never happened, because he would never have thought the action being described was simply ‘being friendly’.<sup>599</sup> Later, Brother Wade was asked if his position was that the conversation with CNP did not happen because he would remember it or if he simply could not recall either way. Brother Wade said, ‘I think I’d say that I simply – I certainly can’t recall either way’.<sup>600</sup>

Brother Wade told us that the technical drawing classroom was not renovated in 1972. He said that the school did build a chapel, which was in the room next to the technical drawing room, but it was completed and opened by early 1971.<sup>601</sup>

Counsel for Brother Wade submitted that it ‘seems unlikely’ given the nature of the school and its hierarchy that CNP would immediately go to the principal’s office, be granted an audience and disclose what had happened to him.<sup>602</sup> Counsel also submitted that there were factual inaccuracies in CNP’s account that were linked to and affect the reliability of his account that he made a report to Brother Wade. They submitted that the classroom was not renovated, the chapel was built earlier and did not replace the technical drawing room and, although CNP said he never saw Brother Dominic again, Brother Dominic continued to teach at the school for a further five years.<sup>603</sup>

We consider that the account that CNP gave to police is credible, although it may have been inaccurate in some respects. We do not think there is anything unlikely in a teenage boy reporting a complaint about his teacher directly to the principal. His account is believable and his evidence of his abuse is similar to the incidents described by other survivor witnesses and contained in the police statements of others.

However, there appear to be some matters in CNP’s statement which seem on their face to be inaccurate in light of other evidence:

- the school did not build a chapel in the place where the technical drawing classroom had been, although a chapel was built next to the classroom the preceding year
- CNP said he did not see Brother Dominic on the school grounds again after made the report to Brother Wade in 1972, but Brother Dominic remained at Marist Brothers Hamilton until 1977.

These matters concern the events after the incidents of abuse that CNP told police about and after CNP said he told Brother Wade what Brother Dominic had done.

We note that, as CNP resides overseas, he was not able to give evidence in the public hearing. Based on the evidence before us, we make no finding as to whether CNP made the complaint to Brother Wade.

## 14.5 CNS

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We heard from CNS, who was a student at Marist Brothers Hamilton between 1969 and 1972. He told us that he heard rumours about Cable, Brother Dominic and Brother Patrick and that the kids at school would refer to them as ‘poofs’. CNS said it was widely discussed amongst the students that those Brothers were ‘touchy-feely’ and should be avoided.<sup>604</sup>

CNS said that on one occasion he observed Brother Dominic tucking in a boy’s shirt in the playground and putting his hands down the boy’s pants.<sup>605</sup>

Brother Patrick was CNS’s maths teacher in third form. CNS said that Brother Patrick would approach him in class from behind, rub his hands over his chest and torso and then move his hand down towards the top of his pants. CNS said that he could feel Brother Patrick trying to get his hands inside his pants, but he kept his belt done up tight because of warnings from other students.<sup>606</sup> Brother Patrick did this on numerous occasions throughout the year, but he was never able to get his hands right down inside CNS’s pants.<sup>607</sup>

In the Christmas holidays in 1972, CNS told us he was sent to see Brother Wade because he and his friend, CNR, let off a firecracker next to the school. By this time, CNS said he had decided he would not return to Marist Brothers Hamilton the following year.<sup>608</sup>

CNS said that during this meeting Brother Wade told him he had shown a lack of maturity and responsibility. He told Brother Wade he did not care, as he was not returning to Marist Brothers Hamilton. CNS said he then said to Brother Wade: ‘How do you justify what Brother Patrick, [Cable] and Brother Dominic are doing molesting kids. How do you justify that in a Catholic School?’<sup>609</sup>

CNS said that he did not go into detail of what he had seen and did not mention the names of any particular students. However, he said that the ‘interaction was such that it was clear that Br Christopher [Wade] and I both knew what I was referring to’.<sup>610</sup>

CNS said:

Brother Christopher did not seem surprised or shocked by my allegation. He didn’t ask for clarification, and he didn’t answer my question. He appeared to be annoyed that I was anything other than sorry for my actions, and that I was challenging his authority. All he said was something to the effect of, ‘They are all good, competent teachers’.<sup>611</sup>

We also heard from CNR, the friend who was with CNS when they let off the firecracker. CNR said that CNS told CNR about his conversation with Brother Wade a few days after it occurred. CNR said he could not recall the exact words, but CNS said something like ‘Brother PATRICK, Br DOMINIC and [Cable] are poofers and are abusing guys’.<sup>612</sup>

CNV (CNS's brother) also gave evidence about these events. He said that CNS told him he had spoken to Brother Wade and said something like 'What are you going to do about this Brother PATRICK' and Brother Wade responded, 'Well, he's a very good maths teacher!'.<sup>613</sup>

Counsel for Brother Wade, Mr Brady, put to CNS that he had wanted to say something in the meeting but did not actually say it.<sup>614</sup> CNS said he had repeated the conversation to people during the last 30 years and 'I absolutely, definitely spoke to him about it. It was the one important part of that conversation that meant something to me'.<sup>615</sup>

Mr Brady put to CNS that he did not say anything to Brother Wade about the Brothers molesting children. CNS responded that he had a 'very clear memory' of his 1972 conversation with Brother Wade.<sup>616</sup> CNS gave evidence he thought the conversation about sexual abuse made an impression on Brother Wade, because when he visited the school grounds in 1974 Brother Wade asked him to leave the grounds.<sup>617</sup> CNS agreed with Mr Brady's observation that the cause of the earlier 1972 meeting had been for Brother Wade to reprimand CNS for letting off fireworks.<sup>618</sup>

When it was put to CNS by Mr Brady that CNS only mentioned Brother Patrick, CNS replied 'No. I mentioned all three of the brothers. They were all well known'.<sup>619</sup>

Brother Wade told us he could not recall meeting with CNS.<sup>620</sup> He could not recall CNS making the comment 'How do you justify what Brother Patrick, [Cable] and Brother Dominic are doing molesting kids'. Brother Wade was asked whether he denied it occurred or could not recall. He said, 'I don't recall either way'.<sup>621</sup> That is consistent with what he says in his police statement; however, he initially told police in an interview that the conversation did not happen.<sup>622</sup>

Counsel for Brother Wade submitted that the language CNS said he used in the alleged complaint would be unusual for a teenage boy and is more consistent with an innocent reconstruction of what he wished he had said. Counsel also pointed to the fact that CNV's evidence was that CNS told him he had only mentioned Brother Patrick and not all three Brothers. Counsel further submitted that Brother Wade's initial account to police was that the conversation did not occur, not that he could not recall it.<sup>623</sup>

We do not think the language CNS said he used is unusual or out of character for a teenage boy. To the extent they are inconsistent, we prefer CNS's direct evidence of the conversation to CNV's second-hand account. When questioned, CNS said he had a 'very clear memory' of his conversation with Brother Wade. He was also firm in his recollection that he mentioned all three Brothers. We accept CNS's evidence.

The ultimate effect of Brother Wade's sworn evidence to us and the signed statement he gave to police was that he could not recall if the conversation occurred, rather than that it did not occur.

We are satisfied that CNS told Brother Wade in late 1972 or early 1973 that Brother Patrick, Brother Dominic and Cable were ‘molesting’ boys. There is no evidence that Brother Wade did anything with that information. That was a gross failing on his part to protect the wellbeing of students.

## 14.6 CNX

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CNV is the son of CNX and younger brother of CNS. He told us he was sexually abused by Cable and Brother Patrick.

CNV started at Marist Brothers Hamilton in 1972, when he was 11 years old. He told us that on one occasion in 1972 Brother Patrick put his hands down CNV’s pants and felt his pubic area, holding CNV in such a way that he could not get away.<sup>624</sup> He also said that on another occasion in 1973 Cable walked around the change room at Merewether Baths with an erection in front of the boys.<sup>625</sup>

CNV said that in 1973, when his grades began to suffer, he went to his parents and asked to change schools like his brother, CNS. He said, ‘I can’t remember exactly when, but around this time, I also told my parents about the sexual abuse by Br PATRICK and Br ROMUALD [Cable]’.<sup>626</sup>

CNV said that his father, CNX, subsequently had a meeting at the school with the principal, Brother Wade. CNV said his father did not tell him at the time what happened at the meeting. CNV said that many years later, not long before CNX died, CNV asked him about the meeting. CNV said:

I was angry because I thought dad should have gone to the school and punched someone out. Dad told me that he did raise the sexual abuse [at the meeting] and really gave it to them, meaning he told them he was very unhappy that Br PATRICK and [Cable] were allowed to keep teaching.<sup>627</sup>

CNV said that, once CNX told him this, ‘I was able to let my father pass away without any negative thought on him not being as good a dad as I had been to my boys’.<sup>628</sup>

CNS stated that he found out some years after the events that his younger brother, CNV, had been sexually abused. He said:

I remember speaking to my father about what had happened and my father told me that around the end of 1973, he went and spoke to Br Christopher about what had happened to CNV and made a complaint. My father did not tell me the conversation or any result of his complaint. I do remember that the following year, CNV also left Marist Brothers and went to St Pius X.<sup>629</sup>

Brother Wade gave evidence that he could not recall the conversation with CNX. When asked if his evidence is the conversation did not happen or he cannot recall either way, Brother Wade said, 'I can't recall either way'.<sup>630</sup> He later accepted that the conversation could have happened.<sup>631</sup>

Counsel for Brother Wade submitted that the complaint is second-hand hearsay and that its reliability is questionable because CNX only told CNV he had raised the allegations of sexual conduct with Brother Wade after CNV expressed his anger that CNX had not done more.<sup>632</sup> Counsel also submitted that Brother Wade's evidence to police was that the conversation did not occur and not only that he could not recall whether it occurred.<sup>633</sup>

In Brother Wade's signed statement to police, his evidence was that he had no recollection of a conversation with CNX.<sup>634</sup> On two occasions in his oral evidence before us, he was asked about his conversation with CNX. On both occasions his evidence was that he did not remember the conversation, not that it did not occur.

Despite Brother Wade's submission, we do not consider that the circumstances of CNV's conversation with his father, CNX, substantially affect the reliability of his evidence. Further, while it is not direct evidence, it is supported in part by the evidence of CNS, who also said CNX told him he had 'made a complaint' to Brother Wade in 1973 about what had happened to CNV.

We accept CNV's evidence.

We are satisfied CNX 'raised sexual abuse' with Brother Wade in relation to CNV. The matters that CNV told CNX about were that Brother Patrick put his hands down CNV's pants and felt his pubic area and that Cable walked around in a change room with an erection in front of boys. However, in the absence of direct evidence or a fuller account of that conversation, we are not able to draw any other conclusions as to the content of the conversation.

## 14.7 Complaint to Brother Wade in relation to Cable

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### Brother Wade confronts Cable

Brother Wade told us one complaint against Cable was made to him at Marist Brothers Hamilton. Brother Wade said he could not recall how the information came to him, the source, the nature of the alleged offence or which boy or boys were concerned.<sup>635</sup> He said it could possibly have come from a meeting with a student, but he had no memory of it.<sup>636</sup> He could not recall the year the complaint was made.<sup>637</sup> However, in an interview with police in 2014, Brother Wade placed the time of the complaint as 'Sometime just before or just after' the death of Andrew Nash, which was on 8 October 1974.<sup>638</sup>

Brother Wade said he remembered only that this was a complaint to do with ‘sexual interfering’ with a boy and he remembered he felt it necessary to confront Cable about it.<sup>639</sup> He said that this is the only complaint about Cable he can recall receiving while he was at Marist Brothers Hamilton.<sup>640</sup>

Brother Wade said he confronted Cable in the Brothers’ residence in a ‘fairly private’ corridor of the top floor. Cable was a very physically dominating and intimidating character, and he said he was extremely anxious and nervous at having to confront him.<sup>641</sup>

Brother Wade has previously given an account of this confrontation to police.

In his notes of his police interview in 2014, Brother Wade said of his conversation with Cable:

I questioned [Cable] about it at the time, using the then familiar terminology as to whether he had ‘interfered’ with a boy. He denied it saying he thought he ‘had been good in that area recently’, or some similar form of words, which led me to infer that there could have been matters in the past.<sup>642</sup>

Brother Wade’s signed record of that interview with police states:

What I remember about that conversation is that he said to me, ‘I thought I had been good in that area recently.’ When he said this I thought that it was an admission that he had done stuff in the past.<sup>643</sup>

Brother Wade told us that he interpreted Cable’s comment to mean that he denied the incident the subject of the complaint.<sup>644</sup> He accepted that it was not a particularly emphatic denial.<sup>645</sup>

## Evidence of prior misconduct

Brother Wade was asked on a number of occasions if he understood the effect of Cable’s words ‘I thought I had been good in that area recently’ to be an admission that he had sexually interfered with boys in the past. His evidence was:

- ‘Well, that was an inference that I thought could have been drawn’ and later ‘I think I did’ draw that inference<sup>646</sup>
- ‘I think I had on my hands a possible admission’<sup>647</sup>
- ‘It was only – it was only an inference that I drew from those few words, which were very vague and non-specific’<sup>648</sup>
- when the Chair put to Brother Wade that the inference was plain, Brother Wade said, ‘I’m not sure’<sup>649</sup>



- when the Chair later put to Brother Wade that Cable made an admission and Brother Wade understood it to be an admission, Brother Wade said ‘Yes’.<sup>650</sup> However, he subsequently sought to qualify this by adding ‘I’m not sure whether that’s strong enough to say that he has made an admission’.<sup>651</sup>

## Brother Wade’s response

Brother Wade said he told no one about the admission.<sup>652</sup> He did not take the matter any further. Brother Wade agreed that he never made a report to the Provincial or anyone else about allegations that Cable had interfered with boys.<sup>653</sup>

Brother Wade said he could not justify how he accepted Cable’s denial of the allegation without investigating the matter further and could not explain why he took that approach.<sup>654</sup> He agreed he was ‘to some degree’ scared of Cable and was possibly scared of the repercussions if he acted on the complaint. Brother Wade agreed with the proposition that he had wanted to hear a denial and that way he was able to put an end to the matter.<sup>655</sup> He agreed he did not want trouble in the community between himself and Cable.<sup>656</sup> When asked why he did not act on the admission, Brother Wade said, ‘I think I was so relieved to get ... a denial of the complaint ... that was the thing foremost in my mind and other things kind of were overlooked or neglected by me’.<sup>657</sup>

Brother Wade agreed it was wrong to accept Cable’s denial of the allegation, and this had terrible consequences for children.<sup>658</sup> Brother Wade said he should ‘at least’ have informed the Provincial and possibly gone to the police.<sup>659</sup>

Counsel for Brother Wade submitted that his evidence of the complaint and his conversation with Cable was ‘completely honest’. Brother Wade accepted that he should not have accepted Cable’s denial and to do so ‘reflects terribly on him and his performance as a principal with children in his care’.<sup>660</sup>

## Conclusion

Brother Wade confronted Cable about an allegation that Cable had sexually interfered with a boy. Brother Wade said he understood that Cable denied the allegation by saying, ‘Oh, I thought I’d been good in that area recently’. That statement clearly implies that Cable had *not* been good in that area previously. The ‘area’ was the topic of his alleged sexual interference with children. We are satisfied that Cable effectively admitted to Brother Wade that he had engaged in sexual misconduct with minors in the past.

In his evidence to us, Brother Wade sought to avoid accepting the significance of what Cable had said to him. Even when presented with the document recording his own description of that admission to police, Brother Wade sought to qualify his prior position and to minimise the significance of what he was told. We are satisfied that Brother Wade was less than forthcoming in this critical aspect of his evidence.

Even in relation to the particular allegation that Brother Wade was putting to Cable, the response that was treated as a 'denial' was itself so unconvincing that Brother Wade should have been highly suspicious.

## 14.8 CQS

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CQS commenced high school at Marist Brothers Hamilton in 1973. In 1974, when CQS was in year 8, Cable was his religious education teacher. Cable was also CQS's rugby league coach and coordinated the school's Duke of Edinburgh's International Award scheme, in which CQS participated.<sup>661</sup>

In 1974, as part of the award scheme, CQS attended swimming training at Merewether Baths and went on day trips with Cable. We heard from CQS that, on the drive home from a day trip to Bulahdelah, Cable asked CQS if he was circumcised. CQS said Cable told him that he should undress in front of the other students to demonstrate to the other boys where the femoral artery is. Cable also told CQS, who was pubescent at the time, that it would be good to learn about the difference between circumcised and uncircumcised penises and between adolescent and mature bodies. CQS said that Cable then put his hand on CQS's groin and groped his genitals.<sup>662</sup>

CQS said that Cable would grope him underwater during swimming training and would often swim up behind him and rub his erection on CQS's back.<sup>663</sup>

CQS told us that on a subsequent occasion, after swimming training at Merewether Baths, Cable made CQS undress in front of other boys. Cable talked about finding the femoral artery in the groin region and while he did so he fondled CQS's genitals. CQS pushed Cable's hand away and ran away in tears.<sup>664</sup>

CQS told us that when he got home from school that day he was crying and upset. His mother asked what was wrong and he told her what Cable had done. That evening he also told his father. His father said he would 'get it sorted out' and contacted Mr Forbes, CQS's class master.<sup>665</sup>

The next day at school, Mr Forbes encouraged CQS to speak to the principal, Brother Wade, about the matter. CQS did not want to go alone, so Mr Forbes arranged for his father to attend as well.<sup>666</sup>

Within days, CQS said he and his father met with Brother Wade in his office in the afternoon. CQS said:

My dad was at the school and we both went into Br [Wade]'s office. I was very scared about telling Br [Wade]. As students, he was the Headmaster and was known to be very strict and another disciplinarian. I don't recall my exact words but I believe I told him everything Br ROMUALD [Cable] had done to me. This included that he had tried to touch my genitals in the ute on the way back from Bulahdelah, that he rubbed his erection against me and probably other boys at the Merewether Baths, and that he walked around the Merewether Baths change rooms with an erection. I also told him that Br ROMUALD [Cable] made me undress in front of the other kids, demonstrated where to find the femoral artery, and groped my genitals while doing so. I told Br CHRISTOPHER [Wade] that Br ROMUALD [Cable] said he wanted to do this on a boy who was going through puberty and show the other boys.<sup>667</sup>

CQS gave evidence that Brother Wade had 'a poker face' during the meeting but said it was a very important matter and that he would do something about it. CQS did not have another conversation with Brother Wade about Cable.<sup>668</sup>

About a week later, CQS said that Cable approached him at school and asked if he had told anyone about what happened at Merewether Baths. CQS said he had not. From this time onwards, CQS said that Cable was very aggressive towards him and caned him at every class. CQS said he lived in fear and lost confidence in himself and the school.<sup>669</sup>

Counsel for Brother Wade put to CQS that it would have been difficult for him to go into detail with Brother Wade about what happened. CQS said, 'It was difficult, but my father was with me and he encouraged me to go into detail'. CQS said that, while he could not recite the exact words he used, he certainly remembered clearly the topics that he spoke about.<sup>670</sup>

When asked by counsel for Brother Wade, Mr Brady, if it is possible what CQS told Brother Wade was more general, like what he had told Mr Forbes, CQS said:

No, because – because when Mr Forbes spoke to me it was not in a confidential area, it was in the classroom, and this other meeting was held in Brother Christopher's office, in a confidential environment, and I was with my father and I felt confident to say exactly what had happened, on the basis that my father encouraged me to do that.<sup>671</sup>

Brother Wade said that he did not recall a conversation with CQS and his father as described by CQS. When Brother Wade was asked if it did not happen or he just cannot recall either way, he said, 'I just can't recall'. When he was asked if it is possible it happened and he has forgotten it, Brother Wade replied, 'Yes'.<sup>672</sup>

Counsel for Brother Wade submitted that CQS was an impressive witness and said, 'The Commission would have little trouble in concluding not only was his evidence honest but it was generally reliable'.<sup>673</sup> It was submitted that, although Brother Wade could not say that the complaint by CQS is the complaint that led to his confrontation of Cable, there is a 'very strong inference' that it was. They cited the fact that both events likely occurred in 1974, that CQS's complaint was the only complaint specifically about Cable, that CQS's complaint was sufficiently specific to be necessary to put to Cable and that Cable's subsequent behaviour to CQS indicates that Brother Wade did confront him about it.<sup>674</sup>

We accept CQS's evidence. As counsel for Brother Wade accepted, he was an impressive witness. When questioned, CQS maintained that he had a clear recollection of the topics he spoke about with Brother Wade. There is no reason to disbelieve him.

We are satisfied that in 1974 CQS told Brother Wade that Cable had tried to touch CQS's genitals, Cable had rubbed his erection against CQS and probably other boys, Cable had walked naked in the shower area with an erection in front of boys and Cable had made CQS undress in front of other boys while groping CQS's genitals.

We are not able to say definitively whether the complaint from CQS was the same complaint that Brother Wade told police he confronted Cable about or if it was another (that is, additional) complaint. We agree that the matters identified on behalf of Brother Wade make it likely that it was the same complaint.

In any event, given the nature and detail of the matters that CQS, in the company of his father, reported to Brother Wade, it is extraordinary that Brother Wade professed to have no recollection of the meeting.

On the basis of what CQS told him, Brother Wade could have been in no doubt that other boys were at risk of sexual predation by Cable.

Assuming the CQS complaint is the complaint that Brother Wade recalled, he took no action other than to confront Cable and accept his denial. Regardless of whether Brother Wade confronted Cable regarding CQS's complaint, Brother Wade's response was ineffective. After CQS reported the abuse to Brother Wade, CQS was victimised by Cable.

## 14.9 Brother Wade's conduct

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As set out above, we are satisfied that Brother Wade received three allegations of child sexual abuse or other sexually inappropriate behaviour by Brother Patrick, Brother Dominic and Cable between late 1972 and 1974, as well as an admission by Cable that he had sexually interfered with boys in the past.

Brother Wade received those complaints at a time when he was in a leadership position within the Marist Brothers, as the school principal and the Superior in the Hamilton Marist Brothers community. The only evidence of any action by Brother Wade to respond to these complaints is his evidence that he confronted Cable on one occasion. On that occasion, he accepted Cable's unconvincing denial of the complaint and took no action on Cable's admission of sexually interfering with boys in the past.

Brother Wade's lack of response to inculpatory statements by Cable is extraordinary and inexcusable. So too is his failure to take further action on the particular complaint.

Cable should have been removed from contact with children immediately and the matter should have been reported to the police. Brother Wade prioritised his own desire to avoid confrontation and controversy, for himself and for the Marist Brothers, over the safety of children in his care.

Brother Wade's acceptance of the denial and his failure to take any action to protect children from Cable or even to interrogate Cable further about his past misconduct were grave failings on the part of Brother Wade and the institution in which he held a senior role.

There is no evidence that Brother Wade reported any of the three complaints or the admission to the Provincial.

The Marist Brothers produced no record of any of the complaints reported to Brother Wade. We are satisfied that no records were made. Brother Wade's failure to make a full and frank record of the complaints of serious misconduct against Brothers was totally inadequate and a serious dereliction of his duty as principal of the school and superior of the Marist Brothers community.

We are satisfied that Brother Wade failed to act in the best interests of the children at Marist Brothers Hamilton, for whom he was directly responsible. Had he responded appropriately when complaints were brought to him, it is possible that other children would not have suffered sexual abuse.

## 14.10 CNQ

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CNQ was in Brother Patrick's maths class in 1980. He told us that during class Brother Patrick would put his arm around CNQ's shoulder then touch his knee and move his hand up and down CNQ's thigh, often touching and rubbing his crotch area.<sup>675</sup> He said that Brother Patrick would also sexually abuse him in the chapel.<sup>676</sup>

## Brother Alfred and Brother Smith

CNQ told us about an incident he said took place in second term of 1980. On this occasion CNQ said that Brother Patrick sat next to him in maths class and started touching his leg. CNQ said he had ‘had enough’ and punched Brother Patrick in the head. He was sent out of class and taken to Brother Alfred’s office (his form master). He said he told Brother Alfred ‘Br PATRICK had his hand on my thigh and leg and I punched him’. CNQ said that Brother Alfred did not appear surprised, told him to stay away from Brother Patrick and said he would move him to a different maths class.<sup>677</sup>

Brother Alfred is deceased.

CNQ later told his mother what Brother Patrick had done and said he wanted to leave the school. CNQ said that in the school holidays at the end of 1980 he and his mother went to see the principal, Brother Smith. CNQ said:

I told Br JOHN about Br PATRICK coming to sit next to me and putting his hand on my crotch and leg, and that I hit him in response. Br JOHN put both hands up in a defensive manner and he replied that, ‘there is nothing I can do about that’.<sup>678</sup>

Brother Smith is 88 and was not competent to give evidence.<sup>679</sup>

In 2013, Brother Smith provided answers to a series of questions about CNQ’s complaint to the solicitors for the Marist Brothers’ insurer. The questions were put to Brother Smith on the basis of a statement that CNQ had provided.<sup>680</sup> In that statement, CNQ described his report to Brother Smith in the following terms:

The meeting didn’t last long. Brother John started off by telling me I had been in the wrong and I should not have punched Brother Patrick and that I was disrespectful.

I told him I was not and that Brother Patrick was doing wrong things to me, like touching me and cuddling me a lot, I didn’t tell all because, one; I was embarrassed with Mum there and also from the start of the meeting this guy was just aggressive and over bearing. I said to Brother John what are you going to do about that, what he did to me. Brother John was very firm and started saying he didn’t know anything about this and no one else had made complaints about Brother Patrick, I said well he did this to me. Then he became very indignant, and I will never forget these words from what he was saying but I remember this he put both hands up and said, ‘THERE IS NOTHING I CAN DO ABOUT IT’.<sup>681</sup>

Brother Smith is recorded as saying he did not recall CNQ's name. His responses to other questions were:

6. Do you recall the conversation CNQ alleges he had with you in 1980? If so, what do you recall?

No, I do not recall that conversation or that incident but it may have happened. I think I would have taken the opinion that the boy might have been mistaken and misjudged Brother Patrick and my approach would have been to try to smooth it over. The report of the meeting sounds quite reasonable especially when I did not know all the facts.

7. Did you know Br Patrick Butler? If so, what do you recall about him?

Brother Patrick was a personal friend who was my golf partner, a good teacher, a strong personality. I would not like to have had an argument with him. He could talk his way out of things.

8. Were you aware of any complaints made against Br Patrick Butler? If so, please provide details (ie dates and nature of complaint/s).

No. I was not aware of any complaints about Brother Patrick. Something in the back of my mind says 'rumours' but I can't think what that was. I cannot remember any incidents.<sup>682</sup>

The Church parties submitted that CNQ's evidence ought to be afforded appropriate weight, as Brother Smith was not able to give evidence; and, to the Marist Brothers' knowledge, no assessment of Brother Smith's capacity was made when he provided his answers in 2013. They also submitted it was unclear whether Brother Smith had 'clear knowledge' of the complaint based on what CNQ told him.<sup>683</sup>

We are conscious of these considerations, but we do not think that this means that CNQ's evidence should be rejected or that Brother Smith's statements in 2013 should be treated as inherently unreliable. CNQ's evidence of his report to Brother Smith, in the presence of his mother, and the response of Brother Smith is credible. CNQ's own evidence was that he did not disclose to Brother Smith all of what had happened to him. In his personal statement, he said he told Brother Smith that Brother Patrick 'was doing wrong things to me, like touching me and cuddling me a lot'. His evidence to us was that he said Brother Patrick was 'putting his hand on my crotch and leg'. On either of those accounts, it is clear that the touching CNQ described was inappropriate.

We are satisfied that CNQ told Brother Smith that Brother Patrick had touched him in a way that was inappropriate.

The implication of Brother Smith's recollection is that he would have tried to 'smooth over' things with CNQ. That was plainly inadequate.

## Father Brennan

CNQ said he subsequently changed schools to St Pius X High School, Adamstown.

CNQ said that he and his mother had a meeting with Father Tom Brennan before CNQ started at St Pius X. Father Brennan was then the principal of the school. CNQ said that Father Brennan asked why CNQ wanted to attend St Pius X and CNQ said he told him that he had punched Brother Patrick. He said, 'I told him Br PATRICK had been touching me and that I had had enough – that's why I belted him. I didn't tell Fr BRENNAN any details about the abuse'. CNQ said Father Brennan responded by 'putting both hands up in a defensive manner and saying that there was nothing he could do about it'.<sup>684</sup>

Father Brennan is deceased.

The Church parties submitted that, given CNQ's evidence could not be tested, as Father Brennan is deceased, it should be given appropriate weight.<sup>685</sup>

## Conclusion

We accept CNQ's evidence.

Brother Carroll said that any complaint of this nature should have been recorded, should have led to appropriate action being taken within the school and should have been reported to the Provincial.<sup>686</sup>

We accept that Brother Smith and Father Brennan are not in a position to explain what action (if any) was taken in response and why.

We do not know whether Brother Smith or Father Brennan took any steps to inquire further as to the nature of the allegation or to escalate the complaint to the Marist Brothers Provincial. If the report was escalated, those authorities took no effective action in response.



## 15 Brother Dominic

Brother Dominic held appointments at a number of Marist Brothers schools outside the Maitland–Newcastle region after he left Marist Brothers Hamilton in 1977. Complaints were made against Brother Dominic at two of those schools: St Mary’s and Riverview, where Brother Dominic held senior positions:

- St Mary’s: Brother Dominic was the deputy principal (1978–1980) and principal (1981–1985) of St Marys. He was also the Superior of that Marist Brothers community for the whole period he was at St Mary’s (1978–1985).<sup>687</sup>
- Riverview: Brother Dominic was the principal at Riverview from 1991 until the end of 1996.<sup>688</sup>

### 15.1 Concerns held by the deputy principal of St Mary’s

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Mr John Hamilton provided a statement to us. Mr Hamilton is a former student of Marist Brothers Maitland<sup>689</sup> and is a retired teacher.

In 1977 Mr Hamilton undertook the practical component of his teacher training at Marist Brothers Hamilton when Brother Dominic was a teacher there. He then taught at the school between 1978 and 1982, after Brother Dominic left.<sup>690</sup>

Mr Hamilton was subsequently the deputy principal at St Mary’s between 1983 and 1990, during some of the period when Brother Dominic was principal.<sup>691</sup>

Mr Hamilton said that, in around mid-1983, he had a conversation with two lay teachers (who are both now deceased) from Marist Brothers Hamilton. They asked him if Brother Dominic had been ‘up to his old tricks’. Mr Hamilton did not recall a more detailed discussion about the matter, but he was left with the impression that the two teachers had heard that Brother Dominic was overly friendly with children at Marist Brothers Hamilton.<sup>692</sup>

Mr Hamilton said:

I believe I thought that perhaps Brother Dominic had somehow had too much physical contact with the students. For example, that he had tapped them on the shoulder or bottom, or kissed them on the forehead. I never thought they meant the contact was sexual in nature or that he put his hands under their clothes or touched their genitals. At the time I would not have believed that Brother Dominic was capable of this.<sup>693</sup>

Mr Hamilton did not recall how the teachers knew of the allegations, but he thought it was innuendo or hearsay. He said:

In retrospect I don't think I gauged the severity of what the Brothers had been up to and dismissed it because I did not think it was something religious brothers were capable of. I understand now that this was naïve loyalty. For this reason I did not report what I had heard to anyone.<sup>694</sup>

In the time he worked with Brother Dominic at St Mary's, Mr Hamilton said he only ever saw Brother Dominic behave in a way he thought inappropriate once, in 1985. On that occasion, Mr Hamilton said he walked into the sick bay to find Brother Dominic sitting over a student, who was lying on a bed, and rubbing the boy's head with his hand or a cloth. He described the gesture as being 'in a gentle manner like a caring father', but he said he felt uncomfortable because 'male teachers do not act like this with students'.<sup>695</sup>

Mr Hamilton said that he felt alarmed and became more suspicious of Brother Dominic after this, but he did not recall thinking at the time that the conduct was untoward or sexual. If he had thought so, Mr Hamilton said he would have reported the matter to the Provincial.<sup>696</sup>

Mr Hamilton said that sometime in 1983 he spoke to Father Thomas Chapman, who had just returned from a trip to Sydney with year 10 students. Father Chapman said to him something like 'you want to keep an eye on Brother Dominic, you wouldn't believe what he has been up to' or 'he is up to no good'. Mr Hamilton did not ask for further detail and Father Chapman did not provide it. Mr Hamilton said, 'it is only in retrospect I have realised that this might have been a reference to Brother Dominic offending'.<sup>697</sup>

Father Chapman provided a statement to police on 29 February 2016. In it, he said he did not take any students on excursions during the time he was assistant priest at St Mary's in 1982 and 1983 and has never taken children on an excursion to Sydney. He said he did recall a lay teacher, Mr John Hamilton, but did not recall any conversations with him about Brother Dominic. Father Chapman stated he never heard any allegations against Brother Dominic and never witnessed any inappropriate conduct.<sup>698</sup>

## 15.2 CQX

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In a statement to police in 2014, CQX said he was abused by Brother Dominic at St Mary's in 1982. He described an incident where Brother Dominic came to him when he was in the sick bay and put his hand under the blanket and touched his genital area on the outside of his clothing.<sup>699</sup> CQX said that there was a chant that the children at school used to say: 'Bum's to the wall, Dom's on the crawl'. He said that, after school, he had a conversation with Mr Hamilton, who he said was aware of the saying.<sup>700</sup>

Mr Hamilton said that, in the last couple of years, former students of St Mary's have told him that Brother Dominic attempted to or did touch them sexually or that they had witnessed him do this when he was principal at St Mary's.

Mr Hamilton did not refer specifically to CQX.<sup>701</sup>

### 15.3 Report to Brother Turton regarding CNM in November 1994

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In 1994, Brother Turton (then the Provincial) received a call from the parish priest of Casino, Father Rex Hackett. Father Hackett had been approached by a man, CNM. CNM told Father Hackett of matters regarding Brother Dominic from the time CNM was a student at St Mary's in the early 1980s.

Brother Turton's note of this report, dated 11 November 1994, states:

Phone call from PP at ONI. Approached by young man, history of paranoid Schizophrenia, accusing AB29. Claim in 1981 that AB29 called him into the office, put his arm around his shoulders and touched him genitally inside the trousers. Claim that AB29 made a comment about girls maturing more quickly than boys.

A lad, [CNM], had been very angry with AB29 earlier because he had dismissed certain students from the school for writing graffiti and slanderous comments about the Principal.

The statement was that that was the only incident and no events of a similar nature were known. The young man wanted to be reassured that there was no likelihood of AB29 causing harm to students. The parish priest (RH) contacted Provincial and Provincial will raise the matter with AB29.

The lad concerned had been coming to the PP due to his disturbed state, seen as a result of the paranoid schizophrenia. The parish priest had been taking him through the prayer of healing and will continue to remain in touch.<sup>702</sup>

Brother Turton confirmed that the reference in the note to 'AB29' was to Brother Dominic, 'ONI' was a reference to Casino parish, 'PP' to the parish priest and 'RH' to Father (Rex) Hackett.<sup>703</sup>

The references in Brother Turton's note to a 'young man' in the first paragraph and 'CNM' and a 'lad' in the other paragraphs give rise to some ambiguity as to whether the note records one or multiple reports. However, the police statement given by CNM in 2014 describes the incident reported in the first paragraph of the note. That indicates it was CNM who made that

report and not a different person.<sup>704</sup> Brother Turton initially told us that he thought that CNM and the man who approached Father Hackett were two separate people,<sup>705</sup> but when he was shown CNM's police statement he accepted this was an error.<sup>706</sup> We are satisfied that the note relates to one complaint only – the matter that CNM reported to Father Hackett and then to Brother Turton.

Brother Turton told us that he did not speak to CNM directly and that the note only recorded what Father Hackett relayed to him.<sup>707</sup> Father Hackett did not give him any indication of whether he (Father Hackett) would take any action in response to the complaint.<sup>708</sup> Brother Turton was asked whether Father Hackett was reporting the matter to him, as Provincial, to deal with as he saw fit. Brother Turton said he only knew that Father Hackett wanted him to know about the matter.<sup>709</sup>

There is a handwritten annotation on Brother Turton's note, as follows:

Further conversation with the parish priest of Casino. Lad was pleased to know the message had been conveyed to the Provincial. Did not want the man to be challenged if there was no evidence of similar charge then or since. That is the case.<sup>710</sup>

There is a further handwritten annotation at the bottom of the note, which records that Brother Turton sought further advice from 'Fr B. L.' (Father Brian Lucas). Brother Turton's note of that conversation is:

if lad is concerned then he should make direct approach to [the Marist Brothers] and present his case subject to reasonable medical checking of his schizophrenic condition.<sup>711</sup>

Brother Turton was not sure if he asked Brother Dominic about CNM's allegation of sexual touching, but he said that he believed he did. He then said he 'presumed' he did and that Brother Dominic said there was nothing to the allegation. Brother Turton was confident that he did ask Brother Dominic about the other allegation that CNM made, which was that students had been expelled for writing graffiti and slanderous comments. He told us that Brother Dominic said, 'Well, we do expel people for graffiti'.<sup>712</sup>

Brother Turton was asked what steps he took to address the reassurance that the complainant sought: that there was no likelihood of Brother Dominic causing harm to other students. He said that he was waiting for the complainant to make a direct approach to the Marist Brothers so that a response could be made if the complaint was substantiated. He said that, in the circumstances, he 'accepted the reassurance of Brother Dominic'.<sup>713</sup>

Brother Turton gave evidence that he reported the matter to Father Lucas because he was the nominated person under the Church Protocol. He said that he reported many cases to Father Lucas, and Father Lucas would provide advice on the steps to be taken in response.<sup>714</sup>

Brother Turton said that, at the time he received the report from Father Hackett, no other complaints in relation to Brother Dominic had been brought specifically to his attention, but he accepted that he did not make any inquiries to determine if other complaints had been made.<sup>715</sup>

On 9 April 2015, Brother Turton provided a statement to NSW Police. In relation to the allegations regarding CNM, he said:

I have vague memories of receiving a complaint about a child which was very indefinite and whether it was reliable [sic]. I can't remember specifically what I did but my usual process was to contact lawyers and find out what I needed to do and what legal obligations I had. I recall there was a question of the reliability of the complaint due to schizophrenia. The legal man who was looking after the 'Special Issues' with the church was Father Brian Lucas and I contacted him. Father Brian Lucas is also a Solicitor. He is part of the Special Issues Section of the Catholic Church. At that stage my hunch is that he was also the Chancellor of the Sydney Diocese. In regards to the complainant he was an adult when I received the complaint. I would have checked with the Parish Priest that the complainant would have been informed of his right to take it to the Police.

... I refer in my notes to the complainant suffering from schizophrenia but I would not have assumed it, I would have been told that ...

From my notes I didn't report this matter any further as I received further advice from Father Brian LUCAS that if the lad concerned should make a direct approach to Marist Brothers and present his case subject to reasonable medical checking re his schizophrenic condition ...<sup>716</sup>

Father Hackett also provided a statement to police on 9 April 2015. In it, he said that he met CNM at the presbytery and CNM told him that he had been sexually abused by Brother Dominic at St Mary's. He stated that CNM told him Brother Dominic put his hands down the front of CNM's pants. He accepted CNM's account. He said that CNM was 'very distressed' and that the incident was still affecting him. Father Hackett said that he was shocked and distressed for CNM. He said he contacted the Superior and reported the allegation over the phone. Father Hackett said that he did not see CNM again and did not hear about the outcome of the complaint. Father Hackett said that according to 'Our protocols' he was required to inform a Church authority, which in this case was the Superior, but 'I was not obliged to inform the Police of these matters'.<sup>717</sup>

CNM provided a statement to police on 22 September 2014. He stated that when he was in year 8 (in 1983) he was called to Brother Dominic's office. Brother Dominic told CNM to come and sit on his knee, which CNM did. Brother Dominic put his arm around CNM's back then slid his hand down the front of CNM's shorts and underpants and felt his penis and testicles. At the time he was doing this, Brother Dominic said, 'Girls mature quicker than boys'.<sup>718</sup>

CNM said that in about 1995 he told Father Hackett about what had happened. CNM said he did not want Father Hackett to go to the police, but Father Hackett said he would report to the bishop in Lismore. A week later, CNM said he went back to see Father Hackett, who said the bishop had told him to ring the Superior.<sup>719</sup>

Counsel for Brother Turton submitted that Brother Turton followed the Church Protocol in 1994 and deferred to the advice of Father Lucas. Counsel submitted that it was ‘uncontested’ that the Church Protocol was followed.<sup>720</sup> No adverse finding ought to be made against him given that, if he had acted differently, he would have been acting contrary to the Church Protocol and the advice he received from Father Lucas.<sup>721</sup> He also submitted that it was clear that CNM’s schizophrenic condition ‘was taken as affecting the accuracy of his complaint’.<sup>722</sup>

On the evidence available, there is no basis for Brother Turton to have deemed the allegation inaccurate or inherently unreliable based on an alleged medical condition of CNM. Father Hackett received the complaint personally, and he told police that he accepted CNM’s account.

We accept Brother Turton’s evidence and submission that he acted in accordance with what he understood to be the requirements of the relevant Church Protocol at the time. This had highly unfortunate consequences, including that no further steps were taken to investigate CNM’s allegation or to test Brother Dominic’s reassurance that there was nothing to the complaint, in circumstances where Brother Dominic held a current teaching position and was a principal of a school.

## 15.4 Complaint from a staff member to Brother Turton in August 1995

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A further complaint in relation to Brother Dominic is recorded in a note by Brother Turton dated 7 August 1995.

At that time, Brother Dominic was the principal of Riverview. Riverview was a diocesan school, owned and operated by the Brisbane Catholic Education Centre (CEC).<sup>723</sup>

The note refers to an allegation that was reported about a different Brother, referred to as ‘AB34’. Brother Turton then wrote:

In the process of discussion regarding AB34, the comment was made that it would be most unfortunate if there were some concerns hanging over AB34 as it was common knowledge that AB29, who is a [sic] WEI, is known to be over-familiar with male students.

This is at the level of inappropriate touching but no indication of any genitality or such.

No one has confronted AB29 about the matter although it is fairly common matter for discussion among staff. Apparently, referral has been made to Bev Paterson at the local CEO for consideration. It is not known whether the matter has been passed on to the director of the CEO or whether any action has been taken by Bev Paterson in particular regarding any formal communication with AB29.<sup>724</sup>

Brother Turton confirmed that 'WEI' refers to Riverview and that 'AB29' is a reference to Brother Dominic.<sup>725</sup>

Brother Turton wrote a further note of the same date about the complaint against the Brother, referred to as AB34. It records, 'This is all the more serious in the light of possible matters connected with AB29'.<sup>726</sup>

In his 2015 police statement, Brother Turton said of these two notes:

These notes are in relation to a concern at Riverview that Brother Dominic O'SULLIVAN was over familiar with male students. From referring to my notes it sounds like someone from the staff has raised a concern about Brother Dominic's behaviour but I am not sure. From my notes I am aware that it had been referred appropriately to Bev PATERSON at the local CEO of Brisbane for consideration. I cannot say from these notes who has done this and I don't recall. Bev PATERSON still works in the area of Child Protection in Queensland. She is also on the National Committee for the Church.<sup>727</sup>

## Matter reported was 'inappropriate touching'

In his statement to the Royal Commission, Brother Turton said the complaint arose 'in passing' while he was dealing with the complaint about the other Brother. He pressed the staff member in relation to the comment about Brother Dominic and ascertained that the concerns were of 'inappropriate touching', which he said was 'being too tactile and not maintaining professional boundaries', but that there was no suggestion or complaint made that Brother Dominic had sexually assaulted any students.<sup>728</sup>

Brother Turton said that to his recollection there was no more detail to the complaint other than the information he recorded in his note. He said it was a 'sort of hearsay comment'. He said that he saw it had been referred to a child protection officer for the CEC, so he assumed that, if there was anything more to it, it would be followed up by the CEC.<sup>729</sup>

Brother Turton could not recall whether the words ‘inappropriate touching’ were the words used by the staff member who reported the matter, but he said, ‘I did clarify the point that it did not come into the sexual touching assault area’.<sup>730</sup> He said that he understood inappropriate touching as ‘It would have been touching the legs, which someone was uncomfortable with; touching the bottom, it could have been that’.<sup>731</sup> He said that the conduct did not involve ‘sexual genital touching and so on’.<sup>732</sup> Brother Turton accepted that touching the bottom raised the possibility of a sexual connotation.<sup>733</sup> However, he said that he did not follow the matter any further at that stage, as he knew it was going to be investigated by the CEC.<sup>734</sup>

## Complaint referred to the CEC

Brother Turton said that the CEC was the appropriate body to investigate the complaint because Brother Dominic was in their employ and the school in question was a CEC school, not a Marist Brothers school. However, he could not explain why he did not follow that process in relation to the earlier complaint from CNM.<sup>735</sup> He was aware at the time he received the complaint regarding CNM that it was in relation to a CEC school, but he said that he thought the matter ‘was all hinging on the question of the medical condition’ of CNM and whether he was going to approach the Marist Brothers formally.<sup>736</sup> He did not tell the CEC about CNM’s complaint.<sup>737</sup>

By August 1995, Brother Turton was no longer the Provincial; that position was then filled by Brother Hill. Brother Turton said that any contact with the CEC at that time would have gone to the Provincial. When asked in what capacity he would have been speaking to the staff member, he said that, as he recalled, it was ‘just a call from a staff member who I must have met there at some stage’.<sup>738</sup>

## CNM not informed of new complaint

Brother Turton did not contact CNM to advise him that there had now been a complaint against Brother Dominic at Riverview. He said he was still waiting for a direct approach by the complainant and a medical clearance, so he did not follow up.<sup>739</sup> He did not report the fact that there had been a further complaint to Father Hackett.<sup>740</sup>

Brother Turton submitted that the matter that the staff member at Riverview raised did not constitute a further complaint because Brother Turton’s uncontested evidence was that it was a ‘hearsay comment’. He also submitted that it was not an allegation of genital fondling as CNM had alleged. He submitted that there was no complaint to refer back to Father Hackett, and it was not clear what use could be made of any information.<sup>741</sup>



## Brother Turton's response to August 1995 complaint

The evidence establishes that Brother Turton's response to the complaint by the staff member was inadequate. He sought to distance himself from and avoid responsibility for the complaint by saying it was a matter for the CEC. If he held the view that complaints were exclusively within the purview of the CEC, he ought to have informed the CEC of the earlier allegation that Brother Dominic had touched CNM's genitals in around 1981. That information was clearly relevant in assessing the complaint he received in August 1995 and determining any necessary action. On his own evidence, he took no steps to follow up with the CEC or inquire about the outcome of the August 1995 matter.

We reject Brother Turton's submissions regarding the effect of the differences between CNM's complaint and the 'hearsay' that the staff member reported. Brother Turton's contemporaneous note regarding CNM's complaint records that CNM did not want the allegation to be put to Brother Dominic unless there was evidence of a 'similar charge then or since'. It also records that CNM was seeking reassurance that there was no likelihood of Brother Dominic causing harm to other students. Despite Brother Turton's evidence that there was no specific allegation, the matter that the staff member reported to him in August 1995 indicated that Brother Dominic posed a risk to students. Had CNM been made aware of that, he may have followed up on his complaint with the Marist Brothers directly. The absence of a direct report was the reason Brother Turton gave for inaction on CNM's complaint. That was not an adequate reason for continued inaction.

## 15.5 Handover from Brother Turton to Brother Hill

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Brother Hill was Vice Provincial at the time Brother Turton received the 1994 complaint from Father Hackett and he had just become Provincial at the time of the 1995 allegation by a staff member. Therefore, the nature of any discussions between them regarding Brother Dominic and any formal handover process were important.

Brother Turton did not have a specific recollection of discussing the complaints against Brother Dominic with Brother Hill but said it was possible that he did.<sup>742</sup> He told us he would often discuss such complaints with his Vice Provincial, depending on the gravity and circumstances.<sup>743</sup> He said he had no formal handover process with Brother Hill when Brother Hill became Provincial. However, he said that 'the files were all well known. So I'm sure we would have had a number of discussions but precisely I can't remember exactly how that took place'.<sup>744</sup> He had no recollection of discussing Brother Dominic with Brother Hill when he became Provincial but said, 'I can't say it didn't happen'.<sup>745</sup> He later said that he did have concerns regarding Brother Dominic by August 1995 and thought it was likely that he spoke to Brother Hill about them.<sup>746</sup>

Brother Hill told us that he was not aware that Brother Turton had received the complaint regarding CNM from Father Hackett in 1994, although he was the Vice Provincial at that stage.<sup>747</sup> He said Brother Turton never asked him as Vice Provincial to investigate a complaint about Brother Dominic.<sup>748</sup> He said that Brother Turton would sometimes talk to him about complaints of inappropriate sexual behaviour by Brothers but that, more often than not, these discussions were of a general nature rather than 'specific details'. However, he could not recall a general discussion in relation to Brother Dominic.<sup>749</sup>

Brother Hill said he was unaware of the complaint that Brother Turton received from the staff member at the time it was made (August 1995).<sup>750</sup> He did not know why Brother Turton was considering complaints when Brother Hill was Provincial, but he said it could have had to do with 'that grey area, the changeover period', and it may have been initiated before Brother Hill took office.<sup>751</sup> Brother Hill agreed with the suggestion that responsibility for investigating complaints against Brothers was passing into his hands at the time.<sup>752</sup> Brother Hill said the August 1995 complaint was not brought to his attention. He agreed it was something that ought to have been conveyed to him, but he said he had no recollection of that occurring.<sup>753</sup>

Brother Turton had no specific recollection of informing Brother Hill of the complaints about Brother Dominic during a handover process, although he thought it was likely he did so.<sup>754</sup> Brother Hill said he was not aware of the complaint in August 1995 and he had no recollection of Brother Turton telling him about it.<sup>755</sup>

Counsel for Brother Turton (who was also counsel for Brother Hill) submitted that the effect of the evidence was that Brother Turton thought it likely he did discuss these matters with Brother Hill and 'All Br Hill was able to say was that he had no recollection of that'.<sup>756</sup>

In our view, that puts a gloss on the evidence of Brother Hill, who said the complaints were not brought to his attention *and* that he could not recall discussing the complaints specifically, or Brother Dominic generally, with Brother Turton.

We are satisfied that Brother Turton did not tell Brother Hill about the complaints he had received against Brother Dominic. Neither Brother Turton nor Brother Hill had a specific recollection of discussing them. It is inherently unlikely that Brother Hill would not remember having been informed of a complaint that Brother Dominic had touched CNM's genitals or that a teacher was concerned about his inappropriate relationship with students. The information was important, and Brother Turton should have told Brother Hill about it.

## 15.6 Complaint by CNO in 1996

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In July 1996, CNO, a 13-year-old student in grade 9 at Riverview, made a complaint against Brother Dominic to police. CNO told police about three incidents which had occurred the previous year:<sup>757</sup>

- an occasion on which he was lying on his belly in sick bay when Brother Dominic approached him and rubbed his bottom on the outside of his clothes
- an occasion in Brother Dominic's office on which Brother Dominic called CNO over to sit on his knee and put his arm around CNO's waist
- a further occurrence in the school playground, where Brother Dominic gave CNO a high five then held onto his hand and would not let it go until CNO pulled his hand away.

CNO told police of a final incident that he said occurred on 11 July 1996. CNO stated that Brother Dominic requested that CNO see him in his office. When CNO arrived, Brother Dominic sat next to him on the lounge and put his arm around CNO's shoulders. Brother Dominic then took CNO's hand and put it on the inside of his (Brother Dominic's) thigh. He started to rub CNO's hand. He also commented on CNO's facial hair and said, 'soon you'll be getting hairs on your balls', then kissed him on the top of his head and rubbed his bottom with one hand. CNO then left the office.<sup>758</sup>

The complaint was referred to the school and the CEC.

Brother Dominic was interviewed by representatives of the school and the CEC on 16 July 1996. He made admissions in relation to some of the alleged conduct but did not accept that it was improper. The note of that meeting states:

1. Br Dominic did not deny the actions that led to the parent concerns [sic]. However, within the broader context of the actions as described by Br Dominic and by Paul Blundell, Br Dominic's actions appear to have been non-sexual in intention, very foolish and most inappropriate ...
2. Br Dominic has agreed to a complete 'hands off' approach to all students ...
4. Br Dominic undertook to contact his religious superiors at Drummoyne to inform them of the claims and to arrange legal support ...
5. There would not appear to be need for Br Dominic to take any leave from his duties at this time. However, should circumstances change, this may need to be re-considered by BCEC and/or Br Dominic in the future.<sup>759</sup>

The CEC note also records that the advice from police was that the complaints were 'not of a serious nature' and it 'would appear to be highly unlikely' that charges would be laid.<sup>760</sup>

Brother Dominic was also interviewed by police on 19 July 1996. In the interview he denied his conduct towards CNO was sexual. He explained his actions in the meeting in his office on 11 July as 'fatherly', 'foolish' and 'boys' talk'.<sup>761</sup>

Brother Turton (who was no longer the Provincial by this time) said that he could not recall the complaint in relation to CNO being brought to his attention.<sup>762</sup> There is no evidence that it was.

## Brother Hill informed

Brother Hill told us he remembered CNO's case 'quite clearly'.<sup>763</sup> He said Brother Dominic told him that he had done something foolish in making an inappropriate statement to a student.<sup>764</sup> As to the circumstances of his knowing this, he said that Brother Dominic phoned him and said he had made 'a comment to a young teenage boy about the emergence of pubic hair, in a very personal way'.<sup>765</sup> He agreed that the comment was to the effect of 'Soon you'll get hair on your balls'.<sup>766</sup> He said Brother Dominic told him he was to have a meeting with the CEC the following morning.<sup>767</sup>

Brother Hill said he reproached Brother Dominic for a 'gross violation of boundaries' and said that 'it was quite inappropriate, particularly for a person in that position'.<sup>768</sup>

Brother Hill agreed the conversation probably occurred in July 1996.<sup>769</sup> He said he had no indication whatsoever before that conversation of any issues relating to Brother Dominic behaving inappropriately.<sup>770</sup>

Brother Hill said he knew Ms Dianne Goosem of the CEC, and he contacted her about the incident. Ms Goosem advised him that 'her office would handle the matter and that there would be no disciplinary consequences', apart from a reprimand.<sup>771</sup>

Brother Hill's evidence was that he was not aware at the time that CNO also said that Brother Dominic touched him inappropriately, put CNO's hand on his thigh and rubbed it and kissed CNO on the top of his head.<sup>772</sup> Later in his evidence, Brother Hill reiterated that, while he knew of the inappropriate comment, he 'was totally unaware of the other associated matters' at Riverview.<sup>773</sup>

When asked whether he remembered anything further about the complaint, Brother Hill said, 'All the person I spoke to did was to confirm what [Brother Dominic] had told me on the phone the previous evening, that there'd been an inappropriate comment'.<sup>774</sup> He said it may have been conveyed to him that Brother Dominic agreed to a 'hands off' approach, but he had no recollection of it. He agreed that, had that been conveyed, it would indicate there was more to the incident than an inappropriate comment.<sup>775</sup>

Brother Hill said he asked Ms Goosem whether Brother Dominic should be stood down. Ms Goosem said, 'no, the [CEC] would handle the matter'. He was told there was no need for him to be involved and the CEC 'saw it as a minor matter rather than a standing-down issue'.<sup>776</sup>

Brother Hill told us that, while Brother Dominic was under his jurisdiction as Provincial 'in a pastoral sense', Riverview was a school 'under the auspices of the Brisbane Catholic education authorities'.<sup>777</sup> However, he agreed that a subsequent appointment of Brother Dominic to a different school was a matter for him<sup>778</sup> and that he had an interest in disciplinary matters involving Marist Brothers for the purpose of their appointments.<sup>779</sup>

The current Provincial, Brother Carroll, told us that, as Riverview is a diocesan school, the CEC was the appropriate body to handle the complaint and determine what action was to be taken. However, he said that 'actions in relation to a brother would have been a matter for discussion between the Director of the Brisbane CEO and the Marist Brothers Provincial'.<sup>780</sup> He said it was 'unusual' that Brother Hill seemed not to have known what the complaint was about. He agreed that this appeared to be a fault in the system.<sup>781</sup>

An undated handwritten note relating to these events was in evidence. The telephone number for Drummoyne (where the Provincial's office is) appears at the top of the note.<sup>782</sup> The note reads:

Need your guidance and support.

The separated parents of a year 9 lad (boy living with father) have made a complaint against me to the J.A.B. [Juvenile Aid Bureau] for inappropriate behaviours towards the boy – twice last year and one situation last Thursday afternoon.

...

The father phoned late Monday evening (D.P) to say the boy had made a statement to the Goodna J.A.B.<sup>783</sup>

The note also details Brother Dominic's meeting with the CEC, as follows:<sup>784</sup>

I retold my situation to the meeting. Clarified the context. I have not denied the details of the complaints but put the context as a basis for some misunderstanding ...

I was interviewing the boy around 2.15–2.30 last Thursday (11/7/96) about his learning difficulties ...

When I asked how he coped with his parents' separation, he said that at first he was very confused and upset but now he understood and accepted things more.

Foolishly I let my compassion and urge to affirm the lad's efforts take over and patted his arm which was resting on my knee.

As he left the office I gave the boy a shoulder hug and kissed him on the head.

I accept that my actions were foolish and inappropriate given my awareness of and responsibility for personal safety ...

Near the end of the conversation I noticed the emerging hair growth on the lad's upper lip and said in 'boy's talk' 'it won't be long before you will have hair on your nuts as well'

The complaint also lists an occasion (95) last year when the lad was in sick bay and I was supposed to have squeezed his leg.

Very early last year the support teacher brought the lad to me as he was crying uncontrollably. With the support teacher present I sat the lad on my knee and gave him a drink of water. He gradually calmed down and the problem sorted out ...

Be assured, Michael, I have no inclination to interfere, harm or hurt this [indecipherable] lad or any other student. While my actions were totally inappropriate I accept they would be/and were interpreted differently than intended. There never was any action of overt sexual fondling or any inappropriate suggestion.<sup>785</sup>

The provenance and purpose of this note is unclear. It appears to be either an aide memoire prepared by Brother Dominic for a conversation with Brother Hill, whose religious name is Michael, or a file note of a phone conversation or conversations between Brother Dominic and Brother Hill.

Brother Hill had no recollection of having been sent the note.<sup>786</sup> He confirmed his recollection was that he had a conversation with Brother Dominic *before* his meeting with the CEC and not afterwards,<sup>787</sup> as the note suggests. When asked whether it was possible that he had a further conversation with Brother Dominic in which Brother Dominic conveyed the allegation of inappropriate touching that he had since forgotten, Brother Hill said, 'Oh that's possible, certainly, yes. But I think I'd remember it'.<sup>788</sup>

Counsel for Brother Hill submitted that he gave consistent and firm evidence that he was only informed of the inappropriate comment – there is no evidence that Brother Hill knew of the alleged inappropriate touching and to say that he did is merely speculative.<sup>789</sup>

We consider that the documents give rise to the inference that Brother Hill was informed of the alleged inappropriate touching. The undated handwritten note was produced by the Marist Brothers from their records. It refers to ‘Michael’ (that is, Brother Hill) and bears the telephone number for the Provincial’s office at Drummoyne. It describes the CEC meeting in terms which suggest that a communication occurred after that meeting. The note supports that Brother Hill had a further conversation with Brother Dominic after his meeting with the CEC. That proposition is also consistent with the CEC’s record of the meeting, which states that Brother Dominic ‘undertook to contact his religious superiors at Drummoyne to inform them of the claims and to arrange legal support’.<sup>790</sup> Brother Hill accepted that it was possible he had had a further conversation with Brother Dominic in which Brother Dominic conveyed the allegation of inappropriate touching. Further, it is reasonable to assume that Brother Hill was made aware of the substance of the allegations, which affected a Brother for whom he was responsible as Provincial, despite the fact that he said the disciplinary response was a matter for others. We reject Brother Hill’s evidence that he was not made aware of the allegation that Brother Dominic had touched CNO inappropriately.

We are satisfied that Brother Hill was made aware of both the inappropriate comment and that Brother Dominic had touched CNO in a way that CNO considered to be inappropriate.

## Criminal investigation regarding CNO’s complaint

On 6 August 1996, Mr Pat Mullins, Brother Dominic’s solicitor, wrote to Brother Hill. He referred to the police interview and noted that the officers conducting the interview indicated that they would recommend to their superiors that no charges be laid.<sup>791</sup>

However, contrary to that initial indication, a subsequent telephone attendance memorandum records that Mr Mullins spoke to police on 16 December 1996 and that:

[Police] indicated that a recommendation has come back from Superior Officers with a recommendation to charge Brother Dominic.

This will be done by way of Summons, but it won’t be until the New Year ...<sup>792</sup>

A further handwritten attendance memorandum by Mr Mullins of the same date records a conversation with Brother Dominic and that ‘he will be o.s. next year: – 22/1/1997 – 31/5/1997, Wellsprings’.<sup>793</sup>

On 27 January 1997 CNO withdrew his complaint, writing that he did not wish to go to court and he did not believe anything would be gained by going to court.<sup>794</sup>

On 3 March 1997, Mr Mullins wrote to Brother Hill. He said:

We ... advise that we spoke to Brother Dominic before Christmas last year where he indicated to us that he would be overseas for the bulk of this year.

Our enquiries at the Juvenile Aid Bureau at Goodna prior to Christmas indicated it was unlikely that any proceedings would be bought in the near future.

We do not propose to chase up the Police ourselves at this point as we think that this would be counter-productive.<sup>795</sup>

Brother Hill told us he knew CNO had made a statement to police, that there were indications that the police were going to charge Brother Dominic and that CNO withdrew the complaint, but he was unsure whether he became aware of this at the time or later.<sup>796</sup> When questioned further, he said he did not have a clear memory of learning those matters in 1996.<sup>797</sup> He agreed that police involvement was a matter that would have been important for him to know about, as it indicated that the issue was more serious.<sup>798</sup>

The undated handwritten note and the letters of August 1996 and March 1997 from Mr Mullins to Brother Hill support that Brother Hill was aware of the police investigation at the time.

We are satisfied that, at or around that time, Brother Hill knew that CNO had made a statement to police and that Brother Dominic had been interviewed about the allegations.

We are satisfied that Mr Mullins informed Brother Hill in March 1997 that the police said it was unlikely that proceedings would be brought 'in the near future'.

It is not clear on the evidence whether Mr Mullins informed Brother Hill on or around 16 December 1996 that police were intending to charge Brother Dominic in the New Year (1997), and we make no finding as to whether or not that occurred.

## 15.7 CQP

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On 25 May 1996, Brother Hill held an interview with Brother Dominic in which he proposed appointing Brother Dominic as the principal of St Francis Xavier's College Hamilton (St Francis Xavier's) (formerly Marist Brothers Hamilton) from the beginning of 1997. Brother Hill told Brother Dominic 'that the Council was fully in favour of him taking up this position'.<sup>799</sup>

Brother Hill said he only remembered the discussion with the Provincial Council in vague terms and could not recall there being any objection to the proposal.<sup>800</sup>



On 3 June 1996, Brother Hill wrote to Brother Dominic to inform him of his appointment as principal of St Francis Xavier's, to commence at the beginning of the 1997 school year.<sup>801</sup> Brother Hill wrote, 'I intend to announce new school Principals for 1997 in the next edition of the Newsletter which should appear in the second half of June'.<sup>802</sup>

On 6 June 1996, Brother Hill wrote to Mr Michael Bowman, then the Director of the Catholic Schools Office, to inform him of the Brothers' nomination of Brother Dominic for the appointment.<sup>803</sup> Mr Bowman responded on 14 June to say he would be pleased to welcome Brother Dominic to the Diocese.<sup>804</sup>

## CQP's evidence

CQP was a student of Marist Brothers Hamilton in the 1970s. He gave evidence that he was sexually abused by Brother Dominic in 1972 and 1973 and that he saw Brother Dominic sexually abusing other boys in the class. CQP said:

On multiple occasions over those two years Brother Dominic came up behind me and rubbed his erection against my hip and lower back. He also stood next to, or over me, and put his hands down my shirt and rubbed my breast area. He also ran his hands up my legs towards my thighs. He never put his hand under my shorts. I could not say exactly how many times Brother Dominic did this to me, but it happened many times over the two years. I also saw Brother Dominic come up behind other students and press against their backs, and rub his hands on their legs and put his hands under their shorts. Again, these were things that I witnessed regularly over these two years. I had classes with Brother Dominic four or five times a week in 1972 and 1973. I would say that Brother Dominic abused me or I saw him abusing other students in most of these classes.<sup>805</sup> In 1996 CQP was deputy principal of a Catholic school. CQP gave evidence that in 1996 he read an article in the *Newcastle Herald* announcing the prospective appointment of Brother Dominic as principal of St Francis Xavier's. He said it 'really shook' him that Brother Dominic could be placed back at the school. He was concerned for the safety of his children, one of whom was due to commence as a student at the school. He was also concerned that other parents whom he said had been abused by Brother Dominic in the past would object to the appointment.<sup>806</sup>

CQP told us that he did not know what to do, but he made an appointment to see a parish priest, Father Peter Brock. We heard that CQP told Father Brock what Brother Dominic did to him in class and what he had seen him do to other students. To the best of CQP's recollection, what he told Father Brock would have given him the understanding that CQP was referring to Brother Dominic touching students and himself in a sexual manner.<sup>807</sup>

CQP said that he could not recall Father Brock's exact response, but he said that Father Brock did not offer any advice or pastoral care. CQP was angry and disappointed.<sup>808</sup>

A day or so after that meeting, CQP met with Mr Bowman of the Catholic Education Office. CQP said:

I told him I was concerned that Brother Dominic was coming back to St Francis Xavier's College because of what he had done to me and other kids when we were students there. I don't recall my exact words, but I told him that Brother Dominic rubbed his erection on me, put his hands down my shirt and ran his hands up my legs. I also recall telling him that I was concerned that other former students who now had children at the school would feel the same way.<sup>809</sup>

CQP said that Mr Bowman indicated to him that he would take the matter up with Bishop Michael Malone, who was then the Bishop of the Catholic Diocese of Maitland–Newcastle, and the Provincial, Brother Hill. CQP said that he formed the impression that Mr Bowman would not allow Brother Dominic to be appointed to the school. CQP expressed his gratitude to Mr Bowman. CQP told us:

It was a relief for me to tell someone of my experience, to feel that I was believed and to have them confirm to me that what happened was wrong and that it should never happen again.<sup>810</sup>

We heard from CQP that within the next few days he received a phone call from Brother Hill. At the time he received the call, CQP not aware of anything to indicate that Brother Dominic's appointment had been withdrawn.<sup>811</sup> Brother Hill told CQP he had been informed by Bishop Malone that CQP had made allegations about Brother Dominic. CQP said:

I then proceeded to tell [Brother Hill] what Brother Dominic had done to me. I can't recall my exact words but I told Brother HILL about the incidents I have described. That is, I said that Brother Dominic came up behind me in class and rubbed his erection against my hip and lower back, that he put his hands down my shirt and rubbed my breast area, and that he also ran his hands up my legs towards my thighs. I also said that I witnessed Brother Dominic come up behind other students and press against their backs, and rub his hands on their legs and put his hands under their shorts. I am sure I would have conveyed to Brother HILL that these things happened on multiple occasions. I do not think that I told him how old I was at the time, but I made it clear that these things had happened when I was a student at Marist Brothers Hamilton. I don't recall whether I also told Brother HILL that there were rumours of him taking boys into his office and doing things of a sexual nature to them.<sup>812</sup>

CQP said that he also shared with Brother Hill his concern that Brother Dominic's appointment would cause a scandal with other parents who had been abused as students and that he told Brother Hill that he thought Brother Dominic should not be appointed.<sup>813</sup>

CQP said he believed he made it clear that Brother Dominic's conduct was sexual and that his impression was that Brother Dominic gained some sort of sexual gratification from the acts. CQP said he could not recall what Brother Hill said in response, but he formed the impression that Brother Hill believed him. CQP stated that Brother Hill seemed to accept what he said and did not express disbelief or challenge him on any of the allegations.<sup>814</sup>

CQP said this was the last conversation he recalled having with Brother Hill on the matter. Sometime later, he received an internal schools memorandum that Mr Bryan Maher would act as principal of St Francis Xavier's in 1997 until another Brother filled the position towards the end of the year. CQP said he felt relieved and thought 'there we go, something has been done'.<sup>815</sup>

## Bishop Malone's evidence

Bishop Malone told us that he remembered there was an issue with regard to the character of the new principal, although he could not remember who the Brother in question was.<sup>816</sup> He said that he was informed that there were 'warning bells' and that these were 'around issues of inappropriate sexual behaviour'.<sup>817</sup> He did not know what the nature of the behaviour was.<sup>818</sup>

Bishop Malone stated he was 'vague' on the source of that information but that he thought it was the director of schools in the Diocese,<sup>819</sup> who was Mr Bowman. He said that his diary reflected a meeting with Mr Bowman on 13 August 1996. He assumed, but was not certain, that the information came from Mr Bowman.<sup>820</sup> That is consistent with CQP's evidence, and we are satisfied that this was the case.

Bishop Malone said that on the basis of the information received he contacted Brother Hill and said, 'It doesn't sound very good for this guy', meaning Brother Dominic. He told Brother Hill, 'We've got enough problems here without buying into any more'.<sup>821</sup> He said that Brother Hill heard what he was saying and changed his mind about the appointment.<sup>822</sup>

Bishop Malone said that taking the report regarding Brother Dominic to the police was a matter for the Provincial, not him. He accepted that he did not inquire whether Brother Hill did take the matter to police.<sup>823</sup> When asked whether he asked Brother Hill what else was being done, Bishop Malone said, 'No, I didn't. That was his bailiwick, not mine'.<sup>824</sup>

## Brother Hill's evidence

### Conversation with Bishop Malone

Brother Hill's evidence was that he received a phone call from Bishop Malone shortly after Brother Dominic's appointment was announced. Brother Hill said:

[Bishop Malone] raised serious reservations about the appointment due to several statements that he had received from men reporting inappropriate behaviour by Dominic ...

With that information I immediately rescinded the appointment.<sup>825</sup>

Brother Hill told us that this was the only information that Bishop Malone provided, but he did not inquire if Bishop Malone had any further details.<sup>826</sup> Brother Hill accepted that he understood Bishop Malone as treating the complaints to be serious and said that he did also.<sup>827</sup>

Brother Hill said that he could not recall the exact timing of the call from Bishop Malone but said it would have occurred sometime after July (being after he became aware of CNO's complaint).<sup>828</sup> When asked what his response was to the information from Bishop Malone, Brother Hill said, 'Oh, before he finished the sentence I had revoked the appointment'.<sup>829</sup>

Brother Hill said that Bishop Malone 'found it difficult to give me details of the complaints he had received and the impression I had at the time, rightly or wrongly, is that people were simply objecting and objecting strongly to the appointment'. He accepted that he concluded that the basis for those objections was that Brother Dominic had engaged in inappropriate conduct in the past.<sup>830</sup>

Brother Hill was asked what steps he took to find out what kind of complaints he was dealing with from the gentlemen who had complained to Bishop Malone. He said, 'Well I didn't know who they were and neither did the Bishop'. He did not follow up with Bishop Malone, as he said he could not see any way of identifying the complainants.<sup>831</sup>

Brother Hill said that he could not recall making inquiries of Brother Turton to determine whether there had been any previous complaints about Brother Dominic. He said Brother Turton was overseas at the time and they were not really still in contact.<sup>832</sup>

Brother Hill said that he 'probably' checked the files to see whether there was any record of previous complaints, but he had no specific recollection of doing so.<sup>833</sup>

## Conversation with CQP

Brother Hill first gave evidence to the Royal Commission in September 2016. It was only after learning of Brother Hill's evidence that CQP approached those assisting the Royal Commission and provided a statement. We then reconvened the public hearing to hear CQP's evidence and to allow Brother Hill to respond to it.

Brother Hill's evidence in September 2016 in relation to those events was as follows.

Following the call from Bishop Malone, Brother Hill contacted CQP, who was an acquaintance and who had been a student of Brother Dominic at Marist Brothers Hamilton. In his statement, Brother Hill said:

I contacted him to attempt to find out more information about the reported inappropriate behaviour. My memory is that he described similar boundary violation concerns but nothing that was believed to be of a criminal nature. Nonetheless it was inappropriate behaviour.<sup>834</sup>

In his oral evidence he said that he phoned the deputy principal, who 'described things such as Dominic invading personal spaces of children, of teenaged boys, by touching them on the head inappropriately, touching them on the leg'.<sup>835</sup> Brother Hill said that the deputy principal described 'Nothing by way of sexual assault' but described a 'boundary violation'.<sup>836</sup> When asked what kind of behaviour he would have considered criminal, Brother Hill said, 'Genital fondling and such things as that'.<sup>837</sup>

Brother Hill was recalled to give further evidence on this topic on 9 December 2016, after CQP provided a statement.

He was asked whether CQP's evidence refreshed his memory as to what happened. He said, 'No, it's the precise opposite'.<sup>838</sup>

It was put to Brother Hill that, contrary to his evidence in September, Bishop Malone had identified CQP as a person who had raised a complaint about Brother Dominic's appointment and that this was the reason Brother Hill called CQP. Brother Hill denied this. He maintained that he was unaware of the identity of the person who had made the complaint to Bishop Malone at the time. He told us it was a 'total coincidence' that he happened to contact the very person who made the complaint to Bishop Malone.<sup>839</sup>

Brother Hill also remained firm in his position that he revoked Brother Dominic's appointment before he phoned CQP. He confirmed that he had not otherwise spoken to CQP since 1976. Brother Hill accepted that CQP was the only former student of Brother Dominic with whom he spoke.<sup>840</sup> He said he contacted CQP because he knew that CQP would have been a student at the school while Brother Dominic was there.<sup>841</sup> After speaking to Bishop Malone he felt that he needed more information about Brother Dominic in order to assist him in explaining to Brother Dominic why the appointment had been revoked.<sup>842</sup>

It was put to Brother Hill that he was fabricating his evidence to explain his position. He rejected that proposition.<sup>843</sup>

Brother Hill had no recollection of telling CQP that Brother Dominic's appointment had been revoked and could not explain why he did not do so. He accepted that the conversation was a private one.<sup>844</sup>

Brother Hill said that his 'clear memory' was that at the end of the conversation with CQP he had an impression of generalised inappropriate touching by Brother Dominic. He said that this was in relation to other students, and at no point did CQP say that he had himself been abused by Brother Dominic.<sup>845</sup> When asked whether he was confident in that memory, he replied, 'Absolutely'.<sup>846</sup>

Brother Hill accepted that he would not have viewed an allegation that Brother Dominic had rubbed his erection on a student's back as a 'boundary violation'. He called it 'depravity'. He also would not have viewed an allegation that Brother Dominic put his hands down a student's shirt and rubbed his breast area as a boundary violation. He said he would have viewed inappropriate touching of boys' legs as a boundary violation, and he said this is what he was told.<sup>847</sup> It was put to Brother Hill that he was giving evidence selectively in order to claim that the things he was told only amounted to boundary violations. He said, 'No, it's a clear memory'.<sup>848</sup> It was put to Brother Hill that he spoke to CQP because he knew CQP was the complainant and that CQP told Brother Hill that he had been a victim of abuse by Brother Dominic, which included Brother Dominic rubbing his erection against CQP's back. Brother Hill rejected that. He said, 'that's not something I would forget in a hurry, or ever'.<sup>849</sup>

Counsel for Brother Hill put to CQP that the incidents he described in his statement were not inconsistent with what Brother Hill said CQP told him. Counsel referred specifically to 'invading personal spaces' and inappropriately touching students on the head and leg. CQP accepted the Chair's proposition that CQP may have told Brother Hill that he observed these things, but he also told Brother Hill what had happened to him personally.<sup>850</sup>

Counsel for Brother Hill asked why CQP had said he 'believed' he had told Brother Hill that he made it clear the conduct was sexual rather than just saying he did tell Brother Hill. CQP responded, 'I believe. It is my conviction. I believe. I can't think I can say it any plainer ... I have no doubt, sir'.<sup>851</sup>

## Content of the conversation between CQP and Brother Hill

CQP presented as an honest and forthright witness, whose recollection of his experiences and his discussion with Brother Hill about Brother Dominic was clear. When questioned by counsel for Brother Hill, CQP said that he did not doubt he told Brother Hill that the conduct was sexual. We do not think there is any significance to be attached to the fact that he spoke of his ‘belief’ of what he said, particularly given the clarification of that reference that CQP gave under examination by counsel for Brother Hill. We reject Brother Hill’s submission that CQP’s demeanour when questioned by his counsel was ‘unimpressive’.<sup>852</sup> We are satisfied that CQP’s memory of the conversation is reliable.

Counsel for Brother Hill submitted that the explanation Brother Hill gave for contacting CQP was plausible. They had met in the Brotherhood, and it was submitted that CQP looked up to Brother Hill and Brother Hill knew that CQP was taught by Brother Dominic.<sup>853</sup>

We do not agree. There had been no contact between CQP and Brother Hill for 20 years. Further, Brother Hill’s purported reason for contacting CQP (to assist Brother Hill in explaining a decision he had already made to revoke Brother Dominic’s appointment) is not credible. We consider it is entirely implausible that it was a ‘total coincidence’ or ‘sheer chance’ that Brother Hill phoned the very person who was the source of the complaint to Bishop Malone, referred by Mr Bowman.

We also consider it is entirely implausible that, had this coincidental phone contact occurred, CQP would not have told Brother Hill that he had contacted Mr Bowman with a complaint that he had himself been abused by Brother Dominic. The only logical conclusion is that Brother Hill contacted CQP because he was informed that CQP had made an allegation that he was sexually abused by Brother Dominic.

CQP told us:

I was nervous to discuss these matters with Brother Hill and I was shaken to receive the call. I understood the gravity of the situation – that a man’s career was on the line and that a Principal could be stood down.<sup>854</sup>

We do not agree with the submission of counsel for Brother Hill that this statement suggests that CQP was guarded in his conversation with Brother Hill.<sup>855</sup> It is more likely that CQP’s understanding of those matters gave him a reason to be detailed and specific in relaying his concerns, and it indicates that the conversation made a lasting impression on him.

We are satisfied that the conversation with Brother Hill occurred as CQP described it.

We reject Brother Hill’s evidence regarding the conversation with CQP. Brother Hill’s account of this conversation was not truthful.

## Provincial Council meeting

The minutes of the meeting of the Provincial Council dated 16 August 1996 record:

Br Dominic O’Sullivan is unable to go to Hamilton next year because of health reasons. Discussion on the possible replacement for Br Dominic took place.

Br Anthony Robinson was considered for the position as he returns in August 1997. He could take up the position in Term 4 from an Acting Lay Principal.<sup>856</sup>

Brother Hill had no specific recollection of discussing with the Provincial Council the objections to Brother Dominic’s appointment, but he was sure it would have arisen.<sup>857</sup> When he was taken to the minutes, he expressed his surprise at the content of the item regarding Brother Dominic. He said he would have told the members of the Provincial Council about the allegations. He could not explain why the minute is expressed in the way it is.<sup>858</sup> He said he definitely would have told the Provincial Council that Bishop Malone had said ex-students of Brother Dominic had objected to his appointment. He would have said that serious reservations were conveyed directly to Bishop Malone, who conveyed them to him.<sup>859</sup>

Brother Hill agreed that the true reason for Brother Dominic’s appointment not proceeding had nothing to do with Brother Dominic’s health and that the minutes were misleading.<sup>860</sup> He accepted that the minutes would be brought forward and approved at the following meeting and he would have participated in their approval. He could not recall why he did so.<sup>861</sup>

It was put to Brother Hill that it appeared from the minutes that someone was attempting to hide the truth. He said, ‘It certainly appears that way’. When asked whether he was trying to hide the truth in the minute, Brother Hill said:

No, not directly. As I say, I would have explained to the members of the Council why the appointment had been reversed. I mean, it was quite a significant step to take and they needed to know why.<sup>862</sup>

In his statement, Brother Carroll referred to minutes recording ill health as the reason for Brother Dominic not taking the appointment to Hamilton. He said, ‘I am aware that Dominic did have major surgery in 1996’.<sup>863</sup>

In fact, Brother Dominic did have health concerns at or around this time. A letter he wrote to Brother Hill a year later refers to his medical needs.<sup>864</sup> Brother Carroll said that, when he read the minute, he consulted Brother Dominic’s medical file and saw that he had had significant surgery in 1996.<sup>865</sup>

In his oral evidence, Brother Carroll said that his statement reflected his understanding of the position before he heard Brother Hill’s testimony. When asked if he was himself misled by the Provincial Council minutes, he said, ‘yes’.<sup>866</sup>



## Brother Hill's response to CQP's complaint

Following the objections to his appointment to St Francis Xavier's, Brother Dominic remained as principal at Riverview until the end of 1996.<sup>867</sup>

There is no evidence that the CEC was informed of the objections to Brother Dominic's appointment communicated to Brother Hill and Bishop Malone.

Brother Hill accepted that he did not inform the CEC of the allegations brought to his attention by Bishop Malone, but he submitted that the complaint was unspecific and limited to an impression that Brother Dominic had engaged in inappropriate conduct in the past. It was submitted that he did not have 'sufficient, verified particulars' to inform third parties such as the CEC.<sup>868</sup>

We reject that submission. Brother Hill knew of a specific complaint from CQP. He knew the CEC had received a complaint in relation to CNO. The new complaint he received was relevant to assessing the appropriate response to CNO's complaint. That significance could not have escaped him.

Brother Hill should have consulted his predecessor, Brother Turton, to determine if other allegations had been made against Brother Dominic.

Brother Hill should have checked the files on Brother Dominic, particularly if he was unable to or did not make inquiries with Brother Turton. We are satisfied that, had he done so, he would probably have seen that there had been at least two prior allegations against Brother Dominic.

Brother Hill took no action to seek to have Brother Dominic removed from his position as principal of Riverview in the latter half of 1996, even though there had been objections to his appointment to St Francis Xavier's. This was a serious failure on his part.

## Minutes misleading

The reason recorded in the minutes of the Provincial Council meeting for Brother Dominic not taking up the appointment – because of his health – were false. Whatever issues there were with Brother Dominic's health at the time, we are satisfied that the appointment was withdrawn because concerns were raised about sexually inappropriate behaviour by Brother Dominic at Marist Brothers Hamilton in the 1970s.

It was the collective responsibility of the Provincial Council, including Brother Hill, to record accurate minutes. To record in the minutes that ill health was the reason Brother Dominic had not been appointed served to conceal the true reason.

Although counsel for Brother Hill submitted that there is no evidence as to who recorded the minutes or whether the complaints were discussed,<sup>869</sup> Brother Hill said he was sure he would have conveyed at the meeting that serious concerns had arisen regarding Brother Dominic's behaviour, and Brother Hill accepted that he would have participated in the approval of the minutes at the next meeting.

Brother Hill could not explain why he approved minutes which were misleading.

## 15.8 Wellsprings Program and return to Australia

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In 1997, Brother Dominic travelled to the United States and attended the Wellsprings Sabbatical/Renewal Program.<sup>870</sup>

Brother Hill told us that he arranged for Brother Dominic to attend Wellsprings and said he believed that this program would assist Brother Dominic to 'address the issues' that had been reported to Brother Hill, including 'boundary violations'.<sup>871</sup>

On 25 July 1997, Brother Hill wrote to Brother Dominic proposing that he consider taking up a position as Director of the Novitiate in Lomeri, Fiji, at the end of the year.<sup>872</sup>

Brother Hill said that he proposed the appointment because it would give Brother Dominic something to do but it would not put him in any unsupervised contact with minors.<sup>873</sup>

Brother Dominic responded by letter in August 1997. In the letter Brother Dominic said he felt alarmed, angry, disappointed and even alienated by the prospective appointment.<sup>874</sup>

Brother Hill replied to Brother Dominic on 13 August 1997 saying:

Therefore please rest easy ... I have no intention of pushing you in any way in that direction. I am about to leave for overseas (General Conference in Rome) and will not return until mid-October. At this stage I can state quite clearly that there are no Principalships up for grabs in 1998 but I would still hope to adhere to my long range plan which I suggested to you last year, namely that of asking you to lead a school in the Brisbane area in 1999.

I would be particularly interested in some of the possibilities you have suggested, particularly being a personal assistant to one of our headmasters for a year or so. Either myself or Mark Farrelly will be in touch with you at some stage over the next few months.<sup>875</sup>

Regardless of the content of his August 1997 letter, Brother Hill gave evidence of an ‘evolution’ in his thinking in relation to Brother Dominic. He said:

During the course of 1997 I was aware that a significant number of complaints were being received in relation to other Brothers. I recall a significant evolution in my thinking as to potentially widespread inappropriate behaviour by a number of individuals. Despite my belief that there had been nothing criminal in nature that had been alleged in relation to Dominic, it was clear to me by the latter half of 1997 that a Principalship was untenable for an individual who had received such complaints of inappropriate behaviour.

Following this evolution in my thinking and increasing awareness of complaints, I did my best to ensure that Dominic never had unsupervised contact with children.<sup>876</sup>

Brother Carroll said that he had seen nothing on the documents recording that Brother Hill had concluded that Brother Dominic should no longer have unsupervised access to children.<sup>877</sup> He agreed that this was a ‘major problem’ in terms of the lack of continuity of information being passed from one leader to another.<sup>878</sup>

Brother Hill gave evidence that, in his discussions with Brother Dominic when he was at Wellsprings, Brother Dominic ‘showed zero insight’ into the reasons that had led to him completing the program. Brother Hill said that he spoke to Brother Dominic about the ‘boundary violations’ before and after his return from the United States, but he could not recall whether he raised any particular incidents.<sup>879</sup> When asked whether Brother Dominic gave an indication as to whether he had committed any ‘boundary violations’, Brother Hill said, ‘Only minimally’. He said that Brother Dominic ‘tended to minimise’ allegations as carelessness.<sup>880</sup>

## Provincial Council meeting

Brother Dominic’s proposed appointments were subsequently discussed by the Provincial Council when it met in September 1997. The minutes of that meeting record that the possibility of Brother Dominic going to Dundas or Ashgrove was discussed but that ‘the Principals at these two schools expressed some reservation about the appointment’.<sup>881</sup>

Brother Hill gave evidence that he could not recall what the proposed positions were and that he would not have been the person to raise the possibility of the appointments with the principals – that was the province of the Brother responsible for ministries.<sup>882</sup> Brother Hill accepted that the positions were in schools and said he ‘presumed’ they were teaching positions.<sup>883</sup> He said:

I can't give you a time on this, but I knew it wasn't going to happen anyway. I didn't say anything to the Council at that time but I was determined that Dominic was not going to be in the position of contact with minors.<sup>884</sup>

Brother Hill said that sometime in 1997 he told two members of the executive of the Provincial Council, Brother Mark Farrelly and Brother Peter Rodney, that he did not want Brother Dominic in a position of unsupervised contact with minors.<sup>885</sup> He could not recall the discussion in relation to the reservations that the principals had expressed. He said that those concerns would have been raised with Brother Farrelly.<sup>886</sup>

## Appointment to Provincial House

Brother Dominic was subsequently appointed to Provincial House, Drummoyne, as the Province secretary and Community Leader. Brother Hill gave evidence that 'part of the reason' he gave Brother Dominic for this appointment was to avoid him having unsupervised contact with children, but he said, 'he was also skilled at a secretarial role'.<sup>887</sup> He said he would have informed the Provincial Council of his reasoning that Brother Dominic not have unsupervised contact with children and said, 'The alarm bells were quite deafening by that stage'.<sup>888</sup>

Brother Hill ceased as Provincial in 2001. He said that he would have had a conversation with the Brother who took over from him and told him that Brother Dominic should not have unsupervised contact with children.<sup>889</sup>

There is no documentary record of that conversation or of Brother Hill's conclusion.

## 15.9 Appointment to Marist College Ashgrove

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Brother Dominic remained in Drummoyne until the beginning of 2005, when he was appointed as personal assistant to the headmaster of Marist College Ashgrove, Queensland.<sup>890</sup>

That appointment was made despite Brother Hill's conclusion that Brother Dominic was not fit to have unsupervised access to children. Although it was not a teaching position, it was an appointment to a school and there was an obvious risk that Brother Dominic could have unsupervised contact with children. Brother Hill has accepted in his submission that the appointment involved an unacceptable risk.<sup>891</sup>

In light of the history and frequency of complaints against Brother Dominic, the decision to place Brother Dominic at Ashgrove in 2005 was wrong. It put children at that school at risk of sexual abuse.

Brother Carroll agreed that part of the explanation for this appointment could be the lack of continuity in information available to leaders in 2005 about the conclusions reached by their predecessors.<sup>892</sup>

That Brother Dominic could be appointed to another role in a school environment in 2005, despite the ‘deafening’ alarm bells by 2001, is a serious indictment on the state of communication and recordkeeping within the Marist Brothers. At the very least, Brother Hill should have ensured the reasons for Brother Dominic’s appointment to a secretarial role outside of a school were properly documented. The appointment was a serious failure on the part of the Marist Brothers, and it should never have happened.

## 15.10 Referral to police

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On 19 December 2012 professional standards officer Mr Norm Maroney wrote to the Director of Professional Standards, Mr Michael Salmon. Mr Maroney wrote that while he was examining files held at the Professional Standards Office he came across the file containing the complaint by the parish priest of Casino in 1994 (in relation to CNM at St Mary’s School, Casino, in the early 1980s). Mr Maroney wrote, ‘Please confirm when the matter is reported to the Police’.<sup>893</sup>

Mr Salmon responded on 20 December 2012. He said that the information provided was formally reported to the Child Protection and Sex Crime Squad of the NSW Police on 20 December 2012.<sup>894</sup>

On 1 September 2014, Mr Maroney wrote to Brother Carroll and said that, as a result of reviewing the ‘A-B files’, it was recommended that Brother Dominic be required to sign and acknowledge a Personal Safety Plan. Mr Maroney also wrote, ‘I am aware that he has been verbally instructed not to be associated with children, however, perhaps this could now be formalised in writing’.<sup>895</sup>

As mentioned in section 1.3, Brother Dominic was first charged in July 2013. In 2016 he pleaded guilty to a number of child sex offences, for which he has been jailed.

## 16 Brother Patrick

After leaving Marist Brothers Hamilton at the end of 1980, Brother Patrick held teaching positions at Kogarah Marist High and Marcellin College Randwick.

In 1989, Brother Patrick was appointed to Marist College Ashgrove, Queensland, as a remedial teacher.<sup>896</sup>

Brother Patrick described his role at Ashgrove in an unsigned and undated statement that appears to have been prepared in 2003. In that document, he said he came to Ashgrove in semi-retirement in 1989, suffered a further bout of ill health in 1992 and gave up teaching completely in 1993.<sup>897</sup> He then commenced tutoring some boarding students, before and after school. He continued to tutor students until his retirement in 2001.<sup>898</sup>

Several reports in relation to Brother Patrick were made to Brother Turton in the early 1990s, when he was Provincial.

### 16.1 CQY

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In early 1991, Brother Turton received a report of historical abuse by Brother Patrick at Marist Brothers Eastwood, where Brother Patrick taught between 1965 and 1967. The complainant was CQY.<sup>899</sup>

Brother Turton recorded CQY's report in a note he wrote on 18 September 1992, the following year. (That note also records a number of other reports regarding Brother Patrick that were made to Brother Turton.) In relation to CQY, Brother Turton wrote:

Early 91 – A.T contacted by young man ~ 35 years old. Assertion of sex abuse (non-specific) when he was 12/13 at EWD. PB was almost certainly the man. Couldn't remember his surname. 'Victim' was [REDACTED] in appearance. Was going to therapy. Had had difficulty with establishing or maintaining relationship. Sometimes felt 'dirty'. Did not want to take legal or police action. Wanted assurance man not alone with kids or unsupervised. Didn't want others to suffer what he suffered. I listened, empathised, I offered support and counselling. He said he was OK. I promised to check details he requested. I contacted headmaster + counsellor at PB present school (TH + DC). They said no problem. Not alone with kids. No complaints or negative comments. They said they would be vigilant.

I contacted Usher and Lucas ... should I confront PB? Advice was no. 'Victim' didn't want it. No subsequent allegations. An old man. No cause for alarm at present school. Did not notify PB.<sup>900</sup>

'TH' is a reference to Brother Terry Heinrich (then the principal of Ashgrove), 'EWD' is Marist Brothers Eastwood and 'DC' is a reference to Sister Dorothy Costigan, a counsellor at Ashgrove.<sup>901</sup>

Brother Turton told us that he spoke to CQY directly and they had quite a long conversation.<sup>902</sup> He said it was clear that CQY did not want to provide the details of his complaint, but CQY implied that the conduct was sexually abusive. Brother Turton observed CQY to be exhibiting signs of the tragic consequences of abuse. Brother Turton said he was quite moved by CQY and accepted what he said.<sup>903</sup> Although he did not know the details, Brother Turton said that he formed the view that the conduct could have been quite serious. He said it 'could easily have been' sexual abuse and 'I didn't rule that out'.<sup>904</sup> He concluded it was likely that this was what CQY was complaining about.<sup>905</sup> Brother Turton said he was 'definitely concerned'.<sup>906</sup>

Brother Turton said that CQY sought an assurance that Brother Patrick was not alone or unsupervised with children, because CQY did not want others to suffer what he had suffered.<sup>907</sup>

## Supervision and vigilance

Following CQY's complaint, Brother Turton contacted the headmaster at Ashgrove. He said that, although he had believed that Brother Patrick was retired, he was told that Brother Patrick was doing part-time work at the school with remedial classes.<sup>908</sup> He said that he discussed with the principal and the school counsellor the need to ensure that Brother Patrick was not a danger to children.<sup>909</sup>

Brother Turton said that the principal and counsellor assured him that Brother Patrick did not have unsupervised contact with children and that he got the 'strong sense' that any tutoring by Brother Patrick was 'in association with other groups, with teachers with them'.<sup>910</sup> The principal and counsellor told him they had not received any complaints or negative comments about Brother Patrick's conduct at Ashgrove and would be vigilant to ensure he did not have unsupervised access to children.<sup>911</sup> Brother Turton said he told the principal and counsellor why he was making the inquiry, and they assured him they were very comfortable with the situation.<sup>912</sup> Brother Turton said his expectation of the counsellor's role was 'basically to be open to personal concerns or worries of students'. He did not accept that it was likely that the counsellor would only hear of concerns after the event.<sup>913</sup>

Brother Turton said that he discussed CQY's complaint with Father Brian Lucas and possibly also with Father John Usher. They were the priests in the Archdiocese of Sydney who dealt with allegations of criminal sexual conduct against priests and religious ('Special Issues'). Brother Turton said he was required to contact Father Usher and Father Lucas in accordance

with the Church Protocol in place at the time.<sup>914</sup> He believed he met them in person. The advice he received from them was that, as Brother Patrick was an old man, there were no other complaints against him and he was being adequately supervised, there was no need for further action. On their advice, he did not confront Brother Patrick at the time.<sup>915</sup>

Brother Turton accepted that part of the reason for the advice he received from Father Lucas and Father Usher was that there had been no other complaints.<sup>916</sup> He said he left the meeting with the understanding that they were happy with that situation and that he would notify them if he received any further complaints.<sup>917</sup>

## 16.2 CNJ

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In around August 1992, CNJ spoke to a counsellor at Marist Brothers Hamilton about incidents involving Brother Patrick when CNJ was a student at the school in the 1970s.<sup>918</sup> CNJ's complaint was referred to the principal, Brother Kenneth, and then to Brother Turton.<sup>919</sup>

CNJ's report is recorded in Brother Turton's note dated 18 September 1992, which states:

Claim of 'abuse' at the time age about 13/14. Man only realised later that interaction may have been abuse (not much detail but no penetration or intercourse – genital??) Counsellor was compassionate, told 'victim' of protocol and determination of FMS + church to address issues and offer every support. The 'victim's' realisation came as a result of Social Welfare studies being undertaken.

This lack of any sense of 'abuse' seems to indicate not very serious interaction. No request for action by FMS other than checking on PB & vigilance.<sup>920</sup>

'FMS' is a reference to the Marist Brothers.

Brother Turton told us he could not recall the phone call from the principal independently of the note,<sup>921</sup> but he said that the 'degree of sexuality was always a concern'.<sup>922</sup>

Brother Turton said that he subsequently spoke to CNJ himself. He said that CNJ did not go into a lot of detail, but CNJ realised he might have been being groomed by Brother Patrick.<sup>923</sup> Brother Turton said that the conduct 'didn't seem to be what would go to the serious end of the scale of abuse and sexual abuse'.<sup>924</sup> However, Brother Turton did say that he was impressed by CNJ and had no reason to disbelieve him. He agreed that he formed the view that CNJ perceived the matters to be quite serious.<sup>925</sup>



## Continued supervision and vigilance

Brother Turton's note records that following CNJ's complaint:

Again I checked with HM + counsellor at Ash and with BL and JU. Advice from BL + JU was don't confront as long as no evidence or possibility of unusual behaviours (interactions).

No further action other than notification of TH + DC.<sup>926</sup>

As set out above, the reference to 'TH' is to the headmaster at Ashgrove and 'DC' is to the counsellor.

Brother Turton said that, at this stage, the management of Brother Patrick involved 'vigilance' and 'following up', as had been the response to the earlier complaint by CQY.<sup>927</sup> Brother Turton said he spoke again with the counsellor and principal to ensure they had 'heard the earlier requests clearly', that they held no concerns and that Brother Patrick was still being supervised.<sup>928</sup>

Brother Turton said he spoke to Father Lucas and possibly also Father Usher about CNJ's complaint. His note records that he spoke to both of them ('BL' and 'JU') and he agreed the note was probably accurate.<sup>929</sup> He said their advice was that there was still no need to confront Brother Patrick so long as there was no evidence of unusual behaviour which would make him a current risk to children.<sup>930</sup>

## Further contact with CNJ

On 1 September 1992, CNJ wrote to the counsellor and said:

I have been buoyed by the news that Marist Brothers have a protocol for dealing with sexual assault and also by their offer of financial and counselling support. This has given me knowledge that they do care and that is important to me, especially now.<sup>931</sup>

Subsequent calls and correspondence between CNJ and Brother Turton indicate that Brother Turton arranged for CNJ to receive counselling.<sup>932</sup> Brother Turton said that he spoke to CNJ and told him that Brother Patrick was being 'well supervised by appropriate people and there were no issues of concern'. He was not sure whether he told CNJ of the earlier complaint by CQY but said it was his practice to tell a complainant of other complainants if they asked.<sup>933</sup>

## 16.3 Two boys from Ashgrove

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In September 1992 there was a third incident involving Brother Patrick. It involved two male students at Ashgrove, aged 13 or 14.<sup>934</sup>

Brother Turton told us that the principal at Ashgrove, Brother Heinrich, contacted him to let him know about this incident. The incident involved two boys who had been found in bushland out of their class, which Brother Patrick was taking. Brother Turton said that, when they were found, the boys said they were out of class because Brother Patrick ‘was a bit close to them, was patting their bottom and sometimes squeezing their bottom’.<sup>935</sup>

### Brother Patrick referred for counselling

Brother Turton said he and Brother Heinrich decided that Brother Heinrich would speak with Father Peter Dillon, the Director of Centacare in Brisbane, for advice on how to proceed. Brother Turton would in turn speak to Father Jim Spence, the head of ‘Special Issues’ in Queensland (equivalent to Father Lucas’s role in Sydney).<sup>936</sup>

Counsel for Brother Turton submitted that Brother Turton referred the complaint regarding the two boys from Ashgrove ‘together with all the previous ones’ to Father Spence to investigate and advise.<sup>937</sup>

However, there is no evidence that Brother Turton forwarded any of the earlier complaints to Father Spence.

Brother Turton said that he then left the matter with Brother Heinrich and Father Spence to conduct the relevant interviews. The outcome reported to him was that the behaviour complained of was deemed to be of little concern. He said:

Brother [Patrick] Butler would occasionally pat students’ bottoms when they stood at his desk in what was described as an ‘affectionate’ manner. It was recommended by Father Spence that no further action be taken because the child involved had already spoken with his parents who were not concerned.

Fr Spence also told me that he had spoken with Br Butler who denied that he had acted inappropriately. Fr Spence formed the view that there was no problem with Br Butler continuing to teach in groups under public supervision.<sup>938</sup>

Brother Turton said he accepted that the investigation was appropriate. He said he was not sure if he contacted Father Lucas or Father Usher about this incident. When asked if he was aware that anyone else had contacted them, he said, ‘No, no, I’m not sure about that. I don’t – I don’t think so ... I haven’t checked my exact notes but I don’t think so’.<sup>939</sup>

In Brother Turton's note regarding this complaint and his actions, he wrote that he contacted Father Spence and that Brother Heinrich contacted Father Dillon. He does not refer to any discussions with or advice from Father Lucas or Father Usher. There is no other record of correspondence with Father Lucas or Father Usher about this new incident. We are satisfied that Brother Turton did not contact Father Lucas or Father Usher.

Brother Turton said he spoke to Brother Patrick when the matter was concluded and 'reminded him of the need for vigilance and care'.<sup>940</sup>

Brother Patrick was sent for counselling with the school counsellor, Sister Costigan.<sup>941</sup> Brother Turton said that counselling was appropriate, as there was now a pattern of incidents that had to be acknowledged, even though this particular incident was not regarded as serious. He said he recognised this as the third in a series of similar complaints.<sup>942</sup>

When asked if he was concerned that the supervision and vigilance arrangements were not particularly effective, he said, 'No, I was actually encouraged, the fact that the headmaster rang me about what turned out to be a relatively, you know, minor thing – I was pleased that he was – he was exercising vigilance'. It was put to Brother Turton that the arrangements had not prevented a further incident. He said, 'Well, the assessment of it was that it was not – it was not a serious incident at all'. Brother Turton did not accept that the incident indicated Brother Patrick could also have engaged in more serious sexual behaviours. He said he 'felt the supervision was appropriate'.<sup>943</sup>

Brother Turton said the incident caused concern but that the issue was pointed out to Brother Patrick through his counsellor. There was no other change in terms of supervision as a result of this incident.<sup>944</sup>

## 16.4 Brother Turton's response to CQY, CNJ and the two boys from Ashgrove

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By September 1992, Brother Turton had received three complaints concerning Brother Patrick: CQY's complaint in early 1991, CNJ's complaint in August 1992 and the complaint regarding the two boys from Ashgrove in September 1992.

The only action taken in response to those complaints was the system of 'supervision' and 'vigilance' that he directed the principal and school counsellor to exercise. That system was not altered following the complaint by the two boys.

Counsel for Brother Turton submitted that he accepted it was an unacceptable risk for Brother Patrick to be in a school environment. Counsel submitted that Brother Turton would have acted differently today and regretted not having acted at the time. However, to remove

Brother Patrick would have been to ignore the advice Brother Turton sought and received from others, in accordance with the Church Protocol.<sup>945</sup>

As set out above, Brother Turton's evidence was that he relied upon the advice of Father Lucas and/or Father Usher in Sydney in relation to the CQY and CNJ complaints and on the advice of Father Spence and Father Dillon in Brisbane for the Ashgrove complaint. That was consistent with the Church protocols that were in place at the time, which nominated different persons to respond to complaints in different regions. Brother Turton's counsel submitted that it was not unreasonable for Brother Turton to leave Brother Patrick in a supervised school environment, as Brother Turton had specifically been advised that it was safe to do so.<sup>946</sup>

We accept that any advice that Brother Turton received from those persons to whom he was encouraged to report pursuant to the Church Protocol for responding to allegations of child sexual abuse then in operation is significant.

However, there is no evidence that Brother Turton informed Father Lucas or Father Usher of the allegation regarding the two boys from Ashgrove. Also, there is no evidence that Brother Turton informed Father Spence of the previous complaints by CQY or CNJ, contrary to his counsel's submission. Those matters were obviously significant for any person who was assessing Brother Patrick's conduct and deciding what response was necessary. They indicated that Brother Patrick had engaged in a pattern of inappropriate behaviour and that the behaviour was ongoing. Brother Turton's evidence of his conversations with Father Lucas and Father Usher regarding CQY and CNJ and the notes he made of those discussions at the time make plain that the existence of any current concerns regarding Brother Patrick could affect the assessment of the response required and that Brother Turton said he would report any further allegations to them.

In his evidence to us Brother Turton said that he thought the arrangements were working because he was informed of the incident involving the two boys before something more serious happened. In fact, it ought to have been obvious to Brother Turton that the arrangements were inadequate and ineffective. Brother Patrick was left in a position where he had the opportunity to touch students in a sexually inappropriate way, and he did so. That Brother Turton failed to appreciate this, even in hindsight, in his evidence in September 2016, indicates he did not understand, and has not until very recently understood, the risks that Brother Patrick posed and the type of response that was required.

However, we note that subsequently, in his submissions, he accepted that the supervision arrangements were inadequate and inappropriate.<sup>947</sup> At least by the time Brother Turton received the report regarding the two boys at Ashgrove, he should have appreciated the need to remove Brother Patrick from a school environment immediately. In failing to do so, he did not have due regard to the safety and welfare of the students at Ashgrove, who were left at ongoing risk.

Brother Turton accepted in his submissions that he should have removed Brother Patrick from the school environment earlier.<sup>948</sup>

Brother Turton's failings in this regard are highlighted by the fact that past victims such as CQY were specifically concerned to ensure that other students were not in danger.

## 16.5 CQZ

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On 12 July 1993, Brother Turton met with CQZ, another former student of Marist Brothers Eastwood who complained about Brother Patrick's conduct towards him between 1959 and 1961.

Brother Turton's note of their meeting records that CQZ described being physically abused at Marist Brothers Eastwood and that:

[CQZ] also said a Brother Patrick that was there at the time was very touchy feely with him. Patrick did not teach him but he found him strange and weird and had a 'reputation' among the boys.<sup>949</sup>

Brother Turton told us that CQZ contacted him directly.<sup>950</sup> He said CQZ spoke mostly about how unhappy he was with his time at Marist Brothers Eastwood.<sup>951</sup> He said he understood the 'touchy-feely' allegation to mean that Brother Patrick 'was a tactile person and who had invaded Mr [CQZ]'s personal space but not in a sexual way'.<sup>952</sup> Brother Turton agreed that by this time Brother Patrick was on his radar, given he had received the two complaints by CQY and CNJ and the recent report about the two boys at Ashgrove. However, he said that he was not able to obtain further information from CQZ.<sup>953</sup>

Brother Turton said he did not take any action in relation to CQZ's complaint. He said he did not do so because 'there was nothing different there, nothing new' and this was 'certainly not more serious than the others, if anything, less'. He said the supervision and vigilance arrangements regarding Brother Patrick were in place.<sup>954</sup>

Brother Turton said he was not sure if he reported CQZ's complaint to Father Lucas or Father Usher, but he did not have a specific memory of doing so.<sup>955</sup> He was asked whether it occurred to him that this was something they would want to know. He said, 'Not as a change in anything that had happened before' and that this was amongst the earliest incidents.<sup>956</sup>

There is no record of CQZ's complaint having been reported to Father Lucas, Father Usher or anyone else pursuant to the Church Protocol.

Counsel for Brother Turton submitted that it was reasonable for Brother Turton to form the view that no change was required to the supervision regime in place, given that the bulk of

CQZ's complaint was of physical abuse and other (non-sexual) conduct and was in relation to matters that were earlier in time than the other complaints. Brother Patrick was only a 'minor part' of CQZ's complaint and 'there was nothing overtly sexual alleged about him'.<sup>957</sup>

We do not agree. CQZ's report added to the increasingly compelling picture that Brother Patrick had a tendency to touch children in an inappropriate manner. Brother Turton should have recognised this. It was obvious. Brother Turton already had sufficient information about Brother Patrick inappropriately touching students to clearly understand that a reference by CQZ to Brother Patrick being 'touchy-feely' was a reference to inappropriate conduct, possibly of a sexual kind, that needed to be addressed.

Brother Turton should have taken steps to remove Brother Patrick permanently from a school environment where he continued to have access to children. He did not do so. This was a serious failure on his part.

## Crossroads program

On 12 August 1993, about a month after the report from CQZ, Brother Turton wrote to Brother Patrick and enclosed an enrolment form for the Crossroads program at Baulkham Hills in New South Wales. Brother Turton said in his letter that the Crossroads program was 'the one that we spoke about' and asked Brother Patrick to send a copy of the form to 'Mick Hill' (Brother Hill), who he said was responsible for coordinating ongoing formation.<sup>958</sup>

Brother Patrick replied on 22 August. He wrote that, for reasons they had discussed before, he could not undertake the Crossroads program.<sup>959</sup>

Brother Turton explained that the Crossroads program was typical of programs run by the Church around the world, often referred to as 'mid-life programs' or 'life review programs'. He said that, after a certain number of years in ministry, people would go to these courses as a break or as a chance to look at their life. Counsellors were available to those who wanted to talk through particular issues.<sup>960</sup>

Brother Turton said he had encouraged Brother Patrick to get into counselling, and he saw Crossroads as a chance to do that. He said the complaints were part of the reason he did this, and he said this to Brother Patrick. He agreed that Brother Patrick's attitude to counselling could be described as resistant.<sup>961</sup>

Brother Turton again wrote to Brother Patrick on 25 August 1993, expressing his hope that Brother Patrick would reconsider entering the Crossroads program. Brother Turton wrote that he had spoken with Brother Hill about 'the general context of our earlier discussion' and that he had also spoken to Sister Costigan, the counsellor at Ashgrove, who would be in touch with Brother Patrick.<sup>962</sup>

## 16.6 CNK

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### CNK reports to Brother Turton

On 30 August 1993, Brother Turton received a complaint from CNK, who had been a student at Marist Brothers Hamilton from 1973 to 1976.

Brother Turton's note of CNK's complaint records that, when CNK was in year 8, he was 'interfered with' in class by Brother Patrick. CNK also claimed that it was generally accepted amongst the students that Brother Patrick was 'very touchy, feely'. CNK said that he was called 'Pat's Pet' by other boys and that Brother Patrick 'touched him up'. Brother Turton wrote:

I originally got a phone call from Hamilton where [CNK] was with the Headmaster and they were confused as to what to do. He was agitated and threatening to go up and confront the Brother concerned. I spoke with him and he came down to Sydney for an interview ...

I told him that I had phoned P.B. and that he did not remember him, his name or the incident. He was very angry at that ...

I assured him that I would keep in touch and that I would also talk again with P.B. and put pressure on him to go into therapy to see whether or not he was in a state of denial about something that was very real or to look at other issues ...<sup>963</sup>

When Brother Turton was asked if he spoke to CNK about the details of the kind of touching he was describing, he said, 'Not any more than is [in the note]'. He said he understood the phrase 'very touchy, feely' and the reference to Brother Patrick having 'touched him up' as referring to sexual conduct.<sup>964</sup> He said he put this complaint into a more serious category than the report from CQZ and that he took it 'quite seriously'.<sup>965</sup>

Brother Turton said that, in accordance with his usual practice, he encouraged CNK to report to the police.<sup>966</sup> However, Brother Turton's 30 August 1993 note does not record this.

There is no record of CNK's complaint having been reported to Father Lucas, Father Usher or anyone else pursuant to the Church Protocol.

### CNK reports to police

On 30 September 1993, CNK made a statement to NSW Police in Lismore.<sup>967</sup>

According to police records, CNK reported the abuse by Brother Patrick as involving:

- multiple incidents in 1974 during maths class where Brother Patrick would sit beside him, put his hand around his waist, move his hand to his penis and feel his penis on the outside of his pants
- an incident in April 1974 where Brother Patrick put his hands inside CNK's pants and touched his penis
- a further incident in May 1974 where Brother Patrick tried to put his hand in CNK's pants but could not because CNK was wearing too much clothing.<sup>968</sup>

The criminal matter regarding CNK's complaint did not proceed.

The last document on the police file is a letter dated 24 November 1993, which notes that the Lismore Child Mistreatment Unit was to make inquiries in relation to the matter.<sup>969</sup> Prior correspondence records that police were to liaise with CNK to determine whether he wished to proceed with the matter.<sup>970</sup>

A post-it note attached to the 24 November letter dated 15 December 1993 indicates that CNK was to call police and tell them whether he wished to proceed with charges. Another note indicates that Brother Turton was to be contacted.<sup>971</sup>

Brother Turton told us that CNK informed him he had reported to police. He said CNK told him the police had said they would not follow it up unless he came back with more information.<sup>972</sup> There is no reference to this in the documents on the police file, but it is recorded in a report regarding Brother Patrick prepared by Brother Turton in January 1994. That report states:

CNK also has reported the matter to police, who, on finding the therapy presently taking place, have decided not to proceed for the time being and possibly permanently. Police will only move again if they have nother [sic] approach from CNK.<sup>973</sup>

The documents suggest police were awaiting confirmation from CNK as to whether he wished to proceed with the matter. There is no evidence as to whether CNK communicated with police about his intentions.

## 16.7 Brother Turton telephones Brother Patrick

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On 30 August 1993, Brother Turton telephoned Brother Patrick about the complaint from CNK and 'four other accusations of a touchy, feely, type from three other schools'.<sup>974</sup> Brother Turton's record of the meeting states that Brother Patrick was 'quite broken by all this' but eventually agreed 'to see the therapist D.C' (Sister Dorothy Costigan) and that 'I [Brother Turton] should give her all the details of the discussion so that they could get started'.<sup>975</sup>



Brother Turton also wrote:

[Brother Patrick] is aware that the action of [CNK] could be quite unpredictable and he is very concerned.

He had earlier refused the opportunity to go to do the Crossroads Programme but I again pushed this very hard with him and will continue to do so hoping that he will do it. D.C. will contact him today, 30<sup>th</sup> August, 1993, and the work will begin. The Superior, R.M., has been advised simply that P.B. maybe under pressure and agitated and just to keep an eye on him. Likewise, the Headmaster. The fairly remote contact that he has with students would be considered not to be dangerous at all or providing possibility anything inappropriate [sic].<sup>976</sup>

Brother Turton could not recall much detail from the discussion, 'apart from the fact that I would obviously have conveyed the substance of the interview that we had and that I wanted him to take another step in dealing with this'.<sup>977</sup> He 'interpreted' that he went through each of the allegations made against Brother Patrick. Brother Patrick denied them and was 'somewhat broken up'.<sup>978</sup> Brother Turton said he doubted the denial of the allegations and had no reason to disbelieve those who had made the complaints.<sup>979</sup> Brother Turton obtained Brother Patrick's agreement to see the school counsellor, but not without difficulty, and he pushed Brother Patrick to attend the Crossroads program in relation to his overall life issues and in connection with the complaints.<sup>980</sup>

Brother Turton said he advised the Superior of the Ashgrove community and the principal of Ashgrove of the situation but not in detail. He said he would have told them that Brother Patrick was 'under stress, there have been some allegations and the school's aware of that, the headmaster, and being supervised'.<sup>981</sup> Brother Turton told us there had been no structural change to the supervision arrangements applied to Brother Patrick since August 1992. He said he thought the principal and school counsellor might increase their vigilance.<sup>982</sup>

Counsel for Brother Turton submitted that it was reasonable, albeit in hindsight incorrect, for Brother Turton to form the view that Brother Patrick was not a danger to students in light of the investigation and advice following the incident involving the two boys from Ashgrove in August 1992.<sup>983</sup>

We do not accept that submission. For the reasons set out earlier, Brother Turton ought to have appreciated that the supervision arrangements in place were inadequate. Further, Brother Turton said he understood CNK's complaint to relate to sexual conduct, which Brother Turton took seriously. The earlier advice that Brother Patrick could remain in a supervised school environment was in response to the August 1992 incident. There is no evidence that the adequacy of the supervision arrangements was reconsidered in light of this more serious complaint.

We are satisfied it was unreasonable for Brother Turton to conclude that Brother Patrick was not a danger to children.

We are also satisfied that Brother Turton did not tell the principal or the Superior of the Ashgrove community the whole story regarding CNK's complaint. Counsel for Brother Turton submitted that a fair reading of the evidence shows the principal was aware of the full extent of the allegations against Brother Patrick.<sup>984</sup> However, Brother Turton's evidence was that he did not tell either the principal or the Superior of this complaint in detail. We do not accept Brother Turton's submission that it was reasonable to provide only limited information to the Superior, as the Superior's role was completely unrelated to the school community.<sup>985</sup> The allegations were about the conduct of a Brother in his community for whom he was responsible.

It should have been obvious to Brother Turton that those required to supervise Brother Patrick should have been given all of the relevant information.

This response was plainly inadequate.

## 16.8 Brother Patrick attends Crossroads program

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Despite his initial resistance, Brother Patrick attended the Crossroads program from March to August 1994.<sup>986</sup>

In September 1994, Brother Patrick returned to a tutoring position at Ashgrove. He remained in this role until his retirement in 2001.<sup>987</sup>

In relation to the Crossroads program, Brother Turton gave the following evidence:

In or around August 1993 I determined that Br [Patrick] Butler should attend a 'spiritual renewal programme' called Crossroads as he was approaching retirement age. I chose the Crossroads programme for Br Butler because it featured psychological as well as spiritual programmes and personal counselling is available for those who ask for it. As the programme was a personal life review I thought it would be of benefit to Br Butler. Given the complaints but total denial of Br Butler I did have some remaining concerns. I hoped that something like the Crossroads course could be a basis for some deeper reflection by him on the issues in his life.

I recall that Br Butler refused my initial offer to attend the Crossroads programme. I believe that Br Butler was resistant to any kind of psychological processes.

Br Butler did attend the Crossroads Programme in 1994. I don't recall receiving any report from the operators of the programme.<sup>988</sup>

There is no record of any report having been sought from, or made by, the operators of the Crossroads program regarding the nature of Brother Patrick's counselling or any other matter regarding his time there.

In relation to the counselling that Brother Patrick received from Sister Costigan, Brother Turton said 'Sister Costigan respected her client's confidentiality in this process so I did not ever receive feedback of any substance'.<sup>989</sup>

We are satisfied that at least part of the reason for sending Brother Patrick to the Crossroads program was that there had been complaints against him and to have him counselled. Brother Turton did not seek or receive a report from Crossroads about the results of the treatment Brother Patrick received. Brother Turton was not entitled to take the view that Brother Patrick was safe to return to ministry based only on his attendance at the course without learning more about its results. Brother Turton was wrong to place Brother Patrick at Ashgrove without being satisfied that the treatment he received was sufficient to make him suitable for that position.

## 16.9 Brother Hill's knowledge upon becoming Provincial

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Brother Hill became Provincial of the Sydney Province, taking over from Brother Turton, in July 1995. He remained in that role until the end of 2001.<sup>990</sup>

### CNJ

Brother Hill recalled there was an investigation regarding Brother Patrick's inappropriate sexual behaviour in relation to CNJ's complaint. He could not remember anything about the nature of the complaint apart from that it was being investigated by police.<sup>991</sup> His memory was that Brother Patrick's behaviour was 'injudicious and inappropriate but not criminal'.<sup>992</sup>

Brother Hill said he was not involved in handling CNJ's complaint, although Brother Turton briefed him on it.<sup>993</sup> He told us he presumed he became aware of the complaint through one of his conversations with Brother Turton. He said in all likelihood Brother Turton mentioned speaking to staff at Ashgrove, but he had no specific memory of that.<sup>994</sup> Brother Hill said he knew at that time that Brother Patrick was no longer teaching, but he was tutoring boarders during study periods in the presence of others.<sup>995</sup>

Brother Turton could not specifically recall speaking to Brother Hill about the complaint from CNJ, but he said he was not surprised that he did. He said that, as Brother Hill was a clinical psychologist and on the Provincial Council, it was not unusual for Brother Turton to discuss matters with him.<sup>996</sup>

Brother Turton said he did not think he had formed an opinion as to whether the conduct was criminal or injudicious and inappropriate. He said that he had ‘simply formed the view that it was serious enough to be closely observed’ and to have the principal and counsellor maintain the ‘vigilance’ in respect of Brother Patrick. Asked whether any view of the conduct on his part could only have been impressionistic, Brother Turton said, ‘Yes. There was no legal specialist examining this issue ... It was our view at the time’.<sup>997</sup>

## Two boys at Ashgrove

Brother Hill told us that he was not aware of the incident involving the two boys at Ashgrove at the time, and he was not made aware of it in 1995 when he became Provincial. He agreed it reflected poorly on the arrangement of ‘supervision and vigilance’ with respect to Brother Patrick’s access to children.<sup>998</sup>

## CQZ

Brother Hill told us he does not recall CQZ’s complaint specifically but that at about the time of CQZ’s complaint he became aware of several complaints about Brother Patrick through conversations with Brother Turton.<sup>999</sup>

## Crossroads program

Brother Turton said that at around the time that he suggested Brother Patrick attend the Crossroads program:

[I spoke to Brother Hill about] the whole issue, the issues that had been raised for Pat – his need to really look at his whole lifestyle and so on, and that was our best chance of getting that to happen and Mick Hill, being a clinical psychologist, was a very good person to discuss that with.<sup>1000</sup>

He said he was not sure if his conversation with Brother Hill included in detail the three complaints he had received and the incident at Ashgrove, but he said he certainly referred to them.<sup>1001</sup> Brother Turton said he thought he would have referred to the number of complaints he had received.<sup>1002</sup>

In an unsigned and undated Crossroads enrolment form for Brother Patrick, which Brother Hill completed, he recorded that the holistic nature of Crossroads would ‘be of invaluable assistance to Pat in helping him to address some imbalances in his life’.<sup>1003</sup>

Brother Hill told us he had no recollection of the conversation that Brother Turton referred to.<sup>1004</sup> He also said he had no recollection of completing the enrolment form or discussing the recommendation with either Brother Turton or Brother Patrick.<sup>1005</sup> However, he said that he did speak with Brother Turton about Brother Patrick entering the program.<sup>1006</sup>

Brother Hill said that Crossroads was a program for people either in the process of or preparing to retire, changing ministries, or transition.<sup>1007</sup> He said he believed Brother Patrick was in a transitional stage in his life, as he was moving out of classroom teaching.<sup>1008</sup> Brother Hill said reference to ‘imbalances’ would have been referring to Brother Patrick’s difficulties ‘with managing his emotions and interpersonal relationships’.<sup>1009</sup>

When asked whether the complaints were raised in the context of the discussions, Brother Hill said he could not recall but that Brother Turton ‘may have’.<sup>1010</sup> He said that from memory there were several conversations in which Brother Turton raised the complaints he had received about Brother Patrick.<sup>1011</sup>

## Supervision of Brother Patrick

Brother Hill said he knew about the supervision arrangements in place at Ashgrove when he took over as Provincial. He said Brother Turton would have told him as part of the handover arrangement.<sup>1012</sup>

Brother Hill said he was told the arrangements involved the headmaster, the community leader and the counsellor’s ‘vigilance’. Brother Hill said his understanding was that Brother Patrick was tutoring boarders during study periods, in the presence of others.<sup>1013</sup>

Brother Hill told us it was ‘abundantly clear’ to him when he became Provincial that Brother Patrick should not have unsupervised contact with children.<sup>1014</sup> He proceeded on that basis and believed it to be the position at Ashgrove.<sup>1015</sup>

## Conclusion

We are satisfied that, by the time Brother Hill became Provincial, he knew that several complaints had been made about Brother Patrick, that Brother Patrick was tutoring students at Ashgrove and that Brother Patrick was subject to supervision arrangements.

## 16.10 Admission by Brother Patrick

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Sometime in June 1995, CNK called Brother Patrick directly. This was in the month immediately before Brother Hill took over from Brother Turton as Provincial.<sup>1016</sup>

Brother Patrick subsequently met with Mr Howard Harrison of Carroll & O’Dea Solicitors (who represent the Marist Brothers) about the matter. The file note of that meeting records that CNK called Brother Patrick in relation to a ‘problem’ at Marist Brothers Hamilton in 1974. Brother Patrick told Carroll & O’Dea Solicitors he had ‘no memory of difficulty with this person, but concedes that there may be people who have a cause for complaint against him’.<sup>1017</sup>

Brother Turton said he had no recollection of Mr Harrison reporting this exchange to him, including the admission by Brother Patrick that there ‘may be people who have a cause for complaint against him’. However, he said that it may have happened.<sup>1018</sup>

Brother Hill gave evidence that he was not aware that Carroll & O’Dea Solicitors had met with Brother Patrick in June 1995 or that a complainant (CNK) wanted to meet with Brother Patrick.<sup>1019</sup> He said he could not state with any precision at what time he became aware of Brother Patrick’s concession. He said he would have been told by Brother Turton that there was ‘almost a reluctant concession’ by Brother Patrick, which was something less than a complete denial.<sup>1020</sup>

Carroll & O’Dea Solicitors forwarded Mr Harrison’s file note to Mr Paul Reynolds, national claims manager of Catholic Church Insurance Ltd, the Marist Brothers’ insurer, on 23 June 1995.<sup>1021</sup>

Given the significance of the matter, we are satisfied that Brother Hill was probably made aware in June 1995 or soon thereafter of the substance of what Brother Patrick had said to Carroll & O’Dea, who were the solicitors for the Marist Brothers.

## 16.11 Letter from Bishop Malone to Brother Hill

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On 9 October 1996, the Bishop of the Catholic Diocese of Maitland–Newcastle, Michael Malone, wrote to Brother Hill. Bishop Malone wrote that he felt compelled to inform Brother Hill that complaints had come to him about ‘two other Brothers’. Bishop Malone referred to a telephone conversation with a ‘gentleman who claimed inappropriate actions while he was a student at Marist Brothers, Hamilton in 1972–73’. The man alleged that Brothers Patrick and Cable were ‘guilty of touching some of the pupils’ and that this was common knowledge among the students. Bishop Malone wrote that it ‘seems unlikely that criminal activity took place’.<sup>1022</sup>

Brother Hill responded to Bishop Malone's letter on 18 October 1996. He wrote:

I note with regret your information concerning the actions of two of our men at Hamilton in the early 1970s. This is not the first time that each of these has come to our attention. For your own piece [sic] of mind I can assure you that, after thorough investigation, it would seem that aspects of the behaviour of Brother Patrick were certainly injudicious and inappropriate but not criminal in nature. The other person left the Brothers almost twenty years ago.<sup>1023</sup>

Brother Hill was asked what 'thorough investigation' he was referring to. He said the police had investigated what he understood to be the particular complaint being referred to and had decided not to proceed. He said that his conclusion that 'aspects of the behaviour of Brother Patrick were certainly injudicious and inappropriate but not criminal' was based on the results of the police investigation. He said that he was not intending to convey that the Marist Brothers had carried out a thorough investigation.<sup>1024</sup>

In his statement to the Royal Commission, Brother Hill said the investigation to which he referred was of 'inappropriate sexual behaviour' against CNJ, but he corrected this to CNK in his evidence.<sup>1025</sup> This was the only complaint that he knew had been investigated by police at the time.<sup>1026</sup> He agreed that he did not himself conduct any investigation.<sup>1027</sup>

Brother Hill said he appreciated at the time the difference between his role and the role of the police, but he said this was a sufficient response because there were structures in place to ensure Brother Patrick had no unsupervised contact with children.<sup>1028</sup>

Brother Hill said his intention in writing this letter was to convey to Bishop Malone that he was aware of the complaints about Brother Patrick and that Brother Patrick was 'well and truly ... within our sights and under control'.<sup>1029</sup> The Chair asked Brother Hill if the report that it was 'common knowledge among the kids' that Brother Patrick acted inappropriately raised alarm bells. Brother Hill agreed that it did. He accepted that it was at least naive to tell the bishop, in effect, that he need not worry about Brother Patrick because he had not engaged in criminal conduct.<sup>1030</sup> Brother Hill gave evidence that this report about Brother Patrick was a side issue, and the focus of his attention was on assuring Bishop Malone that Brother Dominic would not be appointed principal at St Francis Xavier's.<sup>1031</sup>

Bishop Malone gave evidence that he did not speak with Brother Hill any further about the complaints about Brother Patrick and Cable.<sup>1032</sup>

## 16.12 Brother Hill's response to the matters raised by Bishop Malone

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There is no doubt that in October 1996 Bishop Malone received a complaint about Brother Patrick inappropriately touching students at Marist Brothers Hamilton in the 1970s. Bishop Malone passed that information on to Brother Hill.

Brother Hill knew at that time that Brother Patrick was tutoring boarders at Ashgrove and that some other allegations had been made against Brother Patrick in the past.

In light of this further information, Brother Hill should have made enquiries to satisfy himself that Brother Patrick did not have access to children in a way that might create an ongoing risk of inappropriate touching. There is no evidence to suggest he did. Such enquiries would include consulting the Marist Brothers' records relating to Brother Patrick, which would have led him to the incident with the two boys at Ashgrove only four years before.

## 16.13 CNJ reports to police

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In February 1998, CNJ (who had complained to Brother Turton about Brother Patrick in August 1992) made a statement to Newcastle police.

CNJ described in detail multiple occasions of sexually inappropriate conduct by Brother Patrick during the 1970s when CNJ was a student at Marist Brothers Hamilton. He described Brother Patrick regularly massaging his neck and shoulders during maths class. He also described more than one occasion when Brother Patrick undid the buttons on his shirt and massaged his chest and stomach. CNJ described two occasions when Brother Patrick put his hand into CNJ's pants and massaged his penis, testicles and genital area for a number of minutes.<sup>1033</sup>

On 28 May 1998, Carroll & O'Dea Solicitors wrote to Brother Hill advising him that Newcastle police wished to interview Brother Patrick.<sup>1034</sup>

On 4 November 1998, Carroll & O'Dea Solicitors engaged Queensland solicitor Mr Mullins of Mullins & Mullins to represent Brother Patrick in the police interview. Their letter to Mr Mullins records that police wished to interview Brother Patrick in relation to 'a very old complaint'. The letter also states that Brother Patrick 'was retired from Ashgrove'.<sup>1035</sup> This was not wholly correct; Brother Patrick still tutored students at Ashgrove in 1998.

Almost a year later, in April 1999, Brother Patrick was interviewed by Newcastle police in Brisbane. Mr Mullins attended the interview as Brother Patrick's legal representative. During the interview, CNJ's allegations were put to Brother Patrick. He denied them.<sup>1036</sup>



Brother Patrick was not charged in respect of CNJ's complaint. There is no evidence as to why the matter did not proceed.

## 16.14 Brother Patrick's continuing tutoring arrangements

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### Brother Hill's interviews with Brother Patrick

As Provincial, Brother Hill interviewed Brother Patrick on an annual basis and made notes of their meetings.

The first of those interviews occurred in August 1996. Brother Hill wrote that Brother Patrick was spending 'a good deal of time tutoring individual students in the high school' and that Brother Patrick spoke at length about a year 8 boy he was teaching to read. Brother Patrick was also tutoring mathematics for boarders in the evenings in the library and 'He said that on any one evening around 20 senior students from the advance classes will approach him for tutoring'.<sup>1037</sup>

It is not clear from the record of interview whether Brother Patrick's tutoring was required to be in the presence of other adults.

Brother Hill was asked about this and he said that, if Brother Patrick was tutoring in the library, there would have been other teachers present. Brother Hill said he based this on the fact that he had observed people tutoring in the library, which was organised by way of a roster of boarding staff. However, Brother Hill said that he was not aware of any arrangements in place to ensure the staff understood the need for Brother Patrick to be supervised.<sup>1038</sup>

Brother Carroll was based at Ashgrove between 1990 and 1996 as a teacher and dormitory master.<sup>1039</sup> He told us that at the time he was there he was not aware that there had been complaints of historical offending made against Brother Patrick. He said he was also unaware of any need for special supervision or vigilance in relation to Brother Patrick.<sup>1040</sup>

Brother Carroll said that there was a study supervisor for the boarders and that this was organised by way of a roster. He said that the arrangement was that the boarders went to study in a classroom with a supervisor and Brother Patrick was available in the classroom with the supervisor for students to go to him for maths tutoring. He said that had no recollection of any study supervisors being told by the headmaster or anyone else that Brother Patrick was subject to special supervision.<sup>1041</sup> When asked whether he thought he would have been aware of such a direction, Brother Carroll said, 'Possibly. I would think so ... I was one of the boarding masters for the school'.<sup>1042</sup>

Brother Hill again interviewed Brother Patrick in August 1997. His notes of the interview record:

[Brother Patrick] still occupies himself on an evening with individual tutoring in the boarding school.

This mainly involves maths. However, he has also taken on some individual students for basic reading and writing. He told me the story of a Year 10 student from outback Queensland who arrived at the College virtually illiterate. He felt that he had done an enormous service to this lad by teaching him to read.<sup>1043</sup>

When Brother Hill interviewed Brother Patrick on 20 July 1998, he wrote:

[Brother Patrick] continues his tutoring four nights a week. This is clearly a significant contribution to the boarding school. He said that volume varies but the practice is now well established and Pat is pleased with his efforts. He is particularly pleased that he was able to teach a Year 9 student how to read and write. Incredibly this student had gone through primary school in a small outback town in Queensland and was able to reach high school without having mastered even the basics of reading and writing. Pat has been working with him for the past six months and the student is showing rapid progress. Pat also referred to another student who had been taken literally off the streets and into the boarding school. Apparently the grandmother had left a bequest to be used strictly for this boy's education. With a lot of effort they are gradually helping him to adjust from life on the streets to the fairly structured regimentation of boarding life. The outlook is optimistic and the students show real signs of gratitude for having been 'rescued'.<sup>1044</sup>

On 14 July 1999, Brother Patrick was again interviewed by Brother Hill. Brother Hill's note records that Brother Patrick 'continues his tutoring duties of an evening' and that:

The large burden weighing on him at the moment continues to be the situation with [CNJ]. Pat has absolutely no memory of the person concerned and certainly strenuously denies the allegations which have been made against him ... I assured him that should he be brought to NSW to face further action on this that he will receive expert support.<sup>1045</sup>

In a further interview on 15 July 2000, Brother Hill recorded that:

[Brother Patrick has] Let go of his job as PR contact for prospective parents but has undertaken to work with Jan Mulvihill, Special Education Coordinator in the Senior College. Pat has undertaken to do 12 periods per week, each of 50 minutes, as part of a consorted [sic] effort to assist with students with learning difficulties. In a sense Pat acts as a teachers' aid in accompanying the regular teacher in situ. As a result, he has not yet undertaken to do any evening tutoring and I suspect that he will find that the 10 hours per week in the classroom will be more than enough to occupy him ...<sup>1046</sup>

Despite the comments in Brother Hill's interview notes, it appears that Brother Patrick did subsequently recommence tutoring students in the evenings, as set out below.

## Brother Patrick's unsigned statement

In an unsigned statement prepared by Brother Patrick, he described his arrangements at Ashgrove as follows:

I came to Ashgrove in 1989 in semi-retirement after suffering bad health that year. I suffered a further bout of ill-health in 1992 ... and gave up teaching completely in 1993.

At the request of some teachers who asked if I could help some of their boarding students at night, I commenced some tuition work. Originally I did this in a classroom and from this the organised tutoring began. At this time I also made myself available, with another teacher, from 8 – 8.45 am to help any students who needed it. The night tutoring continued for some years in a spare classroom near where the boarders were studying. In recent years, the dormitories were refurbished and all studied at their own desks. As tutoring had to move closer to where the students were, I eventually moved into an empty dormitory that was close to the living areas of all the boarders from Yr 7 to Yr 10.

As at 3 April 2001 I was tutoring in the temporarily unused dormitory on the second floor of the junior dormitory building ...

The dormitory where I did my tutoring work largely comprised open space with chairs and tables near the entry point which was through glass doors with glass panels in each. My recollection was that the doors were nearly always open, at least during tutoring time.<sup>1047</sup>

## Conclusion

Although it appears that Brother Patrick initially provided tutoring to students in the presence of other adults in a classroom, those arrangements had changed in the years leading up to 2001.

Counsel for Brother Hill submitted that it was not a fair inference that the other rooms were unoccupied by other tutors or adults.<sup>1048</sup> We consider that Brother Patrick's statement indicates that by 2001 it is unlikely that he was effectively supervised. There is no reference to other adults being present in the room to supervise him. Allowing him unsupervised access to children was reckless and should not have occurred.

When CNJ reported to police in 1998, the Marist Brothers had available to them detailed information about CNJ's allegations of sexual abuse. As Provincial, Brother Hill instructed Carroll & O'Dea Solicitors in relation to CNJ's claim. The allegations that CNJ made in his police statement were of a very serious nature. Although counsel for Brother Hill submitted there was no evidence that Brother Hill knew of the substance of CNJ's allegations as reported to police,<sup>1049</sup> he knew that Brother Patrick was under investigation. If he did not know the details, he could have sought further information from Carroll & O'Dea or the police.

Brother Hill knew that Brother Patrick was tutoring students four nights a week at the boarding school at Ashgrove in 1998. Although he said Brother Patrick was subject to supervision arrangements, he took no steps to ensure that any arrangements were followed. Brother Patrick described to Brother Hill his engagement with particularly vulnerable children who were underprivileged or had learning difficulties.

Even though police did not proceed to charge Brother Patrick regarding CNJ's complaint, Brother Hill ought to have recognised that Brother Patrick was a potential danger to children. He ought to have removed him from the school environment altogether. He did not do so. This was a serious failure on his part.

We agree with the submission of Brother Hill that he is not solely responsible for Brother Patrick having remained in a school environment.<sup>1050</sup> However, Brother Hill must bear a significant part of the responsibility given his role as Provincial during this time.

Brother Hill's failure to take appropriate action meant that children at Ashgrove, including particularly vulnerable children, were at risk of being sexually abused by Brother Patrick.

## 16.15 CNI

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On 3 April 2001 CNI, a year 7 boarding student at Ashgrove, made a complaint against Brother Patrick. The student, CNI, had approached Brother Patrick for assistance with a maths problem in the evening study period. Brother Patrick was tutoring in a room above the dormitories. CNI said he approached Brother Patrick and sat beside him at a large desk. CNI said that while Brother Patrick was helping with his homework Brother Patrick had stroked CNI's arm and leg and placed his hands on CNI's groin. There were several other students in the room at the time.<sup>1051</sup>

CNI reported his complaint to the Queensland Police Service and it was referred to Task Force Argos, a child sexual assault investigation unit.<sup>1052</sup> On 9 April 2001, Brother Hill emailed Mr Harrison of Carroll & O'Dea Solicitors. He said:

As the famous movie line said: just when you thought it was safe to go back in the water...! After a fairly mild couple of months all hell has broken loose over the past couple of weeks on the abuse front and it is important for me to bring you up to date with some events ...

Last Tuesday night a junior student at Marist College Ashgrove (Queensland) made a complaint against a Brother. The appropriate protocol was put into place immediately and the Brother was subsequently charged by Queensland Police with one count of sexual assault ... The Brother concerned is Patrick Butler. You would already have some material on him as 'AB17'. Brother Patrick strongly denies the allegation. He is due to appear in a Brisbane Court on 18 June.<sup>1053</sup>

Brother Hill recalled the incident and said that CNI's complaint was brought to his attention soon after it happened.<sup>1054</sup> He gave evidence that, by putting the 'appropriate protocol' in place, he meant that he offered pastoral care to CNI, referred Brother Patrick to independent legal representation and cooperated fully with the police with any request for information.<sup>1055</sup> He said he was concerned the incident had occurred, and he concluded that the supervision arrangements at Ashgrove were not effective.<sup>1056</sup> Brother Hill gave evidence that he did not make his own enquiries about what had happened while the police were investigating.<sup>1057</sup>

On 11 April 2001, Brother Hill wrote to the community of the Marist Brothers informing them of the charges. He said it would be inappropriate for him to speculate on the matter but that it was 'evident that a most unfortunate misunderstanding' had occurred.<sup>1058</sup>

In an unsigned statement by Brother Patrick that appears to have been prepared in relation to this matter, Brother Patrick said:

I am aware of allegations by [CNI] that I stroked 'his leg, arm and then his dick' and I deny those allegations. I cannot entirely exclude the possibility that I may have touched him on the arm or leg when encouraging him but I certainly didn't touch him on the penis. I also did not hover my hand above his lap in the way he suggested. I reject completely any suggestion that I did anything improper towards him. If I did touch him in any way, and I cannot remember doing so, it would have been entirely innocent or accidental.<sup>1059</sup>

Brother Patrick also said that since the allegations were made he had 'ceased tuition altogether' and had had no contact with students. He said he spent most of his time in his room or otherwise within the Brothers' community house.<sup>1060</sup>

Brother Patrick was charged with one count of indecent dealings with a child and the matter proceeded to a committal hearing in February 2002.<sup>1061</sup> Brother Patrick was committed to stand trial.

In 2003, following CNI's evidence in the hearing, the judge ordered that there was no case to answer, meaning that Brother Patrick was determined to be not guilty.<sup>1062</sup>

As set out in a memorandum of the Office of the Director of Public Prosecutions, CNI's evidence was that Brother Patrick touched him on the groin, the crotch area or an inappropriate place. He did not use the words 'genitals' or 'penis'. The defence submission was that there was therefore no indecency for which Brother Patrick could be convicted.<sup>1063</sup>

The case was dismissed on that basis.

## 16.16 Queensland Police Service's request for information

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### The issue

On 10 April 2001, Detective Sergeant Geoff Marsh of the Queensland Police Service wrote to Brother Hill requesting information regarding Brother Patrick.

The terms of the written request were broad. It was a request that the Marist Brothers check the files regarding Brother Patrick to identify 'any history or circumstances which may suggest that the brother has acted in any inappropriate manner with any child during his extensive teaching career'<sup>1064</sup> (the Written Request).

Brother Hill disputed the terms of the Written Request. Brother Hill told us that the information sought by the Queensland Police Service was actually more limited than the Written Request. His evidence was that the Queensland Police Service only wanted information regarding complaints that had been the subject of a police investigation. According to Brother Hill, that limitation was conveyed to him by Detective Sergeant Marsh in a telephone conversation on 10 April 2001.

The limitation that Brother Hill said was placed on the request is important in assessing his response. When Brother Hill responded to the Queensland Police Service the following day, he only referred to one other allegation – the complaint by CNJ. As set out earlier, that allegation had been the subject of a police investigation in New South Wales in 1998, but the matter did not proceed.

When he responded to the Queensland Police Service, Brother Hill did not inform them of:

- the allegation by CQY
- the allegation by CQZ
- the allegation by CNK
- the incident regarding the two boys at Ashgrove
- the fact that Brother Patrick was subject to special supervision arrangements at Ashgrove.

All of those were matters that fell within the terms of the Written Request. That is, they were matters recorded in the Marist Brothers' files and they constituted relevant 'history or circumstances' regarding Brother Patrick of the kind described in the Written Request.

However, we note that, even if the request was limited to complaints that had been investigated by police, as alleged by Brother Hill, there were in fact two complaints that would have met the request. First, CNJ's complaint had been reported to Newcastle police in 1998. Second, CNK had reported his complaint to police in Lismore in 1993. The fact that CNJ and CNK had reported their complaints to police are both matters recorded in the Marist Brothers' documents regarding Brother Patrick.<sup>1065</sup>

## The correspondence and records of communications

In order to consider this issue, it is necessary to set out the relevant documentary evidence recording correspondence and other communications in some detail.

### Written Request on 10 April

On 10 April 2001, Detective Sergeant Marsh wrote to Brother Hill with the following request:

As per our telephone conversation of even date, Task Force Argos endeavours to conduct a fair and impartial investigation with respect to the teaching history of Brother Patrick Butler.

I am requesting that your administration staff conduct checks of the archives and personnel files of the aforementioned Brother [Patrick] Butler in an effort to identify any history or circumstances which may suggest that the brother has acted in any inappropriate manner with any child during his extensive teaching career.

Could the results of your inquiries be forwarded by way of correspondence to Task Force Argos ...<sup>1066</sup>

## Mr Mullins' memorandum of 11 April

The following day, on 11 April 2001, Brother Hill telephoned solicitor Mr Mullins of Mullins & Mullins. He had previously acted for Brother Patrick in relation to CNJ's police matter. Mr Mullins' memorandum of that conversations records:

Phone from Brother Michael Hill. He has confirmed that the Brother being charged from Ashgrove is Brother Patrick Butler whom I had been to Police with some years ago for an interview, that is, New South Wales Police which occurred in Brisbane. They have now had an approach from Geoff Marsh of Taskforce Argus [sic] wanting them to do a search of their archives to come up with any documents they have which would point to Brother Patrick being involved in any inappropriate behaviour with children. Brother says that all the records that would qualify are in my custody. He is going to contact the Police and let them know my details so that they can contact me. I indicated that I could contact Michael Quinn who is acting for Brother Patrick and that we will be able to see whether he wants to claim privileges [sic] the documentation would be privileged from production on the basis of legal professional privilege.<sup>1067</sup>

The request as recorded by Mr Mullins (being his record of what Brother Hill conveyed) is in the same broad terms as the Written Request.

In the same memorandum, Mr Mullins recorded a subsequent phone conversation with Brother Hill later that day:

Further phone to Brother Michael Hill to confirm that he will simply telephone Constable Marsh from Taskforce Argus and indicate to him that any documents of the description they are after are in my custody and that he can contact me to discuss those documents. I will then contact Michael Quinn and see whether Brother Patrick wants to claim privilege.<sup>1068</sup>

Mr Mullins wrote that he then spoke to Mr Michael Quinn, who had been engaged to represent Brother Patrick in relation to CNI's criminal allegation. He wrote:

Phone to Michael Quinn at Gilshenan and Luton. I will get the material over to him so that he can have a look at it and have a listen to it so that he can then come back to me and let me know what he wants to do in terms of privilege. He expects that Brother Patrick Butler wants to claim privilege but it may be that we will want to tell the Police that it was a minor matter which simply did not go anywhere ...<sup>1069</sup>



## Brother Hill's response to Queensland Police Service on 11 April

Although Mr Mullins indicated that Brother Hill would telephone Detective Sergeant Marsh to let him know that the relevant records were in Mr Mullins' custody, Brother Hill responded to the Queensland Police Service by fax on 11 April. He wrote:

Subsequent to our telephone conversation of yesterday afternoon I have checked the archives and files of Brother Patrick. There is a note there indicating that he was the subject of a complaint brought to the attention of my predecessor in 1993. The allegation referred to the 1970s. It is my understanding that, subsequent to the Wood Royal Commission, the NSW Police made further investigations. It appears that Mr Pat Mullins of Mullins and Mullins Solicitors was involved.<sup>1070</sup>

Brother Hill provided police with Mr Mullins' details.

## Mr Mullins' file note of 12 April

The following day, 12 April 2001, Mr Mullins spoke to Detective Sergeant Marsh. Mr Mullins' handwritten file note of that conversations records:

Det Sgt Scott Marsh, Task Force Argos

What?

Never been charged with any criminal offence.<sup>1071</sup>

That file note is significant, in Brother Hill's submission, because it is consistent with his evidence that the information ultimately sought by the Queensland Police Service was in narrower terms than the Written Request. Counsel for Brother Hill submitted that a fair reading of Mr Mullins' 12 April 2001 note is that Mr Mullins asked the police what information they required and the response was that they required confirmation that Brother Patrick had never been charged with any criminal offence.<sup>1072</sup>

## Mr Mullins' response to the Queensland Police Service

On 18 April 2001, Mr Mullins responded to Detective Sergeant Marsh's request for information. He wrote:

On instructions from the Provincial Brother Michael Hill we confirm that Brother Michael Hill has caused a search to be done of the records of the Province, and that those records reveal that Brother Patrick Butler, also known as Thomas Joseph Butler, has never been charged with any criminal offence.<sup>1073</sup>

Also on 18 April, Mr Mullins wrote to Brother Hill attaching a copy of the response to the Queensland Police Service. In that letter, Mr Mullins wrote:

we enclose a copy of our letter to Detective Sergeant Geoff Marsh which speaks for itself. Detective Sergeant Marsh has indicated that his querying of you would be satisfied by us writing a letter in these terms. We do not expect to hear anything further from him. We have provided a copy of this letter to Mr Michael Quinn of Gilshenan & Luton.<sup>1074</sup>

According to the documentary evidence, there was no further correspondence or inquiries between Brother Hill, Mr Mullins and the Queensland Police Service in relation to this issue.

### Queensland Police Service interim report

On 10 May 2001, Detective Sergeant Marsh wrote an interim report to the Detective Inspector of Task Force Argos regarding Brother Patrick. The report records the various steps that had been taken in the investigation to determine if there were other allegations against Brother Patrick:

#### Investigation

Inquiries with NSWPOL have established that [Patrick] BUTLER was subject to and [sic] investigation for similar indecent dealing allegations during 1998 and 1999 ... The investigation was subject to allegations by a [CNJ].

...

#### Further investigation

DSC Dixon has advised that subject to his investigation in 1999 he conducted a thorough background investigation of BUTLER. He advises that he failed to generate any associated complaints.

The Marist Brothers Provincial Brother Michael Hill ... advises that a search or [sic] their archive has failed to identify any adverse allegations with respect to brother Butler – apart from CNJ allegations.<sup>1075</sup>

## Brother Hill's evidence

Brother Hill told us that he intended to cooperate with the request for information from Task Force Argos. He said the relevant files had been sent to Mr Mullins at the time of the earlier criminal matter involving CNJ.<sup>1076</sup> However, when he was asked whether he had checked the archives and files regarding Brother Patrick at the time he responded to the police request, he said, 'As far as I can recall, yes'.<sup>1077</sup> In response to how he could have done so if the files were with Mr Mullins, in Brisbane, Brother Hill said:

A. Well, all the documentation was in Brisbane. Whether we kept copies, or whether copies had gone to Brisbane I can't recall, but I certainly reviewed the documentation.

Q. You have a memory of yourself reviewing documentation?

A. I do. I do, yes.<sup>1078</sup>

Brother Hill agreed with the proposition put to him that the complaint he was referring to in his response to the Queensland Police Service was that of CNJ.<sup>1079</sup>

When asked if his review only identified the complaint of CNJ but not any others, Brother Hill said, 'No, there is a step missing'. He went on to say:

There was a phone conversation between Geoff Marsh and myself prior to this where he was – I made him aware that there were several complaints had been received, but the [CNJ] one, if that's his name, had been subject to a police investigation, and that was the one he was interested in.

Q. Are you saying you had also indicated to him, in a separate conversation, that there were multiple complaints?

A. No, it was the same conversation.

Q. In the same conversation?

A. Yes.

Q. ... so sometime on the 10<sup>th</sup> –

A. That's correct.<sup>1080</sup>

Brother Hill said he told Detective Sergeant Marsh in that conversation that there had been several complaints received about Brother Patrick.<sup>1081</sup> He was asked whether he understood that the police also wanted to know whether Brother Patrick had been the subject of other complaints, not just other police investigations. He said:

Yes, that's – they are – there were two parts to it. As I recall, it started off with a very, very broad request, right? Any complaints. And as I say, my first conversation with Geoff Marsh was that he wanted the material only from the complaint which drew the interest of the police in terms of investigation ...<sup>1082</sup>

Brother Hill was questioned about the scope of the request and the fact that the letter from Detective Sergeant Marsh requesting the information was not limited:

Q. ... Would you agree with me that that request is not limited in any way to matters which had been the subject of police investigation?

A. True.

Q. But are you suggesting that Detective Sergeant Marsh otherwise narrowed the search?

A. Yes, during the phone conversation.

Q. What did he say to you?

A. He was – he wanted to receive the report from the case dealing – where there was a police investigation.

Q. Did you say to him that you had understood his request to go much wider than that?

A. Well, I had indicated to him that there were several complaints.

Q. But did he say he wasn't interested in those unless they were the subject of –

A. Words to that effect, yes.

Q. Did he say why?

A. No.

Q. Did you ever understand what the purpose of this whole exercise was?

A. Well, I knew that it had to do with the complaint received from the boy at Ashgrove.

Q. Did you ever appreciate that the police were interested in what is called similar fact evidence or tendency evidence that might show that the Brother had engaged in similar things in the past?

A. I'm – no, I'm not a lawyer.<sup>1083</sup>

When asked if it is possible that he misunderstood Detective Sergeant Marsh's request was limited to criminal investigations, Brother Hill said:

No, because – well, I mean, it's always possible, but my – and it's a fairly clear recollection of my discussion with Detective Sergeant Marsh by telephone, is that, first of all, he was aware that there were several complaints received, but certainly my distinct impression is that he was wanting the documentation purely for one of those complaints, which was the subject of a police – a prior police investigation; that's a fairly clear memory.<sup>1084</sup>

Brother Hill was asked again by Counsel Assisting if it is possible that he was misremembering the event and the police did not qualify their request. Brother Hill said, 'Oh no, I'm – I remember quite clearly: they did qualify their request. I'm not in error there'.<sup>1085</sup>

Brother Hill agreed with Counsel Assisting that the documentary records of the Marist Brothers did, in fact, include documents about complaints against Brother Patrick which had not been the subject of police investigation. He said he provided that information to the police verbally, but they did not request the documents.<sup>1086</sup>

## Detective Inspector Marsh's evidence

Following Brother Hill's evidence, the solicitors assisting the Royal Commission requested a statement from the Queensland Police Service. Detective Inspector Marsh provided a statement on 28 October 2016.

Detective Inspector Marsh said that his recollection of the investigation was limited, but he had reviewed his diary entries. He said that:

[On 6 April 2001] A diary note indicates that ... I made inquiries with Brother John McGuire of the Ashgrove Marist Brothers regarding the recent arrest and charging of brother Thomas Joseph Butler. I was referred to Brother Michael Hill ... A diary note indicates that I was asked to make a written request by facsimile to Brother Hill.

On 10 April 2001, a diary note indicates that I made contact by telephone in the first instance with Provincial Michael Hill, I do not recall the content of this conversation, and sent a facsimile letter requesting further intelligence ...

A diary note indicates that, on 11 April 2001, I received advice from Marist Brothers regarding a possible New South Wales investigation into Thomas Joseph Butler ...<sup>1087</sup>

Detective Inspector Marsh stated that he had no specific or independent recollection of his conversation with Brother Hill. However, he said:

I ... consider it highly unlikely that I would have narrowed the scope of my request as described by Brother Hill. The sole purpose of my investigation ... was to identify any further complainants to assist the Queensland prosecution by way of similar fact evidence. This being the case, it defies logic that I would exclude information in the manner and to the extent indicated by Brother Hill.<sup>1088</sup>

## Brother Hill's subsequent evidence

On 9 December 2016, Brother Hill gave further evidence in relation to this matter, including specifically in response to Detective Sergeant Marsh's statement. Brother Hill said he stood by his earlier evidence to the Royal Commission and did not wish to change the substance of it in 'any way, shape or form'.<sup>1089</sup> When asked if, having reflected on the matter, it was possible he may have misunderstood the request, he said, 'That's a possibility, certainly', but he said it did not explain why Detective Sergeant Marsh had not followed up with him to request further information. Brother Hill said that Detective Sergeant Marsh could have done so because he was clear that he had informed the officer of the prior complaints (not subject of a police investigation).<sup>1090</sup>

Brother Hill rejected the proposition put to him by Counsel Assisting that he was fabricating his evidence because he was embarrassed that he did not provide the information actually held by the Marist Brothers to police.<sup>1091</sup>

## Conclusion

Counsel for Brother Hill submitted that Brother Hill had a 'fairly clear' memory that, in a conversation he had with Detective Sergeant Marsh, the request was narrowed. However, Detective Sergeant Marsh had no recollection beyond the documents and his diary notes (which do not assist). Counsel submitted that Brother Hill's version of events is supported by Mr Mullins' file note dated 12 April 2001, as set out above, and Brother Hill's evidence ought to be preferred to that of Detective Sergeant Marsh.<sup>1092</sup>

We consider that there are a number of matters that render Brother Hill's version of events inherently unlikely and illogical.

First, the Written Request was sent to Brother Hill on 10 April 2001. Detective Sergeant Marsh commenced it by referring to his earlier telephone conversation with Brother Hill: 'As per our telephone conversation of even date'. Brother Hill's evidence was that the request was limited during a telephone conversation on 10 April 2001. There is no qualification recorded in the Written Request. The information requested was 'any history or circumstances which may suggest that the brother has acted in any inappropriate manner with any child during his extensive teaching career'. We consider it is unlikely that the qualification was made in an *earlier* telephone conversation. There is no documentary evidence of a telephone conversation occurring on 10 April 2001 after the Written Request was sent.

Second, Mr Mullins' file note of 11 April records an unqualified request. In it, he says that the request that Brother Hill relayed to him was for 'any documents they [the Marist Brothers] have which would point to Brother Patrick being involved in any inappropriate behaviour with children'. The terms of the request as recorded by Mr Mullins are generally consistent with Written Request. The conversation between Mr Mullins and Brother Hill was on 11 April, which was *after* Brother Hill said the request had been narrowed. Brother Hill also agreed that the description of the detective's request in Mr Mullins' file note of their conversation 11 April 2001 was consistent with the request being unconfined. When asked if he could see any reason why Mr Mullins would describe the request in an unconfined way on 11 April 2001, when the detective had confined the request by telephone to Brother Hill on 10 April 2001, he said he conveyed to Mr Mullins the qualification to the request. He accepted the qualification was not recorded in the file note. Again, we consider it is unlikely that a qualification was made and conveyed to Mr Mullins by Brother Hill in their conversation but an unqualified request was recorded by Mr Mullins.

When Brother Hill responded to Detective Sergeant Marsh on 11 April, he said he had 'checked the archives and files' and had found 'a note' indicating that Brother Patrick was the subject of 'a complaint' to Brother Turton in 1993. While he did not name the complainant in the letter, in his evidence to us he said he was referring to CNJ. There is no reference in Brother Hill's letter to the scope of the request by the Queensland Police Service, although the letter does refer to the fact that CNJ's complaint was investigated by police. Even so, we consider that the contents of Brother Hill's letter are more consistent with the request from police having extended to all complaints, not just police investigations. The way that Brother Hill expressed his response conveys the impression that he had checked the files and the *only* complaint he had discovered in that process was the CNJ complaint.

Third, the Queensland Police Service interim report prepared by Detective Sergeant Marsh records that Marist Brothers had failed to identify 'any adverse allegations' against Brother Patrick, apart from the CNJ allegations. It is not limited to police investigations and it does not record that Brother Hill informed Detective Sergeant Marsh that there were several adverse allegations against Brother Patrick. It is obvious that the police did not appreciate that the information that the Marist Brothers provided to them was limited either to matters the subject of a police investigation or matters in respect of which Brother Patrick had been charged.

We do not think that the evidence of the communications between Mr Mullins and the Queensland Police Service assists Brother Hill. Even if the file note is treated as indicating that Detective Sergeant Marsh and Mr Mullins discussed a narrower request, the timing of that conversation means that this provides little assistance in seeking to understand the scope of the earlier request that Detective Sergeant Marsh made to Brother Hill. The conversation between Detective Sergeant Marsh and Mr Mullins occurred after Brother Hill's response, which had only disclosed one complaint and referred the police to Mr Mullins in respect of that particular matter. Brother Hill's response is likely to have affected the scope of the inquiries that Detective Sergeant Marsh made of Mr Mullins.

Fourth, there is no logical reason why the Queensland Police Service would be asking Brother Hill to inform them of the investigations carried out by another police force. The best way to get that information was for the Queensland Police Service to request it from NSW Police. We accept the evidence of Detective Sergeant Marsh that it is 'highly unlikely' that he would have narrowed his request. His enquiry of the Marist Brothers was quite plainly for a different purpose than any enquiry he made of NSW Police. His enquiry of the Marist Brothers was wide-ranging request and its objective, as evidenced by Detective Sergeant Marsh's May 2001 report and his statement to the Royal Commission, was to elicit similar fact evidence in relation to Brother Patrick's past conduct. That evidence did not include only matters that had previously been investigated by police.

We reject Brother Hill's evidence that Task Force Argos narrowed or qualified their request for information from the Marist Brothers to only those complaints which were the subject of a police investigation. His evidence is illogical. It is inconsistent with the documents recording the request made to Brother Hill and the logical aim of the enquiry.

We reject Brother Hill's evidence that he informed Detective Sergeant Marsh verbally of the other complaints documented on Brother Patrick's file. That evidence is inconsistent with the contemporaneous documentary records.

We are satisfied that Brother Hill's fax to Detective Sergeant Marsh on 11 April 2001 was not responsive to the request by Task Force Argos. Brother Hill said he had had checked the archives and that Brother Patrick was 'the subject of a complaint brought to the attention of my predecessor in 1993' and that 'the police made further investigations'. Brother Hill failed to disclose the prior complaints by CQY, CQZ, CNK or the two boys at Ashgrove, which were documented on Brother Patrick's file.

We also find that, even if Brother Hill understood that the request been limited to complaints that had been the subject of police investigation, his response was deficient. He did not refer to the fact that there had been two separate complaints to police: one by CNJ in 1998 and another by CNK in 1993, which were recorded in the Marist Brothers' files.



## 17 Deficiencies in Information Management

During the period that Brother Turton and Brother Hill served as Provincials, where complaints about a Brother were made, they were (on occasions) not documented adequately or at all. Examples include the following:

- There is no contemporaneous record of the requirement purportedly imposed in 1992 that Brother Patrick be subject to special supervision.
- The records of the Provincial Council in 1996 record inaccurately the reasons for the revocation of Brother Dominic's appointment to Hamilton.
- There is no record of Brother Hill's conclusion in 1997 that Brother Dominic not have unsupervised access to children.
- In December 2012, the (then) Provincial Brother Jeffrey Crowe wrote to Bishop Wright and said that the Marist Brothers were unaware of claims of sexual abuse perpetrated by Cable 'until two weeks ago'.<sup>1093</sup> As acknowledged by Brother Carroll, that was incorrect. References to sexual misconduct by Cable were also brought to the attention of the Marist Brothers in the 1990s.<sup>1094</sup> Brother Carroll accepted that the inaccuracy was a reflection of the fact that complaints had been made but not documented.<sup>1095</sup>

There was no adequate handover process between Brother Turton and Brother Hill when the former ceased as Provincial and the latter took over. This compounded the poor state of information in the records relating to complaints against Brother Dominic and Brother Patrick. It is not unreasonable to expect this level of detail about matters of this significance in a handover of leadership of the Order.

These deficiencies in recordkeeping and the absence of any handover process impeded the Marist Brothers in responding adequately and appropriately to complaints of child sexual abuse and put other children at risk.

# 18 Recent Developments and Initiatives

## 18.1 Brother Carroll's apology

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Brother Carroll is the current Provincial of the Marist Brothers in Australia.

At the conclusion of the public hearing, Brother Carroll delivered an apology to those who have been affected by sexual and physical abuse by the Marist Brothers. He said:

We cannot deny the unpalatable truths that have been revealed about the Marist Brothers' responses to child sexual abuse; vulnerable young people were sexually abused by Brothers, criminal activity took place, our response was entirely inadequate, the serious effects of sexual abuse were unrecognised, leaders failed to take strong, decisive action, victims were offended against again by means of aggressive legal processes. Our responses were naive, uninformed, even callous at times.

I know that this Case Study has revealed similar patterns – failures, inadequacies and ignorance.

My predecessor in his statements at both previous case studies has expressed our collective remorse and apology. I reiterate that today. What happened in the past should not have occurred. Children should not have been abused by those into whose trust they were willingly placed. Our response to victims and their families should have been immediate, compassionate and authentic.

As a Religious Order we have failed to protect the young people for whom we were founded and for whom many thousands of men have dedicated their lives. Those who have offended against young people have betrayed the trust placed in them by children and their parents, and by their own fellow Brothers.

Our commitment today is what it should have been in the past: full cooperation with authorities, thorough, professional and effective processes and protocols to protect children and ensure their safety, compassionate responses to victims. We ask forgiveness for ourselves in our failures and we hope for healing for the victims of past crimes.<sup>1096</sup>

Brother Carroll was visibly moved by the numerous survivors who gave evidence during the public hearing. Brother Carroll was right to acknowledge the past failings of the Marist Brothers, and his apology on behalf of the Order was appropriate.

## 18.2 Research project

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Brother Carroll told us that the Marist Brothers are currently involved in a research project that will attempt to identify why Brothers have offended. The research outcomes are stated to be:

- to understand the profile of Brothers who sexually abuse children and young people
- to investigate the impact of historical formation processes on the psycho-sexual development of Brothers
- to interrogate the culture within Marist Brothers institutions that allowed the extent of abuse during the 1960s and 1970s to occur
- to interrogate the culture within the Religious Institute of the Marist Brothers that allowed the extent of the abuse to occur
- to identify other societal and wider Church factors, if any, that may have contributed to child sexual abuse within Marist Brothers institutions.<sup>1097</sup>

At the time of the public hearing, the research was ongoing.

## 19 Systemic Issues

The systemic issues arising in Case Study 43 in relation to the Diocese of Maitland–Newcastle are:

- knowledge of senior Church personnel of allegations of sexual abuse of children by priests
- movement and treatment of priests accused of child sexual abuse
- the need to have and apply policies and procedures for handling complaints of child sexual abuse
- laicisation of priests following conviction
- recordkeeping
- the role and effectiveness of the Diocese of Maitland–Newcastle’s independent redress scheme, Zimmerman Services

The systemic issues arising in Case Study 43 in relation to the Marist Brothers are:

- the prevalence of physical violence, sexual abuse and the physical and spiritual intimidation of children by Marist Brothers at Marist Brothers schools
- knowledge of senior Marist Brothers of allegations of sexual abuse of children by Marist Brothers
- movement, treatment and supervision of Marist Brothers accused of child sexual abuse
- the need to have and apply policies and procedures for handling complaints of child sexual abuse
- the importance of recordkeeping, information sharing and management
- reporting allegations of child sexual abuse to child protection authorities and the police.

# Appendix A: Terms of Reference

## Letters Patent dated 11 January 2013

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 Council 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 11th January 2013  
 Governor-General  
 By Her Excellency's Command  
 Prime Minister

## Letters Patent dated 13 November 2014

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 We, by Our Letters Patent issued in Our name by Our Governor-General of the Commonwealth of Australia, appointed you to be a Commission of inquiry, required and authorised you to inquire into certain matters, and required you to submit to Our Governor-General a report of the results of your inquiry, and your recommendations, not later than 31 December 2015.

AND it is desired to amend Our Letters Patent to require you to submit to Our Governor-General a report of the results of your inquiry, and your recommendations, not later than 15 December 2017.

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 Council and under the Constitution of the Commonwealth of Australia, the *Royal Commissions Act 1902* and every other enabling power, amend the Letters Patent issued to you by omitting from subparagraph (p)(i) of the Letters Patent “31 December 2015” and substituting “15 December 2017”.

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

WITNESS General the Honourable Sir Peter Cosgrove AK MC (Ret'd),  
Governor-General of the Commonwealth of Australia.

Dated 13th November 2014  
Governor-General  
By His Excellency's Command  
Prime Minister

## Appendix B: Public Hearing

<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) Mr Bob Atkinson AO APM Mr Andrew Murray
<b>Date of hearing</b>	31 August – 8 September 2016 9 December 2016
<b>Legislation</b>	<i>Royal Commissions Act 1902</i> (Cth) <i>Royal Commissions Act 1923</i> (NSW) <i>Commissions of Inquiry Act 1950</i> (Qld)
<b>Leave to appear</b>	<p><b>S Free</b> Counsel Assisting the Royal Commission</p> <p><b>Bishop Emeritus Michael Malone</b> Simon Harben SC instructed by Matthew Gerathy, Makinson d’Apice Lawyers</p> <p><b>CNG</b> Terrence M Healey instructed by Nicholas Dan, Bilbie Dan Solicitors</p> <p><b>Brother Christopher Wade</b> Grant Brady SC with Sarah Talbert, instructed by Justin Wong and Mikaela Eldridge Streeton Lawyers</p> <p><b>State of New South Wales</b> Sarah Pritchard SC with Ann Bonnor, instructed by Naomi Malhotra and Jamie McLachlan, Crown Solicitor’s Office</p> <p><b>Truth, Justice and Healing Council, Diocese of Maitland– Newcastle and the Marist Brothers</b> Jane Needham SC with Amy Munro, instructed by Kate Harrison, Gilbert + Tobin Lawyers</p> <p><b>Brother Alexis Keith Turton</b> Peter Skinner, instructed by Martin Slattery, Carroll &amp; O’Dea Lawyers</p>

<b>Leave to appear</b>	<p><b>Brother Michael Anthony Hill</b> Peter Skinner, instructed by Martin Slattery, Carroll &amp; O’Dea Lawyers</p> <p><b>Maureen O’Hearn</b> Lizzie McLaughlin, instructed by Belinda Epstein, Catherine Henry Partners</p> <p><b>CNS</b> Dr Martine Marich and Saige Exner Dr Martine Marich &amp; Co Solicitors</p> <p><b>CQW</b> Pauline David, instructed by Charles Abbott, Watsons Solicitors</p> <p><b>Father William Burston</b> Simon McMahon, instructed by Greg Wilson, Wilson &amp; Co Lawyers</p> <p><b>Brother Dominic Darcy O’Sullivan</b> Greg Walsh, Greg Walsh &amp; Co Solicitors</p> <p><b>Christopher Hallinan</b> Joanne Gallagher</p> <p><b>Scott Hallett</b> Colin Heazlewood</p> <p><b>CNA</b> Terrence M Healey, instructed by Nicholas Dan, Bilbie Dan Solicitors</p> <p><b>CNQ</b> John Ellis, Ellis Legal</p> <p><b>CNE</b> John Ellis, Ellis Legal</p> <p><b>CNR</b> John Ellis, Ellis Legal</p> <p><b>CNV</b> John Ellis, Ellis Legal</p> <p><b>CQT</b> John Ellis, Ellis Legal</p> <p><b>CNR</b> John Ellis, Ellis Legal</p> <p><b>Michael Balk</b> John Ellis, Ellis Legal</p>
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<b>Leave to appear</b>	<p><b>Audrey Nash</b> John Ellis, Ellis Legal</p> <p><b>Dr Peter Evans</b> Benjamin Bickford, instructed by James Janke, Burke &amp; Mead Lawyers</p> <p><b>Father Lewis Fenton</b> Benjamin Bickford, instructed by David Jones Carroll &amp; O’Dea Lawyers</p> <p><b>CQP</b> Colin Heazlewood</p> <p><b>Gerard McDonald</b> Colin Heazlewood</p>
<b>Pages of transcript</b>	758
<b>Notice to Produce issued under <i>Royal Commissions Act 1923 (NSW)</i> and <i>Commissions of Inquiry Act 1950 (Qld)</i></b>	20
<b>Documents produced</b>	73,252
<b>Summons to attend issued under <i>Royal Commissions Act 1923 (NSW)</i> and <i>Royal Commissions Act 1902 (Cth)</i></b>	24
<b>Number of exhibits</b>	45
<b>Witnesses</b>	<p><b>Gerard McDonald</b>, survivor</p> <p><b>CNA</b>, mother of survivor</p> <p><b>Sister Margaret-Ann Geatches</b>, former principal of St Joseph’s Merewether and Sister of St Joseph’s of Lochinvar</p> <p><b>Sister Evelyn Woodward</b>, former leader of the Sisters of St Joseph’s of Lochinvar</p> <p><b>CNE</b>, survivor</p> <p><b>Christopher Hallinan</b>, former teacher at St Joseph’s Merewether</p> <p><b>Bishop Emeritus Michael Malone</b>, former Bishop of the Diocese of Maitland–Newcastle</p> <p><b>Dr Peter Evans</b>, psychiatrist</p>

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<b>Witnesses</b>	<p><b>Maureen O’Hearn</b>, Healing &amp; Support Coordinator, Zimmerman Services</p> <p><b>Bishop William Wright</b>, Bishop of the Diocese of Maitland–Newcastle</p> <p><b>CNG</b>, survivor</p> <p><b>CQW</b>, survivor</p> <p><b>CNY</b>, survivor</p> <p><b>Scott Hallett</b>, survivor</p> <p><b>CNS</b>, survivor</p> <p><b>CQT</b>, survivor</p> <p><b>Audrey Nash</b>, mother of survivor</p> <p><b>CNQ</b>, survivor</p> <p><b>Father William Burston</b>, priest and former Vicar General of the Diocese of Maitland–Newcastle</p> <p><b>Brother Alexis Keith Turton</b>, former Provincial of the Sydney Province of the Marist Brothers</p> <p><b>Brother Michael Anthony Hill</b>, former Provincial of the Sydney Province of the Marist Brothers</p> <p><b>Brother Christopher William Wade</b>, former principal, Marist Brothers Hamilton</p> <p><b>Brother Peter Carroll</b>, current Provincial of the Australian Province of the Marist Brothers</p> <p><b>CQP</b>, survivor</p> <p><b>CNV</b>, survivor</p>
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# Appendix C: Royal Commission Data Survey

The Royal Commission conducted a comprehensive data survey of all Catholic Church authorities in Australia, including the Diocese of Maitland–Newcastle and the Marist Brothers. The data survey sought all claims and substantiated complaints received during the period 1 January 1980 to 28 February 2015.<sup>1098</sup>

## The Diocese

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The data relates to claims and substantiated complaints received by the Diocese against personnel (including clergy, religious and lay people) operating within the Diocese at the time of the alleged child sexual abuse.

The data survey sought all claims and substantiated complaints that the Diocese received between 1 January 1980 and 28 February 2015.

During that period, the Diocese received a claim or substantiated complaint from 158 persons.<sup>1099</sup>

Where reported, the gender of claimants was 75 per cent male and 25 per cent female.<sup>1100</sup>

Where reported, the average age of the claimants at the time of the alleged child sexual abuse was 10 years for girls and 11 years for boys. Sixty-two per cent were under the age of 13 years at the time of the alleged child sexual abuse and 38 per cent were between 13 and 18 years old.<sup>1101</sup>

Eighty-one per cent of claims were in relation to incidents alleged to have occurred between 1970 and 1989.<sup>1102</sup>

Claims or substantiated complaints were received in relation to 31 people, with an average of five per accused. Twenty-eight accused were male, two were female and in one case the gender was unknown.<sup>1103</sup>

Fifty-eight per cent of those accused were priests (83 per cent of claims), 6 per cent of those accused were members of a religious order (1 per cent of claims) and 35 per cent were lay persons (16 per cent of claims).<sup>1104</sup>

Three accused priests were the subject of more than 10 claims or substantiated complaints. Those priests are John Sidney Denham, Denis McAlinden and Father Vincent Gerard Ryan. Together, the claims against those three priests account for 68 per cent of all claims that the Diocese has received.<sup>1105</sup>

One hundred and thirty four claims of child sexual abuse – that is, 85 per cent of all claims of child sexual abuse that the Diocese has received – have resulted in a monetary compensation payment (including civil proceedings).<sup>1106</sup>

The total amount of compensation that the Diocese has paid in relation to claims of child sexual abuse was \$25.7 million, with an average payment per claim of \$192,000. When taking into consideration treatment, legal and other costs, a total of \$26.6 million was paid, with an average payment per claim of \$198,000. In relation to treatment costs, 67 claims included payment for treatment costs, amounting to a total of \$166,000, with an average payment per claim of \$2,500.<sup>1107</sup>

The Church parties submitted that, as at 9 August 2016, the total amount that the Diocese had paid had increased to more than \$26.8 million in 141 individual payments for compensation to 133 claimants. When taking into account treatment and other costs (excluding legal costs), the Diocese had paid a total of \$27.4 million.<sup>1108</sup>

## Data in relation to Father Ryan

The data reported that 13 people made a claim or substantiated complaint of child sexual abuse against Father Ryan.<sup>1109</sup>

To the extent that the gender of the claimants was identifiable on the data, all claimants were male. Where known, the average age of the boys at the time of the alleged sexual abuse was 10 years and all were under the age of 13.<sup>1110</sup>

Twelve of the 13 claims or substantiated complaints were in relation to incidents of child sexual abuse alleged to have occurred in the 1970s.<sup>1111</sup>

## Marist Brothers

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The data produced to the Royal Commission revealed that 32 people made either a claim or substantiated complaint of child sexual abuse against one or more Marist Brothers in relation to a Marist Brothers Maitland or Hamilton high school.<sup>1112</sup> Nine people identified more than one accused, and 20 Marist Brothers were identified in total.<sup>1113</sup>

Ninety-one per cent of people who made a claim or substantiated complaint reported incidents alleged to have occurred between 1950 and 1989 (inclusive).<sup>1114</sup> The decade with the highest number of alleged incidents of child sexual abuse that were the subject of a claim or substantiated complaint was the 1970s, with 12 claims, or 36 per cent of the total claims, relating to this decade.



Where the gender was reported, all claimants were male. The average age of the boys at the time of the alleged sexual abuse (where reported) was 12 years old. Sixty per cent of the males were under the age of 13 years at the time of the alleged child sexual abuse, and 40 per cent were between 13 and 18 years old.<sup>1115</sup>

Sixteen claims or substantiated complaints of child sexual abuse against the Marist Brothers in relation to a Marist Brothers Maitland or Hamilton high school resulted in monetary compensation. One was initiated through civil proceedings and resulted in a monetary compensation payment of \$55,000.<sup>1116</sup> Eleven claims went through Towards Healing, of which nine resulted in monetary compensation, with an average of \$76,000 per claimant (including legal and other costs).

Of those claims that went through an ‘other redress process’, being some form of negotiation with the Church authority by the claimant or their solicitor and/or advocate, six resulted in a monetary compensation payment. When taking into consideration treatment, legal and other costs, these six claims resulted in an average payment of \$162,000 per claimant. Of the remaining claims received through ‘other redress’, eight claimants have received treatments costs, with an average payment per claim of \$3,600.<sup>1117</sup>

## Data in relation to Cable

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The data produced to the Royal Commission revealed that 12 people made a claim of child sexual abuse against Cable.<sup>1118</sup> Ten of those claims related to Marist Brothers Maitland or Marist Brothers Hamilton and involved alleged incidents of abuse that occurred between 1959 and 1974 (inclusive). Where age was reported, the average age of claimants at the time of the alleged abuse was 13 years.<sup>1119</sup>

Brother Carroll gave evidence about further claims made since the data was reported to the Royal Commission,<sup>1120</sup> which brought the total claims received since 1993 to 21.<sup>1121</sup>

## Data in relation to Brother Dominic

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The data produced to the Royal Commission reported that four people made a claim of child sexual abuse against Brother Dominic for alleged incidents of abuse that occurred between 1969 and 1977 (inclusive). All claims related to Marist Brothers Hamilton. The average age of complainants at the time of the alleged child sexual abuse was 14 years.<sup>1122</sup>

Brother Carroll told us that further claims had been made since the data was reported to the Royal Commission, bringing the total claims received since 1996 in relation to Brother Dominic to nine.<sup>1123</sup>

## Data in relation to Brother Patrick

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The data produced to the Royal Commission reported that 11 people made a claim of child sexual abuse against Brother Patrick for alleged incidents of child sexual abuse. Four of those claims related to Marist Brothers Hamilton and involved alleged incidents of abuse that occurred between 1971 and 1977 (inclusive).<sup>1124</sup> The average age of complainants at the time of the alleged child sexual abuse was 11 years.<sup>1125</sup>

Brother Carroll's evidence was that further claims had been made since the data was reported to the Royal Commission, bringing the total claims received since 2001 to 18.<sup>1126</sup>

# Endnotes

- 1 Exhibit 43-0008, ‘Statement of Bishop Emeritus Malone’, Case Study 43, STAT.1144.001.0001\_R at [7].
- 2 Catholic Diocese of Maitland–Newcastle, [www.mn.catholic.org.au](http://www.mn.catholic.org.au) (viewed 1 July 2016).
- 3 Exhibit 43-0012, ‘Statement of Bishop Wright’, Case Study 43, STAT.1159.001.0001\_R at [29].
- 4 Exhibit 43-0005, Case Study 43, CTJH.210.01025.0297\_R.
- 5 Exhibit 43-0005, Case Study 43, CCI.0228.00005.0082\_R.
- 6 Exhibit 43-0005, Case Study 43, CCI.0228.00005.0369\_R.
- 7 Exhibit 43-0005, Case Study 43, CCI.0049.00009.0359\_R.
- 8 Exhibit 43-0005, Case Study 43, NSW.2094.001.0001.0087\_R.
- 9 Exhibit 43-0005, Case Study 43, CTJH.210.01162.0162\_R.
- 10 Exhibit 43-0005, Case Study 43, CCI.0228.00005.0456\_R.
- 11 Exhibit 43-0012, ‘Statement of Bishop Wright’, Case Study 43, STAT.1159.001.0001\_R at [16].
- 12 Exhibit 43-0005, Case Study 43, IND.0491.001.0043\_R.
- 13 Exhibit 43-0005, Case Study 43, CTJH.210.01025.1379\_R.
- 14 Exhibit 43-0012, ‘Statement of Bishop Wright’, Case Study 43, STAT.1159.001.0001\_R at [11].
- 15 Exhibit 43-0012, ‘Statement of Bishop Wright’, Case Study 43, STAT.1159.001.0001\_R at [25].
- 16 Transcript of E Woodward, Case Study 43, 1 September 2016 at T17679:22–T17680:1.
- 17 Transcript of E Woodward, Case Study 43, 1 September 2016 at T17681:14–20.
- 18 Exhibit 43-0005, Case Study 43, CCI.0228.00005.0387\_R.
- 19 Exhibit 43-0005, Case Study 43, CCI.0228.00005.0387\_R at 0389\_R.
- 20 Exhibit 43-0005, Case Study 43, CCI.0228.00005.0387\_R at 0389\_R.
- 21 Submissions of the Truth, Justice and Healing Council in response to Submissions of Counsel Assisting in Case Study 43, SUBM.1043.002.0001 at [4].
- 22 Exhibit 43-0005, Case Study 43, CCI.0228.00005.0343\_R.
- 23 Transcript of E Woodward, Case Study 43, 1 September 2016 at T17680:19–33.
- 24 Exhibit 43-0012, ‘Statement of Bishop Wright’, Case Study 43, STAT.1159.001.0001\_R at [28].
- 25 Exhibit 43-0002, ‘Statement of CNA’, Case Study 43, STAT.1145.001.0001\_R at [6].
- 26 Exhibit 43-0002, ‘Statement of CNA’, Case Study 43, STAT.1145.001.0001\_R at [7]–[8].
- 27 Exhibit 43-0002, ‘Statement of CNA’, Case Study 43, STAT.1145.001.0001\_R at [11].
- 28 Exhibit 43-0002, ‘Statement of CNA’, Case Study 43, STAT.1145.001.0001\_R at [14]–[15].
- 29 Exhibit 43-0002, ‘Statement of CNA’, Case Study 43, STAT.1145.001.0001\_R at [16].
- 30 Exhibit 43-0002, ‘Statement of CNA’, Case Study 43, STAT.1145.001.0001\_R at [17].
- 31 Exhibit 43-0002, ‘Statement of CNA’, Case Study 43, STAT.1145.001.0001\_R at [17].
- 32 Exhibit 43-0005, Case Study 43, CTJH.210.01025.0297\_R at 0313–0314.
- 33 Exhibit 43-0005, Case Study 43, CCI.0228.00005.0369\_R at 0375–0376.
- 34 Exhibit 43-0005, Case Study 43, CCI.0228.00005.0369\_R at 0384.
- 35 Exhibit 43-0005, Case Study 43, CCI.0228.00005.0082\_R at 0082–0083.
- 36 Exhibit 43-0005, Case Study 43, CCI.0049.00009.0359 at 0362.
- 37 Exhibit 43-0005, Case Study 43, CTJH.210.01025.0823\_E\_R.
- 38 Exhibit 43-0005, Case Study 43, CTJH.210.01102.0035\_R.
- 39 Exhibit 43-0005, Case Study 43, CTJH.210.01025.2675\_R (emphasis added).
- 40 Exhibit 43-0012, ‘Statement of Bishop Wright’, Case Study 43, STAT.1159.001.0001\_R at [11].
- 41 Exhibit 43-0001, ‘Statement of Gerard McDonald’, Case Study 43, STAT.1168.001.0001 at [9]–[25].
- 42 Exhibit 43-0025, ‘Statement of Scott Hallett’, Case Study 43, STAT.1176.001.0001 at [7]–[18].
- 43 Exhibit 43-0025, ‘Statement of Scott Hallett’, Case Study 43, STAT.1176.001.0001 at [46]–[59];  
Exhibit 43-0001, ‘Statement of Gerard McDonald’, Case Study 43, STAT.1168.001.0001 at [55]–[70].
- 44 Exhibit 43-0005, Case Study 43, CTJH.210.01025.0523\_R; Exhibit 43-0005, Case Study 43,  
CTJH.210.01025.0322\_R; Exhibit 43-0005, Case Study 43, CTJH.210.01025.0338\_R.
- 45 Exhibit 43-0001, ‘Statement of Gerard McDonald’, Case Study 43, STAT.1168.001.0001 at [26]–[28].  
See also Exhibit 43-0005, Case Study 43, CTJH.210.01025.0567\_R; Exhibit 43-0005, Case Study 43,  
CTJH.210.01025.0514\_R.
- 46 Exhibit 43-0005, Case Study 43, CTJH.210.01025.0567\_R at 0568–0569.
- 47 Transcript of M Geatches, Case Study 43, 31 August 2016 at T17612:9–14; Exhibit 43-0003,  
‘Statement of Sister Geatches’, Case Study 43, STAT.1161.001.0001\_R at [14]–[15].

48 Exhibit 43-0003, 'Statement of Sister Geatches', Case Study 43, STAT.1161.001.0001\_R at [16].  
49 Transcript of M Geatches, Case Study 43, 31 August 2016 at T17613:5–33.  
50 Transcript of M Geatches, Case Study 43, 31 August 2016 at T17613:37–40.  
51 Transcript of M Geatches, Case Study 43, 31 August 2016 at T17613:45–T17614:8.  
52 Transcript of M Geatches, Case Study 43, 31 August 2016 at T17614:10–17.  
53 Transcript of M Geatches, Case Study 43, 31 August 2016 at T17616:45–47.  
54 Transcript of M Geatches, Case Study 43, 31 August 2016 at T17614:19–24.  
55 Exhibit 43-0005, Case Study 43, CTJH.210.01025.0491\_R at 0492.  
56 Exhibit 43-0005, Case Study 43, CCI.0228.00005.0419\_R at 0424.  
57 Transcript of M Geatches, Case Study 43, 31 August 2016 at T17614:20–24.  
58 Transcript of M Geatches, Case Study 43, 31 August 2016 at T17618:34–36.  
59 Exhibit 43-0003, 'Statement of Sister Geatches', Case Study 43, STAT.1161.001.0001\_R at [17].  
60 Transcript of M Geatches, Case Study 43, 31 August 2016 at T17615:23–26.  
61 Transcript of M Geatches, Case Study 43, 31 August 2016 at T17617:40–43.  
62 Transcript of M Geatches, Case Study 43, 31 August 2016 at T17617:19–38; Exhibit 43-0003,  
'Statement of Sister Geatches', Case Study 43, STAT.1161.001.0001\_R at [24].  
63 Transcript of M Geatches, Case Study 43, 31 August 2016 at T17615:28–37.  
64 Transcript of M Geatches, Case Study 43, 31 August 2016 at T17617:7–13.  
65 Exhibit 43-0007, 'Statement of Chris Hallinan', Case Study 43, STAT.1130.001.0001\_R at [10].  
66 Transcript of C Hallinan, Case Study 43, 1 September 2016 at T17718:10–12.  
67 Exhibit 43-0007, 'Statement of Chris Hallinan', Case Study 43, STAT.1130.001.0001\_R at [19].  
68 Transcript of M Geatches, Case Study 43, 31 August 2016 at T17619:19–24.  
69 Transcript of M Geatches, Case Study 43, 31 August 2016 at T17628:6–11.  
70 Transcript of M Geatches, Case Study 43, 31 August 2016 at T17628:44–46.  
71 Transcript of M Geatches, Case Study 43, 31 August 2016 at T17619:35–36.  
72 Transcript of M Geatches, Case Study 43, 31 August 2016 at T17627:9–14.  
73 Transcript of M Geatches, Case Study 43, 31 August 2016 at T17629:32–T17630:1.  
74 Transcript of M Geatches, Case Study 43, 31 August 2016 at T17637:41–43.  
75 Exhibit 43-0005, Case Study 43, CTJH.210.01025.0491\_R at 0493\_R.  
76 Transcript of C Hallinan, Case Study 43, 1 September 2016 at T17716:5–10, 30–37, T17717:2–5.  
77 Transcript of C Hallinan, Case Study 43, 1 September 2016 at T17717:10–21.  
78 Transcript of C Hallinan, Case Study 43, 1 September 2016 at T17714:36–T17715:5, T17715:25–32.  
79 Exhibit 43-0005, Case Study 43, CTJH.210.01025.0345.  
80 Exhibit 43-0001, 'Statement of Gerard McDonald', Case Study 43, STAT.1168.001.0001 at [32]–[33].  
81 Transcript of G McDonald, Case Study 43, 31 August 2016 at T17604:10–16.  
82 Transcript of M Geatches, Case Study 43, 31 August 2016 at T17615:11–21, T17638:19–20.  
83 Transcript of C Hallinan, Case Study 43, 1 September 2016 at T17711:40–43.  
84 Transcript of C Hallinan, Case Study 43, 1 September 2016 at T17713:27–37.  
85 Exhibit 43-0001, 'Statement of Gerard McDonald', Case Study 43, STAT.1168.001.0001 at [26]–[29].  
See also Exhibit 43-0005, Case Study 43, CTJH.210.01025.0567\_R; Exhibit 43-0005, Case Study 43,  
CTJH.210.01025.0514\_R.  
86 Exhibit 43-0001, 'Statement of Gerard McDonald', Case Study 43, STAT.1168.001.0001 at [26]–[31].  
The other boy and his mother also made statements to police to the effect that they visited the  
McDonalds that evening and the boys disclosed abuse by Father Ryan: Exhibit 43-0005,  
Case Study 43, CTJH.210.01025.0523\_R; Exhibit 43-0005, Case Study 43, CTJH.210.01025.0531.  
87 Exhibit 43-0005, Case Study 43, CTJH.210.01025.0535 at 0539.  
88 Exhibit 43-0005, Case Study 43, CTJH.210.01025.0531\_R at 0533.  
89 Exhibit 43-0005, Case Study 43, CTJH.210.01025.0535 at 0539.  
90 Transcript of M Geatches, Case Study 43, 31 August 2016 at T17618:14–22.  
91 Transcript of E Woodward, Case Study 43, 31 August 2016 at T17648:16–39.  
92 Transcript of E Woodward, Case Study 43, 31 August 2016 at T17648:44–T17649:1.  
93 Transcript of E Woodward, Case Study 43, 31 August 2016 at T17648:44–T17649:10.  
94 Exhibit 43-0005, Case Study 43, CCI.0228.00005.0387\_R at 0387–0388.

- 95 Transcript of E Woodward, Case Study 43, 31 August 2016 at T17651:25–T17652:7.
- 96 Exhibit 43-0004, ‘Statement of Sister Woodward’, Case Study 43, STAT.1160.001.0001\_R at [17].
- 97 Exhibit 43-0003, ‘Statement of Sister Geatches’, Case Study 43, STAT.1161.001.0001\_R at [36].
- 98 Submissions of the Truth, Justice and Healing Council in response to Submissions of Counsel Assisting, Case Study 43, SUBM.1043.002.0001 at [36]–[39].
- 99 Submissions of the Truth, Justice and Healing Council in response to Submissions of Counsel Assisting, Case Study 43, SUBM.1043.002.0001 at [40].
- 100 Transcript of E Woodward, Case Study 43, 31 August 2016 at T17649:39–T17650:1.
- 101 Transcript of M Geatches, Case Study 43, 31 August 2016 at T17617:45–T17618:5;  
Exhibit 43-0003, ‘Statement of Sister Geatches’, Case Study 43, STAT.1161.001.0001\_R at [24];  
Transcript of E Woodward, Case Study 43, 31 August 2016 at T17650:22–44;  
Exhibit 43-0004, ‘Statement of Sister Woodward’, Case Study 43, STAT.1160.001.0001\_R at [18].
- 102 Transcript of E Woodward, Case Study 43, 31 August 2016 at T17651:25–T17652:7.
- 103 Transcript of E Woodward, Case Study 43, 31 August 2016 at T17652:34–T17653:8.
- 104 Transcript of E Woodward, Case Study 43, 31 August 2016 at T17652:22–25.
- 105 Transcript of E Woodward, Case Study 43, 31 August 2016 at T17651:2–3.
- 106 Exhibit 43-0004, ‘Statement of Sister Woodward’, Case Study 43, STAT.1160.001.0001\_R at [20].
- 107 Exhibit 43-0004, ‘Statement of Sister Woodward’, Case Study 43, STAT.1160.001.0001\_R at [21]–[22].
- 108 Exhibit 43-0005, Case Study 43, CCI.0228.00005.0369\_R at 0375.
- 109 Exhibit 43-0005, Case Study 43, CCI.0228.00005.0369\_R at 0377.
- 110 Exhibit 43-0005, Case Study 43, CCI.0228.00005.0369\_R at 0383–0384.
- 111 Exhibit 43-0005, Case Study 43, CCI.0228.00005.0369\_R at 0377–0378.
- 112 Exhibit 43-0005, Case Study 43, CCI.0228.00005.0369\_R at 0378.
- 113 Exhibit 43-0005, Case Study 43, CCI.0228.00005.0369\_R at 0383.
- 114 Exhibit 43-0005, Case Study 43, CCI.0228.00005.0082\_R at 0083–0084.
- 115 Exhibit 43-0005, Case Study 43, CCI.0049.00009.0359 at 0361–0362.
- 116 Exhibit 43-0005, Case Study 43, CCI.0049.00009.0359 at 0365–0366.
- 117 Exhibit 43-0005, Case Study 43, CCI.0049.00009.0359 at 0363.
- 118 Exhibit 43-0005, Case Study 43, CCI.0049.00009.0359 at 0363.
- 119 Exhibit 43-0005, Case Study 43, CCI.0049.00009.0359 at 0364–0365.
- 120 Exhibit 43-0004, ‘Statement of Sister Woodward’, Case Study 43, STAT.1160.001.0001\_R at [21]–[23].
- 121 Exhibit 43-0005, Case Study 43, CTJH.210.01025.0192\_R\_E at 0202.
- 122 Exhibit 43-0005, Case Study 43, CCI.0228.00004.0026\_R at 0027–0028.
- 123 Exhibit 43-0005, Case Study 43, CTJH.210.01025.0035\_R at 0035–0036.
- 124 Exhibit 43-0005, Case Study 43, CCI.0228.00005.0369\_R at 0378.
- 125 Exhibit 43-0005, Case Study 43, CCI.0049.00009.0359 at 0364–0365.
- 126 Exhibit 43-0005, Case Study 43, CCI.0049.00009.0359 at 0365.
- 127 Exhibit 43-0005, Case Study 43, CCI.0228.00005.0369\_R at 0374\_R.
- 128 Exhibit 43-0005, Case Study 43, CCI.0228.00005.0082\_R at 0084\_R.
- 129 Exhibit 43-0012, ‘Statement of Bishop Wright’, Case Study 43, STAT.1159.001.0001\_R at [46].
- 130 Exhibit 43-0005, Case Study 43, CTJH.210.01025.2675\_R.
- 131 Exhibit 43-0005, Case Study 43, NSW.2094.001.0001.0029\_R.
- 132 Exhibit 43-0005, Case Study 43, CTJH.210.01025.2673\_R;  
Exhibit 43-0005, Case Study 43, CTJH.210.01025.2674\_R.
- 133 Exhibit 43-0005, Case Study 43, CCI.0049.00009.0359\_R at 0369, 0373.
- 134 Exhibit 43-0005, Case Study 43, CTJH.210.01193.0001 at 0003.
- 135 Exhibit 43-0005, Case Study 43, CCI.0228.00005.0063.
- 136 Exhibit 43-0005, Case Study 43, CCI.0228.00005.0063 at 0064.
- 137 Transcript of M Geatches, Case Study 43, 31 August 2016 at T17623:21–T17624:2.
- 138 Exhibit 43-0003, ‘Statement of Sister Geatches’, Case Study 43, STAT.1161.001.0001\_R at [34].
- 139 Transcript of E Woodward, Case Study 43, 31 August 2016 at T17657:29–T17658:8.
- 140 Transcript of E Woodward, Case Study 43, 31 August 2016 at T17658:29–33.
- 141 Transcript of M Geatches, Case Study 43, 31 August 2016 at T17623:21–T17624:2.

- 142 Transcript of M Geatches, Case Study 43, 31 August 2016 at T17622:47–T17623:16.  
 143 Exhibit 43-0005, Case Study 43, CCI.0228.00005.0401\_R at 0404, 0405.  
 144 Transcript of M Geatches, Case Study 43, 31 August 2016 at T17620:22–26.  
 145 Transcript of M Geatches, Case Study 43, 31 August 2016 at T17631:22–32.  
 146 Transcript of M Geatches, Case Study 43, 31 August 2016 at T17631:34–T17632:9.  
 147 Exhibit 43-0003, ‘Statement of Sister Geatches’, Case Study 43, STAT.1161.001.0001\_R at [26].  
 148 Exhibit 43-0004, ‘Statement of Sister Woodward’, Case Study 43, STAT.1160.001.0001\_R at [45].  
 149 Exhibit 43-0004, ‘Statement of Sister Woodward’, Case Study 43, STAT.1160.001.0001\_R at [46].  
 150 Transcript of E Woodward, Case Study 43, 31 August 2016 at T17659:25–36.  
 151 Transcript of E Woodward, Case Study 43, 31 August 2016 at T17650:3–12.  
 152 Transcript of E Woodward, Case Study 43, 31 August 2016 at T17653:10–26.  
 153 Submissions of the Truth, Justice and Healing Council in response to Submissions of Counsel Assisting,  
 Case Study 43, SUBM.1043.002.0001 at [49].  
 154 Exhibit 43-0005, Case Study 43, CTJH.210.01193.0001.  
 155 Exhibit 43-0005, Case Study 43, CTJH.210.01193.0001 at 0002–0003.  
 156 Exhibit 43-0010, ‘Statement of Dr Evans’, Case Study 43, STAT.1170.001.0001\_R at [7]–[8].  
 157 Transcript of P Evans, Case Study 43, 2 September 2016 at T17781:21–25.  
 158 Exhibit 43-0005, Case Study 43, CTJH.210.01025.0457\_R.  
 159 Exhibit 43-0010, ‘Statement of Dr Evans’, Case Study 43, STAT.1170.001.0001\_R at [12]–[13].  
 160 Transcript of P Evans Case Study 43, 2 September 2016 at T17785:4–18 (Day 167).  
 161 Exhibit 43-0005, Case Study 43, CTJH.210.01025.2675\_R.  
 162 Exhibit 43-0005, Case Study 43, CCI.265.00008.0179\_R.  
 163 Exhibit 43-0005, Case Study 43, CTJH.210.01025.0297\_R at 0307.  
 164 Exhibit 43-0005, Case Study 43, CTJH.210.01025.0297\_R at 0308.  
 165 Exhibit 43-0010, ‘Statement of Dr Evans’, Case Study 43, STAT.1170.001.0001\_R at [14].  
 166 Exhibit 43-0010, ‘Statement of Dr Evans’, Case Study 43, STAT.1170.001.0001\_R at [15].  
 167 Transcript of E Woodward Case Study 43, 31 August 2016 at T17655:12–18.  
 168 Exhibit 43-0004, ‘Statement of Sister Woodward’, Case Study 43, STAT.1160.001.0001\_R at [22].  
 169 Exhibit 43-0010, ‘Statement of Dr Evans’, Case Study 43, STAT.1170.001.0001\_R at [9]–[10].  
 170 Transcript of E Woodward, Case Study 43, 31 August 2016 at T17656:10–26.  
 171 Transcript of E Woodward, Case Study 43, 1 September 2016 at T17694:33–42.  
 172 Transcript of E Woodward, Case Study 43, 1 September 2016 at T17694:11–24.  
 173 Transcript of E Woodward Case Study 43, 31 August 2016 at T17657:10–27.  
 174 Exhibit 43-0010, ‘Statement of Dr Evans’, Case Study 43, STAT.1170.001.0001\_R at [9]–[10].  
 175 Transcript of P Evans, Case Study 43, at T17783:32–T17784:1.  
 176 Exhibit 43-0010, ‘Statement of Dr Evans Case Study 43, STAT.1170.001.0001\_R at [10].  
 177 Transcript of P Evans, Case Study 43, 2 September 2016 at T17792:21–22.  
 178 Transcript of P Evans, Case Study 43, 2 September 2016 at T17783:4–8.  
 179 Transcript of P Evans, Case Study 43, 2 September 2016 at T17783:15–18.  
 180 Transcript of P Evans, Case Study 43, 2 September 2016 at T17783:20–26.  
 181 Exhibit 43-0010, ‘Statement of Dr Evans’, Case Study 43, STAT.1170.001.0001\_R at [20].  
 182 Exhibit 43-0005, Case Study 43, CTJH.210.01025.0455\_R and CTJH.210.01025.0456\_R;  
 Transcript of P Evans, Case Study 43, 2 September 2016 at T17788:2–36.  
 183 Exhibit 43-0010, ‘Statement of Dr Evans’, Case Study 43, STAT.1170.001.0001\_R at [22]–[23].  
 184 Transcript of P Evans, Case Study 43, 2 September 2016 at T17792:25–29.  
 185 Transcript of P Evans, Case Study 43, 2 September 2016 at T17792:36–46; Exhibit 43-0010,  
 ‘Statement of Dr Evans’, Case Study 43, STAT.1170.001.0001\_R at [23].  
 186 Exhibit 43-0005, Case Study 43, CTJH.210.01025.0456\_R;  
 Transcript of P Evans, Case Study 43, 2 September 2016 at T17790:33–35.  
 187 Exhibit 43-0010, ‘Statement of Dr Evans’, Case Study 43, STAT.1170.001.0001\_R at [31].  
 188 Exhibit 43-0005, Case Study 43, CCI.0228.00004.0026\_R at 0028.  
 189 Exhibit 43-0005, Case Study 43, CTJH.210.01025.0349\_R.  
 190 Exhibit 43-0005, Case Study 43, CTJH.210.01025.2668\_R.



191 Exhibit 43-0005, Case Study 43, CTJH.210.01025.2668\_R.  
 192 Exhibit 43-0010, 'Statement of Dr Evans', Case Study 43, STAT.1170.001.0001\_R at [27]–[28].  
 193 Exhibit 43-0005, Case Study 43, CTJH.210.01025.0192\_R\_E at 0210.  
 194 Transcript of P Evans, Case Study 43, 2 September 2016 at T17786:21–29.  
 195 Exhibit 43-0010, 'Statement of Dr Evans', Case Study 43, STAT.1170.001.0001\_R at [10]–[11];  
 Transcript of P Evans, Case Study 43, 2 September 2016 at T17782:32–34.  
 196 Transcript of P Evans, Case Study 43, 2 September 2016 at T17782:23–30.  
 197 Exhibit 43-0010, 'Statement of Dr Evans', Case Study 43, STAT.1170.001.0001\_R at [25], [30].  
 198 Exhibit 43-0005, Case Study 43, CTJH.210.01025.0455\_R, CTJH.210.01025.0456\_R;  
 Transcript of P Evans, Case Study 43, 2 September 2016 at T17790:37–44.  
 199 Exhibit 43-0010, 'Statement of Dr Evans', Case Study 43, STAT.1170.001.0001\_R at [18], [30].  
 200 Transcript of P Evans, Case Study 43, 2 September 2016 at T17793:1–17.  
 201 Transcript of P Evans, Case Study 43, 2 September 2016 at T17793:19–26.  
 202 Transcript of P Evans, Case Study 43, 2 September 2016 at T17786:41–47.  
 203 Transcript of P Evans, Case Study 43, 2 September 2016 at T17787:16–25.  
 204 Transcript of P Evans, Case Study 43, 2 September 2016 at T17787:27–45.  
 205 Transcript of P Evans, Case Study 43, 2 September 2016 at T17788:16–19.  
 206 Transcript of P Evans, Case Study 43, 2 September 2016 at T17788:21–31.  
 207 Transcript of P Evans, Case Study 43, 2 September 2016 at T17795:6–9.  
 208 Transcript of P Evans, Case Study 43, 2 September 2016 at T17795:12–21.  
 209 Transcript of P Evans, Case Study 43, 2 September 2016 at T17795:25–38.  
 210 Exhibit 43-0005, Case Study 43, CCI.0228.00005.0369\_R at 0378–0379.  
 211 Exhibit 43-0005, Case Study 43, CCI.0228.00005.0369\_R at 0379.  
 212 Exhibit 43-0005, Case Study 43, CCI.0228.00005.0082\_R at 0084.  
 213 Exhibit 43-0005, Case Study 43, CCI.0228.00005.0082\_R at 0085.  
 214 Exhibit 43-0005, Case Study 43, CCI.0049.00009.0359 at 0366.  
 215 Exhibit 43-0005, Case Study 43, CTJH.210.01162.1000.  
 216 Exhibit 43-0005, Case Study 43, CTJH.210.01102.0035\_R at 0036.  
 217 Exhibit 43-0010, 'Statement of Dr Evans', Case Study 43, STAT.1170.001.0001\_R at [32].  
 218 Exhibit 43-0005, Case Study 43, CTJH.210.01025.0356\_R.  
 219 Exhibit 43-0005, Case Study 43, CTJH.210.01025.2664.  
 220 Exhibit 43-0005, Case Study 43, CTJH.210.01025.2660.  
 221 Exhibit 43-0005, Case Study 43, CCI.0228.00005.0082\_R at 0086.  
 222 Transcript of E Woodward, Case Study 43, 31 August 2016 at T17654:17–21.  
 223 Exhibit 43-0012, 'Statement of Bishop Wright', Case Study 43, STAT.1159.001.0001\_R at [29].  
 224 Exhibit 43-0012, 'Statement of Bishop Wright', Case Study 43, STAT.1159.001.0001\_R at [29].  
 225 Exhibit 43-0005, Case Study 43, NSW.2094.001.0001.0087\_R at 0089–0090.  
 226 Exhibit 43-0005, Case Study 43, NSW.2094.001.0001.0087\_R at 0090.  
 227 Exhibit 43-0005, Case Study 43, NSW.2094.001.0001.0087\_R at 0088.  
 228 Exhibit 43-0005, Case Study 43, CTJH.210.01162.0162\_R at 0170.  
 229 Exhibit 43-0005, Case Study 43, CTJH.210.01162.0162\_R at 0184–0185.  
 230 Exhibit 43-0005, Case Study 43, CTJH.210.01162.0162\_R at 0185.  
 231 Exhibit 43-0005, Case Study 43, CTJH.210.01162.0162\_R at 0186.  
 232 Exhibit 43-0005, Case Study 43, CTJH.210.01162.0162\_R at 0188.  
 233 Exhibit 43-0005, Case Study 43, CCI.0228.00005.0456 at 0456–0457.  
 234 Exhibit 43-0005, Case Study 43, CCI.0228.00005.0369\_R at 0379.  
 235 Exhibit 43-0005, Case Study 43, CCI.0228.00005.0369\_R at 0382.  
 236 Exhibit 43-0005, Case Study 43, CCI.0228.00005.0082\_R at 0084.  
 237 Exhibit 43-0005, Case Study 43, CCI.0228.00005.0082\_R at 0085.  
 238 Exhibit 43-0005, Case Study 43, CCI.0228.00005.0082\_R at 0084, 0086.  
 239 Exhibit 43-0005, Case Study 43, CCI.0049.00009.0359\_R at 0367.  
 240 Exhibit 43-0005, Case Study 43, CCI.0049.00009.0359\_R at 0367.

- 241 Exhibit 43-0004, 'Statement of Sister Woodward', Case Study 43, STAT.1160.001.0001\_R;  
Exhibit 43-0005, Case Study 43, CTJH.210.01025.0495\_R;  
Exhibit 43-0005, Case Study 43, CCI.0228.00005.0387\_R, respectively.
- 242 Transcript of E Woodward, Case Study 43, 31 August 2016 at T17662:38–T17663:7.
- 243 Transcript of E Woodward, Case Study 43, 31 August 2016 at T17663:9–19.
- 244 Transcript of E Woodward, Case Study 43, 31 August 2016 at T17663:21–27.
- 245 Transcript of E Woodward, Case Study 43, 31 August 2016 at T17663:37–39.
- 246 Transcript of E Woodward, Case Study 43, 1 September 2016 at T17681:29–40.
- 247 Submissions of the Truth, Justice and Healing Council in response to Submissions of Counsel Assisting,  
Case Study 43, SUBM.1043.002.0001 at [73]–[74].
- 248 Transcript of E Woodward, Case Study 43, 31 August 2016 at T17661:15–22.
- 249 Transcript of E Woodward, Case Study 43, 31 August 2016 at T17661:38–44.
- 250 Transcript of E Woodward, Case Study 43, 31 August 2016 at T17662:3–5.
- 251 Transcript of E Woodward, Case Study 43, 31 August 2016 at T17662:7–14.
- 252 Transcript of E Woodward, Case Study 43, 31 August 2016 at T17662:16–21.
- 253 Transcript of E Woodward, Case Study 43, 31 August 2016 at T17661:34–36.
- 254 Transcript of E Woodward, Case Study 43, 31 August 2016 at T17662:23–29.
- 255 Transcript of E Woodward, Case Study 43, 1 September 2016 at T17675:41–44.
- 256 Transcript of E Woodward, Case Study 43, 31 August 2016 at T17664:1–21, T17665:46–T17666:3–4.
- 257 Exhibit 43-0004, 'Statement of Sister Woodward', Case Study 43, STAT.1160.001.0001\_R at [37].
- 258 Exhibit 43-0005, Case Study 43, CTJH.210.01025.0495\_R at 0497.
- 259 Exhibit 43-0005, Case Study 43, CCI.0228.00005.0387\_R at 0394.
- 260 Transcript of E Woodward, Case Study 43, 1 September 2016 at T17674:9–12.
- 261 Exhibit 43-0005, Case Study 43, CTJH.210.01162.0162\_R at 0212–0213.
- 262 Transcript of E Woodward, Case Study 43, 1 September 2016 at T17698:19–47.
- 263 Transcript of E Woodward, Case Study 43, 1 September 2016 at T17700:7–24.
- 264 Exhibit 43-0005, Case Study 43, CCI.0265.00008.0175\_R.
- 265 Exhibit 43-0005, Case Study 43, CCI.0265.00008.0175\_R.
- 266 Exhibit 43-0005, Case Study 43, CTJH.210.01172.0001.
- 267 Exhibit 43-0005, Case Study 43, CTJH.210.01192.0001.
- 268 Transcript of M Malone, Case Study 43, 1 September 2016 at T17754:7–24.
- 269 Transcript of M Malone, Case Study 43, 1 September 2016 at T17754:26–47.
- 270 Transcript of M Malone, Case Study 43, 1 September 2016 at T17755:22–31.
- 271 Exhibit 43-0001, 'Statement of Gerard McDonald', Case Study 43, STAT.1168.001.0001 at [40].
- 272 Exhibit 43-0025, 'Statement of Scott Hallett', Case Study 43, STAT.1176.001.0001 at [27]–[28].
- 273 Exhibit 43-0005, Case Study 43, CTJH.210.01025.0535\_R at 0541.
- 274 Exhibit 43-0005, Case Study 43, CTJH.210.01025.0567\_R at 0569–0570.
- 275 Exhibit 43-0005, Case Study 43, CTJH.210.01025.0192\_R\_E at 0212–0213.
- 276 Exhibit 43-0005, Case Study 43, CTJH.210.01025.0035\_R at 0037.
- 277 Exhibit 43-0005, Case Study 43, CTJH.210.01162.0162\_R at 0179.
- 278 Exhibit 43-0005, Case Study 43, CTJH.210.01025.0902\_R at 0903.
- 279 Exhibit 43-0005, Case Study 43, CTJH.210.01025.0902\_R at 0908–0909.
- 280 Exhibit 43-0005, Case Study 43, CTJH.210.01025.0902\_R at 0909–0911.
- 281 Exhibit 43-0005, Case Study 43, CTJH.210.01025.0902\_R at 0914.
- 282 Exhibit 43-0005, Case Study 43, CTJH.210.01025.0681\_R;  
Exhibit 43-0005, Case Study 43, CTJH.210.01025.1379\_R.
- 283 Exhibit 43-0006, 'Statement of CNE', Case Study 43, STAT.1167.001.0001\_R.
- 284 Exhibit 43-0014, 'Statement of CNG', Case Study 43, STAT.1171.001.0001\_R.
- 285 Exhibit 43-0005, Case Study 43, IND.0491.001.0043\_R.
- 286 Exhibit 43-0005, Case Study 43, CTJH.210.01025.0419\_R.
- 287 Exhibit 43-0005, Case Study 43, CTJH.210.01103.0137\_R at 0138.
- 288 Exhibit 43-0005, Case Study 43, CTJH.210.01103.0137\_R at 0138–0140.



289 Exhibit 43-0005, Case Study 43, CTJH.210.01103.0137\_R at 0140–0141.  
 290 Exhibit 43-0005, Case Study 43, CTJH.210.01103.0137\_R at 0141.  
 291 Exhibit 43-0005, Case Study 43, CTJH.210.01103.0143\_R.  
 292 Exhibit 43-0005, Case Study 43, CTJH.210.01162.0162\_R at 0187.  
 293 Exhibit 43-0005, Case Study 43, CCI.0228.00005.0456\_R at 0457.  
 294 Exhibit 43-0004, ‘Statement of Sister Woodward’, Case Study 43, STAT.1160.001.0001\_R at [33].  
 295 Exhibit 43-0004, ‘Statement of Sister Woodward’, Case Study 43, STAT.1160.001.0001\_R at [33].  
 296 Transcript of E Woodward, Case Study 43, 1 September 2016 at T17672:32–44.  
 297 Transcript of E Woodward, Case Study 43, 1 September 2016 at T17673:23–27.  
 298 Transcript of E Woodward, Case Study 43, 1 September 2016 at T17678:30–T17679:7.  
 299 Transcript of E Woodward, Case Study 43, 1 September 2016 at T17679:9–20.  
 300 Exhibit 43-0005, Case Study 43, CCI.0228.00004.0026\_R at 0029.  
 301 Exhibit 43-0005, Case Study 43, CTJH.210.01025.0502\_R.  
 302 Exhibit 43-0005, Case Study 43, CTJH.210.01025.0509\_R at 0511.  
 303 Exhibit 43-0005, Case Study 43, CTJH.210.01025.0519\_R;  
 Exhibit 43-0005, Case Study 43, CTJH.210.01025.0509\_R.  
 304 Exhibit 43-0005, Case Study 43, CTJH.210.01025.0519\_R at 0520.  
 305 Exhibit 43-0005, Case Study 43, CTJH.210.01025.2554\_R.  
 306 Exhibit 43-0008, ‘Statement of Bishop Emeritus Malone’,  
 Case Study 43, STAT.1144.001.0001\_R at [4]–[5].  
 307 Transcript of M Malone, Case Study 43, 1 September 2016 at T17721:43–T17722:6.  
 308 Exhibit 43-0008, ‘Statement of Bishop Emeritus Malone’,  
 Case Study 43, STAT.1144.001.0001\_R at [5], [8].  
 309 Transcript of M Malone, Case Study 43, 1 September 2016 at T17722:37–39.  
 310 Exhibit 43-0008, ‘Statement of Bishop Emeritus Malone’,  
 Case Study 43, STAT.1144.001.0001\_R at [11]–[12].  
 311 Exhibit 43-0004, ‘Statement of Sister Woodward’, Case Study 43, STAT.1160.001.0001\_R at [41].  
 312 Transcript of E Woodward, Case Study 43, 1 September 2016 at T17677:15–21.  
 313 Transcript of E Woodward, Case Study 43, 1 September 2016 at T17677:15–T17678:14.  
 314 Transcript of E Woodward, Case Study 43, 1 September 2016 at T17678:20–28.  
 315 Transcript of M Malone, Case Study 43, 1 September 2016 at T17724:10–13.  
 316 Transcript of M Malone, Case Study 43, 1 September 2016 at T17724:39–42.  
 317 Transcript of M Malone, Case Study 43, 1 September 2016 at T17775:19–46.  
 318 Transcript of M Malone, Case Study 43, 1 September 2016 at T17776:4–9.  
 319 Exhibit 43-0005, Case Study 43, CTJH.210.01025.0495\_R; Exhibit 43-0005,  
 Case Study 43, CCI.0228.00005.0387\_R respectively.  
 320 Transcript of E Woodward, Case Study 43, 1 September 2016 at T17687:4–7.  
 321 Transcript of E Woodward, Case Study 43, 1 September 2016 at T17686:33–T17687:2.  
 322 Exhibit 43-0005, Case Study 43, CCI.0228.00005.0387\_R at 0394\_R.  
 323 Transcript of E Woodward, Case Study 43, 1 September 2016 at T17689:4–T17690:25.  
 324 Transcript of E Woodward, Case Study 43, 1 September 2016 at T17691:1–12.  
 325 Submissions on behalf of Bishop Emeritus Malone dated 8 December 2016,  
 Case Study 43, SUBM.1043.001.0001 at [6]–[8].  
 326 Submissions on behalf of Bishop Emeritus Malone dated 8 December 2016,  
 Case Study 43, SUBM.1043.001.0001 at [9].  
 327 Transcript of M Malone, Case Study 43, 1 September 2016 at T17727:13–26.  
 328 Transcript of M Malone, Case Study 43, 1 September 2016 at T17723:18–23.  
 329 Transcript of M Malone, Case Study 43, 1 September 2016 at T17725:35–T17726:6.  
 330 Exhibit 43-0005, Case Study 43, CTJH.210.01025.2532.  
 331 Exhibit 43-0008, ‘Statement of Bishop Emeritus Malone’,  
 Case Study 43, STAT.1144.001.0001\_R at [15]–[18].  
 332 Exhibit 43-0005, Case Study 43, CTJH.210.01162.0006.  
 333 Exhibit 43-0005, Case Study 43, CTJH.210.01162.0010.

334 Exhibit 43-0005, Case Study 43, CTJH.210.01025.2493.  
335 Transcript of M Malone, Case Study 43, 1 September 2016 at T17730:38–41, T17731:7–11.  
336 Transcript of M Malone, Case Study 43, 1 September 2016 at T17731:27–44.  
337 Transcript of M Malone, Case Study 43, 1 September 2016 at T17732:26–30.  
338 Transcript of M Malone, Case Study 43, 1 September 2016 at T17733:38–41.  
339 Transcript of M Malone, Case Study 43, 1 September 2016 at T17733:43–47.  
340 Transcript of M Malone, Case Study 43, 1 September 2016 at T17733:46–T17734:20.  
341 Transcript of M Malone, Case Study 43, 1 September 2016 at T17740:22–26.  
342 Transcript of M Malone, Case Study 43, 1 September 2016 at T17740:33–42.  
343 Transcript of M Malone, Case Study 43, 1 September 2016 at T17740:44–47.  
344 Exhibit 43-0005, Case Study 43, CTJH.210.01025.2403.  
345 Exhibit 43-0005, Case Study 43, CTJH.210.01025.2403.  
346 Transcript of M Malone, Case Study 43, 1 September 2016 at T17735:1–10.  
347 Transcript of M Malone, Case Study 43, 1 September 2016 at T17735:12–29.  
348 Submissions on behalf of Bishop Malone dated 8 December 2016, Case Study 43,  
SUBM.1043.001.0001 at 0005–0006.  
349 Exhibit 43-0005, Case Study 43, CTJH.210.01025.2392.  
350 Exhibit 43-0005, Case Study 43, CTJH.210.01025.1749 at 1755–1756.  
351 Exhibit 43-0005, Case Study 43, CTJH.210.01025.1749 at 1756.  
352 Transcript of M Malone, Case Study 43, 1 September 2016 at T17738:43–T17739:9.  
353 Transcript of M Malone, Case Study 43, 1 September 2016 at T17739:23–42.  
354 Exhibit 43-0005, Case Study 43, CTJH.210.01025.1408.  
355 Transcript of M Malone, Case Study 43, 1 September 2016 at T17745:17–33.  
356 Transcript of M Malone, Case Study 43, 1 September 2016 at T17745:47–T17746:5.  
357 Transcript of M Malone, Case Study 43, 1 September 2016 at T17746:17–20.  
358 Submissions on behalf of Bishop Malone dated 8 December 2016, Case Study 43,  
SUBM.1043.001.0001 at 0006–0007.  
359 Exhibit 43-0005, Case Study 43, CTJH.210.01162.1397.  
360 Transcript of M Malone, Case Study 43, 1 September 2016 at T17748:3–24.  
361 Transcript of M Malone, Case Study 43, 1 September 2016 at T17748:34–35.  
362 Exhibit 43-0005, Case Study 43, CTJH.210.01031.0178.  
363 Transcript of M Malone, Case Study 43, 1 September 2016 at T17750:15–19.  
364 Transcript of M Malone, Case Study 43, 1 September 2016 at T17750:15–38.  
365 Transcript of M Malone, Case Study 43, 1 September 2016 at T17750:40–T17751:2.  
366 Transcript of M Malone, Case Study 43, 1 September 2016 at T17751:44–47.  
367 Submissions on behalf of Bishop Malone dated 8 December 2016, Case Study 43,  
SUBM.1043.001.0001 at [32].  
368 Exhibit 43-0005, Case Study 43, CTJH.210.01167.0083\_R.  
369 Exhibit 43-0031, ‘Statement of Elizabeth Seysener’, Case Study 43, STAT.1165.001.0001 at [8].  
370 Exhibit 43-0031, ‘Statement of Elizabeth Seysener’, Case Study 43, STAT.1165.001.0001.  
371 Exhibit 43-0031, ‘Statement of Elizabeth Seysener’, Case Study 43, STAT.1165.001.0001 at [14].  
372 Exhibit 43-0005, Case Study 43, CTJH.210.01025.1563.  
373 Exhibit 43-0005, Case Study 43, CTJH.210.01167.0083\_R at 0087.  
374 Transcript of M Malone, Case Study 43, 1 September 2016 at T17742:45–T17743:5.  
375 Transcript of M Malone, Case Study 43, 1 September 2016 at T17776:31–38, T17777:2–3.  
376 Exhibit 43-0005, Case Study 43, CTJH.210.01167.0083\_R at 0088.  
377 Exhibit 43-0031, ‘Statement of Elizabeth Seysener’, Case Study 43, STAT.1165.001.0001 at [19].  
378 Exhibit 43-0005, Case Study 43, CTJH.210.01167.0083\_R at 0088.  
379 Transcript of W Burston, Case Study 43, 5 September 2016 at T17878:41–T17879:11.  
380 Transcript of W Burston, Case Study 43, 5 September 2016 at T17879:13–22.  
381 Transcript of W Burston, Case Study 43, 5 September 2016 at T17877:16–19.  
382 Transcript of W Burston, Case Study 43, 5 September 2016 at T17878:19–24.  
383 Transcript of W Burston, Case Study 43, 5 September 2016 at T17878:32–37.

- 384 Transcript of W Burston, Case Study 43, 5 September 2016 at T17880:16–19.
- 385 Transcript of W Burston, Case Study 43, 5 September 2016 at T17880:21–30.
- 386 Exhibit 43-0005, Case Study 43, CCI.0228.00004.0080.
- 387 Exhibit 43-0005, Case Study 43, CCI.0228.00005.0053\_R at 0054.
- 388 Exhibit 43-0005, Case Study 43, CTJH.210.01174.0004.
- 389 Exhibit 43-0005, Case Study 43, CTJH.210.01025.2287.
- 390 Exhibit 43-0005, Case Study 43, CTJH.210.01168.0181\_R at 0187–0188.
- 391 Transcript of M Malone, Case Study 43, 1 September 2016 at T17758:38–43.
- 392 Transcript of M Malone, Case Study 43, 1 September 2016 at T17759:37–40.
- 393 Transcript of M Malone, Case Study 43, 1 September 2016 at T17770:43–T17771:7.
- 394 Exhibit 43-0008, ‘Statement of Bishop Emeritus Malone’, Case Study 43, STAT.1144.001.0001\_R at [27].
- 395 Transcript of M Malone, Case Study 43, 1 September 2016 at T17760:4–7.
- 396 Transcript of M Malone, Case Study 43, 1 September 2016 at T17760:30–40.
- 397 Submissions on behalf of Bishop Malone dated 8 December 2016, Case Study 43, SUBM.1043.001.0001 at 0012.
- 398 Exhibit 43-0012, ‘Statement of Bishop Wright’, Case Study 43, STAT.1159.001.0001\_R at [84]–[87].
- 399 Exhibit 43-0012, ‘Statement of Bishop Wright’, Case Study 43, STAT.1159.001.0001\_R at [84]–[91].
- 400 Exhibit 43-0012, ‘Statement of Bishop Wright’, Case Study 43, STAT.1159.001.0001\_R at [104]–[105].
- 401 Exhibit 43-0012, ‘Statement of Bishop Wright’, Case Study 43, STAT.1159.001.0001\_R at [10]–[15].
- 402 Exhibit 43-0012, ‘Statement of Bishop Wright’, Case Study 43, STAT.1159.001.0001\_R at [10].
- 403 Exhibit 43-0012, ‘Statement of Bishop Wright’, Case Study 43, STAT.1159.001.0001\_R at [11].
- 404 Exhibit 43-0012, ‘Statement of Bishop Wright’, Case Study 43, STAT.1159.001.0001\_R at [12]–[15].
- 405 Transcript of W Wright, Case Study 43, 2 September 2016 at T17836:21–34.
- 406 Transcript of W Wright, Case Study 43, 2 September 2016 at T17836:36–T17837:18.
- 407 Transcript of W Wright, Case Study 43, 2 September 2016 at T17837:20–30.
- 408 Submissions of the Truth, Justice and Healing Council in response to Submissions of Counsel Assisting, Case Study 43, SUBM.1043.002.0001 at [121].
- 409 Submissions of the Truth, Justice and Healing Council in response to Submissions of Counsel Assisting, Case Study 43, SUBM.1043.002.0001 at [9].
- 410 Exhibit 43-0012, ‘Statement of Bishop Wright’, Case Study 43, STAT.1159.001.0001\_R at [107].
- 411 Exhibit 43-0012, ‘Statement of Bishop Wright’, Case Study 43, STAT.1159.001.0001\_R at [107].
- 412 Exhibit 43-0012, ‘Statement of Bishop Wright’, Case Study 43, STAT.1159.001.0001\_R at [107].
- 413 Transcript of M O’Hearn, Case Study 43, 2 September 2016 at T17801:43–T17802:3.
- 414 Transcript of M O’Hearn, Case Study 43, 2 September 2016 at T17803:4–10.
- 415 Transcript of M Malone, Case Study 43, 1 September 2016 at T17757:43–T17758:1.
- 416 Exhibit 43-0008, ‘Statement of Bishop Emeritus Malone’, Case Study 43, STAT.1144.001.0001\_R [9]; Exhibit 43-0012, ‘Statement of Bishop Wright’, Case Study 43, STAT.1159.001.0001\_R at [108].
- 417 Transcript of M Malone, Case Study 43, 1 September 2016 at T17757:38–40.
- 418 Exhibit 43-0012, ‘Statement of Bishop Wright’, Case Study 43, STAT.1159.001.0001\_R at [110].
- 419 Exhibit 43-0012, ‘Statement of Bishop Wright’, Case Study 43, STAT.1159.001.0001\_R at [109].
- 420 Exhibit 43-0012, ‘Statement of Bishop Wright’, Case Study 43, STAT.1159.001.0001\_R at [110].
- 421 Exhibit 43-0012, ‘Statement of Bishop Wright’, Case Study 43, STAT.1159.001.0001\_R at [111].
- 422 Exhibit 43-0012, ‘Statement of Bishop Wright’, Case Study 43, STAT.1159.001.0001\_R at [115].
- 423 Transcript of M O’Hearn, Case Study 43, 2 September 2016 at T17797:20–23.
- 424 Transcript of M O’Hearn, Case Study 43, 2 September 2016 at T17796:29–34.
- 425 Transcript of M O’Hearn, Case Study 43, 2 September 2016 at T17802:42–46.
- 426 Transcript of M O’Hearn, Case Study 43, 2 September 2016 at T17799:9–16.
- 427 Transcript of M O’Hearn, Case Study 43, 2 September 2016 at T17798:39–T17799:1.
- 428 Transcript of M O’Hearn, Case Study 43, 2 September 2016 at T17799:2–4.
- 429 Transcript of M O’Hearn, Case Study 43, 2 September 2016 at T17799:27–32.
- 430 Transcript of M O’Hearn, Case Study 43, 2 September 2016 at T17799:43–T17800:6.
- 431 Transcript of M O’Hearn, Case Study 43, 2 September 2016 at T17797:20–35.

- 432 Transcript of M O’Hearn, Case Study 43, 2 September 2016 at T17800:47–T17801:1.  
 433 Exhibit 43-0012, ‘Statement of Bishop Wright’, Case Study 43, STAT.1159.001.0001\_R at [119].  
 434 Transcript of M O’Hearn, Case Study 43, 2 September 2016 at T17807:16–33.  
 435 Exhibit 43-0012, ‘Statement of Bishop Wright’, Case Study 43, STAT.1159.001.0001\_R at [119].  
 436 Transcript of M O’Hearn, Case Study 43, 2 September 2016 at T17797:20–35, T17801:18–27.  
 437 Transcript of M O’Hearn, Case Study 43, 2 September 2016 at T17797:41–42.  
 438 Exhibit 43-0012, ‘Statement of Bishop Wright’, Case Study 43, STAT.1159.001.0001\_R at [120];  
 Transcript of M O’Hearn, Case Study 43, 2 September 2016 at T17798:28–34.  
 439 Transcript of M O’Hearn, Case Study 43, 2 September 2016 at T17798:5–19.  
 440 Transcript of M O’Hearn, Case Study 43, 2 September 2016 at T17803:42–T17804:27.  
 441 Transcript of M O’Hearn, Case Study 43, 2 September 2016 at T17804:46–T17805:11.  
 442 Transcript of M O’Hearn, Case Study 43, 2 September 2016 at T17805:13–16.  
 443 Transcript of M O’Hearn, Case Study 43, 2 September 2016 at T17805:25–35.  
 444 Exhibit 43-0012, ‘Statement of Bishop Wright’, Case Study 43, STAT.1159.001.0001\_R at [121].  
 445 Transcript of M O’Hearn, Case Study 43, 2 September 2016 at T17798:22–24.  
 446 Transcript of M O’Hearn, Case Study 43, 2 September 2016 at T17799:18–22.  
 447 Exhibit 43-0012, ‘Statement of Bishop Wright’, Case Study 43, STAT.1159.001.0001\_R at [122].  
 448 Exhibit 43-0012, ‘Statement of Bishop Wright’, Case Study 43, STAT.1159.001.0001\_R at [122].  
 449 Exhibit 43-0012, ‘Statement of Bishop Wright’, Case Study 43, STAT.1159.001.0001\_R at [123].  
 450 Transcript of M O’Hearn, Case Study 43, 2 September 2016 at T17801:47–T17802:3.  
 451 Exhibit 43-0012, ‘Statement of Bishop Wright’, Case Study 43, STAT.1159.001.0001\_R at [121].  
 452 Transcript of M O’Hearn, Case Study 43, 2 September 2016 at T17800:8–14.  
 453 Exhibit 43-0006, ‘Statement of CNE’, Case Study 43, STAT.1167.001.0001\_R at [45];  
 Transcript of CNE, Case Study 43, 1 September 2016 at T17708:24–29.  
 454 Exhibit 43-0014, ‘Statement of CNG’, Case Study 43, STAT.1171.001.0001\_R at [30];  
 Transcript of CNG, Case Study 43, 2 September 2016 at T17870:21–45.  
 455 Exhibit 43-0018, ‘Statement of CNQ’, Case Study 43, STAT.1128.001.0001\_R at [57]–[60];  
 Transcript of CNQ, Case Study 43, 5 September 2016 at T17923:21–T17924:5.  
 456 Exhibit 43-0022, ‘Statement of CQT’, Case Study 43, STAT.1173.001.0001\_R at [45]–[46];  
 Transcript of CQT, Case Study 43, 6 September 2016 at T18034:28–41.  
 457 For example, Transcript of W Wright, Case Study 43, at T17838:36–T17844:28;  
 Transcript of W Wright, Case Study 43, at T17848:42–T17855:17.  
 458 Transcript of W Wright, Case Study 43, 2 September 2016 at T17851:42–17852:10.  
 459 Transcript of W Wright, Case Study 43, 2 September 2016 at T17852:12–29.  
 460 Submissions of the Truth, Justice and Healing Council in response to Submissions of Counsel Assisting,  
 Case Study 43, SUBM.1043.002.0001 at [119].  
 461 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No 13: The  
 response of the Marist Brothers to allegations of child sexual abuse against Brothers Kostka Chute and  
 Gregory Sutton*, Sydney, 2015, pp 14–15.  
 462 Exhibit 43-0009, Case Study 43, CTJH.053.07150.0397; Exhibit 43-0030 ‘Statement of Peter Carroll’,  
 Case Study 43, STAT.1181.001.0001\_R at [140].  
 463 Exhibit 43-0009, Case Study 43, CTJH.053.07135.0391\_R at [3].  
 464 Exhibit 43-0009, Case Study 43, CTJH.053.07135.0391\_R at [4].  
 465 Exhibit 43-0009, Case Study 43, CTJH.053.07135.0391\_R at [86].  
 466 Exhibit 43-0009, Case Study 43, CTJH.053.70038.0155\_R.  
 467 Exhibit 43-0030, ‘Statement of Brother Carroll’, Case Study 43, STAT.1181.001.0001\_R at [143].  
 468 Exhibit 43-0030, ‘Statement of Brother Carroll’, Case Study 43, STAT.1181.001.0001\_R at [79]–[80].  
 469 Exhibit 43-0009, Case Study 43, CTJH.053.70015.0045\_R.  
 470 Exhibit 43-0009, Case Study 43, CTJH.053.70015.0045\_R.  
 471 Exhibit 43-0009, Case Study 43, QLD.0152.001.0002\_R;  
 Exhibit 43-0009, Case Study 43, QLD.0153.001.0021\_R.  
 472 Exhibit 43-0009, Case Study 43, CTJH.053.07150.0397.  
 473 Exhibit 43-0009, Case Study 43, CTJH.053.07150.0382\_R at [8], [10].

474 Exhibit 43-0009, Case Study 43, CTJH.053.07150.0382\_R at [11].  
475 Exhibit 43-0009, Case Study 43, CTJH.053.07150.0382\_R at [13].  
476 Exhibit 43-0030, 'Statement of Brother Carroll', Case Study 43, STAT.1181.001.0001\_R at [167].  
477 Transcript of P Carroll, Case Study 43, 8 September 2016 at T18235:7–24;  
Exhibit 43-0030, 'Statement of Brother Carroll,' Case Study 43, STAT.1181.001.0001\_R at [173].  
478 Submissions of the Truth, Justice and Healing Council in response to Submissions of Counsel Assisting,  
Case Study 43, SUBM.1043.008.0001 at [6], [8].  
479 Exhibit 43-0009, Case Study 43, CTJH.053.07150.0397.  
480 Exhibit 43-0009, Case Study 43, NSW.2070.002.0441\_R at [13].  
481 Exhibit 43-0009, Case Study 43, NSW.2070.002.0441\_R at [13]–[14].  
482 Exhibit 43-0009, Case Study 43, NSW.2070.002.0441\_R at [15].  
483 Exhibit 43-0009, Case Study 43, NSW.2070.002.0441\_R at [15]–[16].  
484 Submissions of the Truth, Justice and Healing Council in response to Submissions of Counsel Assisting,  
Case Study 43, SUBM.1043.008.0001 at [7], [8].  
485 Exhibit 43-0015, 'Statement of Michael Balk', Case Study 43, STAT.1129.001.0001.  
486 Exhibit 43-0015, 'Statement of Michael Balk', Case Study 43, STAT.1129.001.0001 at [18]–[19].  
487 Exhibit 43-0015, 'Statement of Michael Balk', Case Study 43, STAT.1129.001.0001 at [20]–[21].  
488 Exhibit 43-0015, 'Statement of Michael Balk', Case Study 43, STAT.1129.001.0001 at [26]–[27].  
489 Exhibit 43-0015, 'Statement of Michael Balk', Case Study 43, STAT.1129.001.0001 at [26]–[27].  
490 Exhibit 43-0015, 'Statement of Michael Balk', Case Study 43, STAT.1129.001.0001 at [29].  
491 Submissions of the Truth, Justice and Healing Council, Case Study 43, SUBM.1043.008.0001 at [9].  
492 Submissions of the Truth, Justice and Healing Council in response to Submissions of Counsel Assisting,  
Case Study 43, SUBM.1043.008.0001 at [11]–[12].  
493 Exhibit 43-0015, 'Statement of Michael Balk', Case Study 43, STAT.1129.001.0001 at [41].  
494 Exhibit 43-0015, 'Statement of Michael Balk', Case Study 43, STAT.1129.001.0001 at [42].  
495 Exhibit 43-0015, 'Statement of Michael Balk', Case Study 43, STAT.1129.001.0001 at [42]–[44].  
496 Exhibit 43-0015, 'Statement of Michael Balk', Case Study 43, STAT.1129.001.0001 at [47]–[48].  
497 Exhibit 43-0027, 'Statement of Brother Wade', Case Study 43, STAT.1180.001.0001\_R at [16]–[18].  
498 Exhibit 43-0030, 'Statement of Brother Carroll', Case Study 43, STAT.1181.001.0001\_R at [79]–[80].  
499 Exhibit 43-0009, Case Study 43, CTJH.053.70015.0045\_R.  
500 Exhibit 43-0009, Case Study 43, CTJH.053.07150.0397.  
501 Transcript of C Wade, Case Study 43, 7 September 2016 at T18148:22–24.  
502 Exhibit 43-0027, 'Statement of Brother Wade', Case Study 43, STAT.1180.001.0001\_R at [11].  
503 Transcript of C Wade, Case Study 43, 7 September 2016 at T18148:37–44.  
504 Exhibit 43-0020, 'Statement of Brother Turton', Case Study 43, STAT.1179.001.0001 at [12]–[13].  
505 Exhibit 43-0013, 'Statement of CQW', Case Study 43, STAT.1131.001.0001\_R;  
Exhibit 43-0018, 'Statement of CNQ', Case Study 43, STAT.1128.001.0001\_R; Exhibit 43-0015,  
'Statement of Michael Balk', Case Study 43, STAT.1129.001.0001; Exhibit 43-0016,  
'Statement of CNS', Case Study 43, STAT.1152.001.0001\_R; Exhibit 43-0017, 'Statement of CNV',  
Case Study 43, STAT.1163.001.0001\_R; Exhibit 43-0033, 'Statement of CQV', Case Study 43,  
STAT.1146.001.0001\_R; Exhibit 43-0006, 'Statement of CNE', Case Study 43, STAT.1167.001.0001\_R;  
Exhibit 43-0001, 'Statement of Gerard McDonald', Case Study 43, STAT.1168.001.0001;  
Exhibit 43-0014 'Statement of CNG', Case Study 43, STAT.1171.001.0001\_R; Exhibit 43-0019,  
'Statement of CNR', Case Study 43, STAT.1174.001.0001\_R; Exhibit 43-0022, 'Statement of CQT',  
Case Study 43, STAT.1173.001.0001\_R; Exhibit 43-0029, 'Statement of Peter Russ', Case Study 43,  
STAT.1175.001.0001; Exhibit 43-0025, 'Statement of Scott Hallett', Case Study 43, STAT.1176.001.0001;  
Exhibit 43-0028, 'Statement of Terrence Skippen', Case Study 43, STAT.1177.001.0001\_R;  
Exhibit 43-0026, 'Statement of CQS', Case Study 43, STAT.1182.001.0001\_R; Exhibit 43-0034,  
'Statement of CQQ', Case Study 43, STAT.1189.001.0001\_R; Exhibit 43-0045, 'Statement of CQP',  
Case Study 43, STAT.1210.001.0001\_R; Exhibit 43-0005, 'Statutory Declaration of CNK', Case Study 43,  
CTJH.053.70010.0200\_R.



- 506 Exhibit 43-0019, 'Statement of CNR', Case Study 43, STAT.1174.001.0001\_R. Exhibit 43-0022, 'Statement of CQT', Case Study 43, STAT.1173.001.0001\_R. Exhibit 43-0018, 'Statement of CNQ', Case Study 43, STAT.1128.001.0001\_R. Exhibit 43-0026, 'Statement of CQS', Case Study 43, STAT.1182.001.0001\_R. Exhibit 43-0034, 'Statement of CQQ', Case Study 43, STAT.1189.001.0001\_R. Exhibit 43-0045, 'Statement of CQP', Case Study 43, STAT.1210.001.0001\_R. Exhibit 43-0017, 'Statement of CNV', Case Study 43, STAT.1163.001.0001\_R.
- 507 Exhibit 43-0009, 'Statement of Audrey Nash', Case Study 43, CTJH.053.07170.0097\_R; Exhibit 43-0009, 'Statement of CQT', Case Study 43, CTJH.053.07170.0082\_R; Exhibit 43-0009, 'Statement of CNP', Case Study 43, CTJH.053.07170.0111\_R; Exhibit 43-0009, 'Statement of CNM', Case Study 43, CTJH.053.07170.0154\_R; Exhibit 43-0009, 'Statement of REDACTED', Case Study 43, CTJH.053.07170.0148\_R; Exhibit 43-0009, 'Statement of Alexis Turton', Case Study 43, CTJH.053.07170.0252\_R; Exhibit 43-0009, 'Statement of Fr Rex Hackett', Case Study 43, CTJH.053.07170.0271\_R; Exhibit 43-0009, 'Statement of REDACTED', Case Study 43, CTJH.053.07172.0216\_R; Exhibit 43-0009, 'Statement of REDACTED', Case Study 43, CTJH.053.07172.0148\_R; Exhibit 43-0009, 'Statement of CNO', Case Study 43, CTJH.053.07172.0153\_R; Exhibit 43-0009, 'Statement of Paul Thomas Blundell', Case Study 43, CTJH.053.07171.0293\_R; Exhibit 43-0009, 'Statement of John Hamilton', Case Study 43, CTJH.053.07171.0112\_R; Exhibit 43-0009, 'Statement of CNO', Case Study 43, CTJH.053.70050.0320\_R; Exhibit 43-0009, 'Statement of CNO', Case Study 43, CTJH.053.07172.0153\_R; Exhibit 43-0009, 'Statement of REDACTED', Case Study 43, CTJH.053.70050.0323\_R; Exhibit 43-0009, 'Statement of REDACTED', Case Study 43, CTJH.053.70050.0325\_R; Exhibit 43-0009, 'Statement of CNJ', Case Study 43, QLD.0153.001.0715\_R; Exhibit 43-0009, 'Statement of CQX', Case Study 43, CTJH.053.07170.0130\_R; Exhibit 43-0009, 'Statement of REDACTED', Case Study 43, CTJH.053.07150.0382\_R; Exhibit 43-0009, 'Statement of REDACTED', Case Study 43, NSW.2070.002.0441\_R; Exhibit 43-0009, 'Statement of Kevin Balk', Case Study 43, NSW.2070.002.0507\_R.
- 508 Exhibit 43-0028, 'Statement of Terence Skippen', Case Study 43, STAT.1177.001.0001\_R at [13].
- 509 Exhibit 43-0028, 'Statement of Terence Skippen', Case Study 43, STAT.1177.001.0001\_R at [16].
- 510 Exhibit 43-0019, 'Statement of CNR', Case Study 43, STAT.1174.001.0001\_R at [20]–[21].
- 511 Exhibit 43-0019, 'Statement of CNR', Case Study 43, STAT.1174.001.0001\_R at [14]–[17].
- 512 Exhibit 43-0022, 'Statement of CQT', Case Study 43, STAT.1173.001.0001\_R at [13].
- 513 Exhibit 43-0022, 'Statement of CQT', Case Study 43, STAT.1173.001.0001\_R at [17]–[18].
- 514 Exhibit 43-0017, 'Statement of CNV', Case Study 43, STAT.1163.001.0001\_R at [10]–[11].
- 515 Exhibit 43-0033, 'Statement of CQV', Case Study 43, STAT.1146.001.0001\_R at [10]–[11].
- 516 Exhibit 43-0033, 'Statement of CQV', Case Study 43, STAT.1146.001.0001\_R at [12].
- 517 Exhibit 43-0034, 'Statement of CQQ', Case Study 43, STAT.1189.001.0001 at [18].
- 518 Exhibit 43-0026, 'Statement of CQS', Case Study 43, STAT.1182.001.0001\_R at [8].
- 519 Exhibit 43-0026, 'Statement of CQS', Case Study 43, STAT.1182.001.0001\_R at [9].
- 520 Transcript of P Russ, Case Study 43, 8 September 2016 at T18226:16–30.
- 521 Transcript of CNQ, Case Study 43, 5 September 2016 at T17915:46–T17916:9.
- 522 Transcript of CQT, Case Study 43, 6 September 2016 at T18029:30–35.
- 523 Exhibit 43-0026, 'Statement of CQS', Case Study 43, STAT.1182.001.0001\_R at [6].
- 524 Exhibit 43-0045, 'Statement of CQP', Case Study 43, STAT.1210.001.0001\_R at [5]–[6].
- 525 Transcript of A Turton, Case Study 43, 6 September 2016 at T17986:32–T17987:3.
- 526 Transcript of A Turton, Case Study 43, 6 September 2016 at T17986:32–T17987:3.
- 527 Transcript of A Turton, Case Study 43, 6 September 2016 at T17988:5–T17990:6.
- 528 Transcript of A Turton, Case Study 43, 6 September 2016 at T17988: 5–T17990:6.
- 529 Transcript of A Turton, Case Study 43, 6 September 2016 at T17988:5–T17990:6.
- 530 Exhibit 43-0017, 'Statement of CNV', Case Study 43, STAT.1163.001.0001\_R at [8].
- 531 Exhibit 43-0022, 'Statement of CQT', Case Study 43, STAT.1173.001.0001\_R at [18].
- 532 Exhibit 43-0026, 'Statement of CQS', Case Study 43, STAT.1182.001.0001\_R at [18].
- 533 Transcript of CNS, Case Study 43, 5 September 2016 at T17905:31–46.

- 534 Transcript of P Carroll, Case Study 43, 8 September 2016 at T18259:4–13.
- 535 Transcript of P Carroll, Case Study 43, 8 September 2016 at T18278:5–12.
- 536 Transcript of C Wade, Case Study 43, 7 September 2016 at T18157:20–25.
- 537 Transcript of C Wade, Case Study 43, 7 September 2016 at T18180:3–20.
- 538 Submissions of the Truth, Justice and Healing Council in response to Submissions of Counsel Assisting, Case Study 43, SUBM.1043.008.0001 at p 5, [2.1 [2]].
- 539 Submissions of the Truth, Justice and Healing Council in response to Submissions of Counsel Assisting, Case Study 43, Case Study 43, SUBM.1043.008.0001 at p 5, [2.1 [4]]; Transcript of P Carroll, Case Study 43, 8 September 2016 at T18258:38–42.
- 540 Exhibit 43-0009, Case Study 43, IND.0478.001.0146\_R at 0147.
- 541 Submissions of the Truth, Justice and Healing Council in response to Submissions of Counsel Assisting, Case Study 43, SUBM.1043.008.0001 at [3].
- 542 Exhibit 43-0016, 'Statement of CNS', Case Study 43, STAT.1152.001.0001\_R at [25].
- 543 Exhibit 43-0016, 'Statement of CNS', Case Study 43, STAT.1152.001.0001\_R at [30]–[31].
- 544 Exhibit 43-0017, 'Statement of CNV', Case Study 43, STAT.1163.001.0001\_R at [19].
- 545 Exhibit 43-0017, 'Statement of CNV', Case Study 43, STAT.1163.001.0001\_R at [34]–[36].
- 546 Exhibit 43-0018, 'Statement of CNQ', Case Study 43, STAT.1128.001.0001\_R at [61]–[62].
- 547 Exhibit 43-0018, 'Statement of CNQ', Case Study 43, STAT.1128.001.0001\_R at [63].
- 548 Exhibit 43-0018, 'Statement of CNQ', Case Study 43, STAT.1128.001.0001\_R at [64]–[65].
- 549 Exhibit 43-0018, 'Statement of CNQ', Case Study 43, STAT.1128.001.0001\_R at [66]–[67].
- 550 Exhibit 43-0019, 'Statement of CNR', Case Study 43, STAT.1174.001.0001\_R at [29].
- 551 Exhibit 43-0019, 'Statement of CNR', Case Study 43, STAT.1174.001.0001\_R at [30].
- 552 Exhibit 43-0019, 'Statement of CNR', Case Study 43, STAT.1174.001.0001\_R at [32].
- 553 Exhibit 43-0019, 'Statement of CNR', Case Study 43, STAT.1174.001.0001\_R at [34].
- 554 Exhibit 43-0019, 'Statement of CNR', Case Study 43, STAT.1174.001.0001\_R at [35].
- 555 Exhibit 43-0022, 'Statement of CQT', Case Study 43, STAT.1173.001.0001\_R at [42].
- 556 Exhibit 43-0022, 'Statement of CQT', Case Study 43, STAT.1173.001.0001\_R at [42]–[43].
- 557 Exhibit 43-0022, 'Statement of CQT', Case Study 43, STAT.1173.001.0001\_R at [27].
- 558 Exhibit 43-0023, 'Statement of Audrey Nash', Case Study 43, STAT.1172.001.0001\_R at [42]–[43].
- 559 Submissions of the Truth, Justice and Healing Council in response to Submissions of Counsel Assisting, Case Study 43, SUBM.1043.008.0001 at page 5, [2.1 [1]].
- 560 Exhibit 43-0023, 'Statement of Audrey Nash', Case Study 43, STAT.1172.001.0001\_R at [15].
- 561 Exhibit 43-0023, 'Statement of Audrey Nash', Case Study 43, STAT.1172.001.0001\_R.
- 562 Exhibit 43-0023, 'Statement of Audrey Nash', Case Study 43, STAT.1172.001.0001\_R at [16].
- 563 Exhibit 43-0023, 'Statement of Audrey Nash', Case Study 43, STAT.1172.001.0001\_R at [17].
- 564 Exhibit 43-0023, 'Statement of Audrey Nash', Case Study 43, STAT.1172.001.0001\_R at [18]–[19].
- 565 Exhibit 43-0023, 'Statement of Audrey Nash', Case Study 43, STAT.1172.001.0001\_R at [23].
- 566 Exhibit 43-0023, 'Statement of Audrey Nash', Case Study 43, STAT.1172.001.0001\_R at [23].
- 567 Exhibit 43-0023, 'Statement of Audrey Nash', Case Study 43, STAT.1172.001.0001\_R [24].
- 568 Exhibit 43-0022, 'Statement of CQT', Case Study 43, STAT.1173.001.0001\_R at [25]–[26].
- 569 Exhibit 43-0022, 'Statement of CQT', Case Study 43, STAT.1173.001.0001\_R at [26].
- 570 Transcript of C Wade, Case Study 43, 7 September 2016 at T18165:47–T18166:3;  
Transcript of C Wade, Case Study 43, 8 September 2016 at T18207:11–27.
- 571 Exhibit 43-0027, 'Statement of Brother Wade', Case Study 43, STAT.1180.001.0001\_R at [42].
- 572 Transcript of C Wade, Case Study 43, 7 September 2016 at T18165:17–45.
- 573 Transcript of C Wade, Case Study 43, 7 September 2016 at T18166:3–42.
- 574 Transcript of C Wade, Case Study 43, 7 September 2016 at T18167:25–39.
- 575 Transcript of C Wade, Case Study 43, 8 September 2016 at T18209:6–46.
- 576 Transcript of C Wade, Case Study 43, 8 September 2016 at T18208:40–T18209:4.
- 577 Transcript of W Burston, Case Study 43, 5 September 2016 at T17882:20–40.
- 578 Transcript of W Burston, Case Study 43, 5 September 2016 at T17883:7–16.
- 579 Transcript of W Burston, Case Study 43, 5 September 2016 at T17883:24–35, T17888:4–8.

580 Submissions on behalf of Father Burston dated 3 February 2017, Case Study 43,  
SUBM.1043.004.0001 at [7]–[8].

581 Exhibit 43-0023, ‘Statement of Audrey Nash’, Case Study 43, STAT.1172.001.0001\_R at [31].

582 Exhibit 43-0023, ‘Statement of Audrey Nash’, Case Study 43, STAT.1172.001.0001\_R at [32].

583 Exhibit 43-0023, ‘Statement of Audrey Nash,’ Case Study 43, STAT.1172.001.0001\_R at [33].

584 Exhibit 43-0030, ‘Statement of Brother Carroll’, Case Study 43, ATAT.1181.001.0001\_R at [182]–[187].

585 Exhibit 43-0022, ‘Statement of CQT’, Case Study 43, STAT.1173.001.0001\_R at [33].

586 Transcript of CQS, Case Study 43, 7 September 2016 at T18143:7–13.

587 Transcript of CQS, Case Study 43, 7 September 2016 at T18143:15–20.

588 Transcript of CQS, Case Study 43, 7 September 2016 at T18143:33–36.

589 Transcript of CQS, Case Study 43, 7 September 2016 at T18143:28–43.

590 Transcript of CQS, Case Study 43, 7 September 2016 at T18146:21–39.

591 Transcript of P Carroll, Case Study 43, 8 September 2016 at T18230:37–T18231:6.

592 Submissions on behalf of Brother Wade dated 3 February 2017, Case Study 43,  
SUBM.1043.007.0001 at [9].

593 Submissions on behalf of Brother Wade dated 3 February 2017, Case Study 43,  
SUBM.1043.007.0001 at [45].

594 Submissions on behalf of Brother Wade dated 3 February 2017, Case Study 43,  
SUBM.1043.007.0001 at [47].

595 Exhibit 43-0009, Case Study 43, CTJH.053.07170.0111\_R, CTJH.053.07170.0114\_R.

596 Exhibit 43-0009, Case Study 43, CTJH.053.07170.0111\_R at 0013.

597 Exhibit 43-0009, Case Study 43, CTJH.053.07170.0111\_R at 0013.

598 Exhibit 43-0009, Case Study 43, CTJH.053.07170.0111\_R at 0013.

599 Transcript of C Wade, Case Study 43, 7 September 2016 at T18172:6–13.

600 Transcript of C Wade, Case Study 43, 7 September 2016 at T18174:9–20.

601 Transcript of C Wade, Case Study 43, 8 September 2016 at T8218:15–29.

602 Submissions on behalf of Brother Wade dated 3 February 2017, Case Study 43,  
SUBM.1043.007.0001 at [28].

603 Submissions on behalf of Brother Wade dated 3 February 2017, Case Study 43,  
SUBM.1043.007.0001 at [29]–[30].

604 Exhibit 43-0016, ‘Statement of CNS’, Case Study 43, STAT.1152.001.0001\_R at [9]–[10].

605 Exhibit 43-0016, ‘Statement of CNS’, Case Study 43, STAT.1152.001.0001\_R at [11].

606 Exhibit 43-0016, ‘Statement of CNS’, Case Study 43, STAT.1152.001.0001\_R at [12].

607 Exhibit 43-0016, ‘Statement of CNS’, Case Study 43, STAT.1152.001.0001\_R at [15].

608 Exhibit 43-0016, ‘Statement of CNS’, Case Study 43, STAT.1152.001.0001\_R at [17].

609 Exhibit 43-0016, ‘Statement of CNS’, Case Study 43, STAT.1152.001.0001\_R at [18].

610 Exhibit 43-0016, ‘Statement of CNS’, Case Study 43, STAT.1152.001.0001\_R at [18].

611 Exhibit 43-0016, ‘Statement of CNS’, Case Study 43, STAT.1152.001.0001\_R at [19].

612 Exhibit 43-0019, ‘Statement of CNR’, Case Study 43, STAT.1174.001.0001\_R at [27].

613 Exhibit 43-0017, ‘Statement of CNV’, Case Study 43, STAT.1163.001.0001\_R at [13].

614 Transcript of CNS, Case Study 43, 5 September 2016 at T17904:24–27.

615 Transcript of CNS, Case Study 43, 5 September 2016 at T17903: 46–T17904:27.

616 Transcript of CNS, Case Study 43, 5 September 2016 at T17903:45–47.

617 Transcript of CNS, Case Study 43, 5 September 2016 at T17904:2–17.

618 Transcript of CNS, Case Study 43, 5 September 2016 at T17904:19–27.

619 Transcript of CNS, Case Study 43, 5 September 2016 at T17904:36–38.

620 Transcript of C Wade, Case Study 43, 7 September 2016 at T18163:42–44;  
Transcript of C Wade, Case Study 43, 8 September 2016 at T18200:34–39.

621 Transcript of C Wade, Case Study 43, 7 September 2016 at T18164:7–10.

622 Exhibit 43-0009, Case Study 43, CTJH.053.07170.0199\_R at 0201\_R.

623 Submissions on behalf of Brother Wade dated 3 February 2017, Case Study 43,  
SUBM.1043.007.0001 at [18]–[23].



624 Exhibit 43-0017, 'Statement of CNV', Case Study 43, STAT.1163.001.0001\_R at [9]–[12].  
625 Exhibit 43-0017, 'Statement of CNV', Case Study 43, STAT.1163.001.0001\_R at [14]–[17].  
626 Exhibit 43-0017, 'Statement of CNV', Case Study 43, STAT.1163.001.0001\_R at [18]–[20].  
627 Exhibit 43-0017, 'Statement of CNV', Case Study 43, STAT.1163.001.0001\_R at [21].  
628 Transcript of CNV, Case Study 43, 5 September 2016 at T17913:25–30.  
629 Exhibit 43-0016, 'Statement of CNS', Case Study 43, STAT.1152.001.0001\_R at [22].  
630 Transcript of C Wade, Case Study 43, 7 September 2016 at T18165:1–6.  
631 Transcript of C Wade, Case Study 43, 8 September 2016 at T18202:21–25.  
632 Submissions on behalf of Brother Wade dated 3 February 2017, Case Study 43,  
SUBM.1043.007.0001 at [18]–[23].  
633 Submissions on behalf of Brother Wade dated 3 February 2017, Case Study 43,  
SUBM.1043.007.0001 at [26].  
634 Exhibit 43-0009, Case Study 43, CTJH.053.70050.0045\_R at 0048; Exhibit 43-0009,  
Case Study 43, CTJH.053.07170.0199\_R at 0201.  
635 Exhibit 43-0027, 'Statement of Brother Wade', Case Study 43, STAT.1180.001.0001\_R at [39];  
Transcript of C Wade, Case Study 43, 7 September 2016 at T18154:21–T18155:21.  
636 Transcript of C Wade, Case Study 43, 7 September 2016 at T18154:27–30.  
637 Transcript of C Wade, Case Study 43, 7 September 2016 at T18152:16–26.  
638 Exhibit 43-0009, Case Study 43, CTJH.053.07170.0199\_R at 0203;  
Exhibit 43-9 Case Study 43, IND.0478.001.0012.  
639 Transcript of C Wade, Case Study 43, 7 September 2016 at T18154:43–46, T18156:25–31.  
640 Exhibit 43-0027, 'Statement of Brother Wade', Case Study 43, STAT.1180.001.0001\_R at [38], [41].  
641 Transcript of C Wade, Case Study 43, 7 September 2016 at T18157:18–25, T18158:10–12.  
642 Exhibit 43-0009, Case Study 43, CTJH.053.70050.0039\_R.  
643 Exhibit 43-0009, Case Study 43, CTJH.053.07170.0199\_R at 0202.  
644 Transcript of C Wade, Case Study 43, 7 September 2016 at T18158:32–41.  
645 Transcript of C Wade, Case Study 43, 7 September 2016 at T18158:43–45.  
646 Transcript of C Wade, Case Study 43, 7 September 2016 at T18159:6–9, 21–22.  
647 Transcript of C Wade, Case Study 43, 7 September 2016 at T18160:10–18.  
648 Transcript of C Wade, Case Study 43, 7 September 2016 at T18160:25–29.  
649 Transcript of C Wade, Case Study 43, 7 September 2016 at T18160:31–41.  
650 Transcript of C Wade, Case Study 43, 7 September 2016 at T18161:2–4.  
651 Transcript of C Wade, Case Study 43, 7 September 2016 at T18161:15–19.  
652 Transcript of C Wade, Case Study 43, 7 September 2016 at T18159:24–25.  
653 Transcript of C Wade, Case Study 43, 7 September 2016 at T18165:8–11.  
654 Transcript of C Wade, Case Study 43, 7 September 2016 at T18161:28–34.  
655 Transcript of C Wade, Case Study 43, 8 September 2016 at T18197:38–T18198:15.  
656 Transcript of C Wade, Case Study 43, 7 September 2016 at T18161:32–41;  
Transcript of C Wade, Case Study 43, 8 September 2016 at T18198:28–30.  
657 Transcript of C Wade, Case Study 43, 7 September 2016 at T18180:26–T18181:1.  
658 Transcript of C Wade, Case Study 43, 7 September 2016 at T18155:29–37.  
659 Transcript of C Wade, Case Study 43, 7 September 2016 at T18155:43–45.  
660 Submissions on behalf of Brother Wade dated 3 February 2017, Case Study 43,  
SUBM.1043.007.0001 at [40].  
661 Exhibit 43-0026, 'Statement of CQS', Case Study 43, STAT.1182.001.0001\_R at [12], [15].  
662 Exhibit 43-0026, 'Statement of CQS', Case Study 43, STAT.1182.001.0001\_R at [16]–[17].  
663 Exhibit 43-0026, 'Statement of CQS', Case Study 43, STAT.1182.001.0001\_R at [20].  
664 Exhibit 43-0026, 'Statement of CQS', Case Study 43, STAT.1182.001.0001\_R at [21]–[22].  
665 Exhibit 43-0026, 'Statement of CQS', Case Study 43, STAT.1182.001.0001\_R at [24]–[26].  
666 Exhibit 43-0026, 'Statement of CQS', Case Study 43, STAT.1182.001.0001\_R at [28].  
667 Exhibit 43-0026, 'Statement of CQS', Case Study 43, STAT.1182.001.0001\_R at [29].  
668 Exhibit 43-0026, 'Statement of CQS', Case Study 43, STAT.1182.001.0001\_R at [30]–[31].  
669 Exhibit 43-0026, 'Statement of CQS', Case Study 43, STAT.1182.001.0001\_R at [34].

670 Transcript of CQS, Case Study 43, 7 September 2016 at T18145:14–29.  
671 Transcript of CQS, Case Study 43, 7 September 2016 at T18145:34–40.  
672 Transcript of C Wade, Case Study 43, 7 September 2016 at T18162:23–36.  
673 Submissions on behalf of Brother Wade dated 3 February 2017, Case Study 43,  
SUBM.1043.007.0001 at [32].  
674 Submissions on behalf of Brother Wade dated 3 February 2017, Case Study 43,  
SUBM.1043.007.0001 at [32]–[34].  
675 Exhibit 43-0018, ‘Statement of CNQ’, Case Study 43, STAT.1128.001.0001\_R at [35].  
676 Exhibit 43-0018, ‘Statement of CNQ’, Case Study 43, STAT.1128.001.0001\_R at [38]–[39].  
677 Exhibit 43-0018, ‘Statement of CNQ’, Case Study 43, STAT.1128.001.0001\_R at [42]–[44].  
678 Exhibit 43-0018, ‘Statement of CNQ’, Case Study 43, STAT.1128.001.0001\_R at [45]–[46].  
679 Confidential exhibit.  
680 Exhibit 43-0009, Case Study 43, CTJH.053.70009.0111\_R; Exhibit 43-0009, Case Study 43,  
CTJH.053.70009.0098\_R; Exhibit 43-0009, Case Study 43, CTJH.053.70045.0191\_R.  
681 Exhibit 43-0009, Case Study 43, CTJH.053.70009.0098\_R at 0103.  
682 Exhibit 43-0009, Case Study 43, CTJH.053.70045.0186\_R.  
683 Submissions of the Truth, Justice and Healing Council and the Marist Brothers received  
3 February 2017, Case Study 43, SUBM.1043.008.0001 at [10]–[11].  
684 Exhibit 43-0018, ‘Statement of CNQ’, Case Study 43, STAT.1128.001.0001\_R [49]–[50].  
685 Submissions of the Truth, Justice and Healing Council and the Marist Brothers received  
3 February 2017, Case Study 43, SUBM.1043.008.0001 at [13].  
686 Exhibit 43-0030, ‘Statement of Brother Carroll’, Case Study 43, STAT.1181.001.0001\_R at [68].  
687 Exhibit 43-0030, ‘Statement of Brother Carroll’, Case Study 43, STAT.1181.001.0001\_R at [79]–[80].  
688 Exhibit 43-0030, ‘Statement of Brother Carroll’, Case Study 43, STAT.1181.001.0001\_R at [80].  
689 Exhibit 43-0032, ‘Statement of John Hamilton’, Case Study 43, STAT.1184.001.0001\_R at [5].  
690 Exhibit 43-0032, ‘Statement of John Hamilton’, Case Study 43, STAT.1184.001.0001\_R at [11]–[12].  
691 Exhibit 43-0032, ‘Statement of John Hamilton’, Case Study 43, STAT.1184.001.0001\_R at [18].  
692 Exhibit 43-0032, ‘Statement of John Hamilton’, Case Study 43, STAT.1184.001.0001\_R at [20].  
693 Exhibit 43-0032, ‘Statement of John Hamilton’, Case Study 43, STAT.1184.001.0001\_R at [21].  
694 Exhibit 43-0032, ‘Statement of John Hamilton’, Case Study 43, STAT.1184.001.0001\_R at [24]–[25].  
695 Exhibit 43-0032, ‘Statement of John Hamilton’, Case Study 43, STAT.1184.001.0001\_R at [28].  
696 Exhibit 43-0032, ‘Statement of John Hamilton’, Case Study 43, STAT.1184.001.0001\_R at [28].  
697 Exhibit 43-0032, ‘Statement of John Hamilton’, Case Study 43, STAT.1184.001.0001\_R at [26]–[27].  
698 Exhibit 43-0009, Case Study 43, CTJH.053.07171.0181\_R at [12].  
699 Exhibit 43-0009, Case Study 43, CTJH.053.07170.0130\_R at 0131.  
700 Exhibit 43-0009, Case Study 43, CTJH.053.07170.0130\_R at 0133.  
701 Exhibit 43-0032, ‘Statement of John Hamilton’, Case Study 43, STAT.1184.001.0001\_R at [34].  
702 Exhibit 43-0009, Case Study 43, CTJH.053.07170.0256\_R.  
703 Transcript of A Turton, Case Study 43, 5 September 2016 at T17942:17–36.  
704 Exhibit 43-0009, Case Study 43, CTJH.053.07170.0154\_R.  
705 Transcript of A Turton, Case Study 43, 5 September 2016 at T17943:12–13.  
706 Transcript of A Turton, Case Study 43, 5 September 2016 at T17953:3–8.  
707 Transcript of A Turton, Case Study 43, 5 September 2016 at T17943:29–41.  
708 Transcript of A Turton, Case Study 43, 5 September 2016 at T17944:27–31.  
709 Transcript of A Turton, Case Study 43, 5 September 2016 at T17944:33–38.  
710 Exhibit 43-0009, Case Study 43, CTJH.053.07170.0256\_R.  
711 Exhibit 43-0009, Case Study 43, CTJH.053.07170.0256\_R.  
712 Transcript of A Turton, Case Study 43, 5 September 2016 at T17945:1–5.  
713 Transcript of A Turton, Case Study 43, 5 September 2016 at T17945:22–28.  
714 Transcript of A Turton, Case Study 43, 5 September 2016 at T17945:39–T17946:11.  
715 Transcript of A Turton, Case Study 43, 5 September 2016 at T17950:43–T17951:8.  
716 Exhibit 43-0009, Case Study 43, CTJH.053.07170.0252\_R at 0254–0255.  
717 Exhibit 43-0009, Case Study 43, CTJH.053.07170.0271\_R.

- 718 Exhibit 43-0009, Case Study 43, CTJH.053.07170.0154\_R at 0155.  
719 Exhibit 43-0009, Case Study 43, CTJH.053.07170.0154\_R at 0157.  
720 Submissions on behalf of Brother Alexis Turton dated 3 February 2017, Case Study 43, SUBM.1043.006.0001 at [6].  
721 Submissions on behalf of Brother Alexis Turton dated 3 February 2017, Case Study 43, SUBM.1043.006.001 at [9].  
722 Submissions on behalf of Brother Alexis Turton dated 3 February 2017, Case Study 43, SUBM.1043.006.001 at [7].  
723 Exhibit 43-0030, 'Statement of Brother Carroll', Case Study 43, STAT.1181.001.0001\_R at [96].  
724 Exhibit 43-0009, Case Study 43, CTJH.053.70050.0033.  
725 Transcript of A Turton, Case Study 43, 5 September 2016 at T17942:17–19, T17954:4–9.  
726 Exhibit 43-0009, Case Study 43, CTJH.053.07170.0257.  
727 Exhibit 43-0009, Case Study 43, CTJH.053.07170.0252 at [15].  
728 Exhibit 43-0020, 'Statement of Brother Turton' Case Study 43, STAT.1179.001.0001\_R at [126].  
729 Transcript of A Turton, Case Study 43, 5 September 2016 at T17954:15–31.  
730 Transcript of A Turton, Case Study 43, 5 September 2016 at T17956:11–24.  
731 Transcript of A Turton, Case Study 43, 5 September 2016 at T17956:31–36.  
732 Transcript of A Turton, Case Study 43, 5 September 2016 at T17957:25–30.  
733 Transcript of A Turton, Case Study 43, 5 September 2016 at T17956:38–42.  
734 Transcript of A Turton, Case Study 43, 5 September 2016 at T17956:44–T17957:2.  
735 Transcript of A Turton, Case Study 43, 5 September 2016 at T17954:27–43.  
736 Transcript of A Turton, Case Study 43, 5 September 2016 at T17954:40–T17955:7.  
737 Transcript of A Turton, Case Study 43, 5 September 2016 at T17957:32–36, T17958:17–21.  
738 Transcript of A Turton, Case Study 43, 5 September 2016 at T17957:44–T17958:5.  
739 Transcript of A Turton, Case Study 43, 5 September 2016 at T17958:32–40.  
740 Transcript of A Turton, Case Study 43, 5 September 2016 at T17959:12–14.  
741 Submissions on behalf of Brother Alexis Turton dated 3 February 2017, Case Study 43, SUBM.1043.006.0001 at [10]–[12].  
742 Transcript of A Turton, Case Study 43, 5 September 2016 at T17960:15–19.  
743 Transcript of A Turton, Case Study 43, 5 September 2016 at T17960:33–37.  
744 Transcript of A Turton, Case Study 43, 5 September 2016 at T17960:39–46.  
745 Transcript of A Turton, Case Study 43, 5 September 2016 at T17961:1–5.  
746 Transcript of A Turton, Case Study 43, 5 September 2016 at T17961:17–25.  
747 Transcript of M Hill, Case Study 43, 7 September 2016 at T18070:19–26.  
748 Transcript of M Hill, Case Study 43, 7 September 2016 at T18071:6–7.  
749 Transcript of M Hill, Case Study 43, 7 September 2016 at T18070:31–47.  
750 Transcript of M Hill, Case Study 43, 7 September 2016 at T18071:21–28.  
751 Transcript of M Hill, Case Study 43, 7 September 2016 at T18072:16–22, 32–36.  
752 Transcript of M Hill, Case Study 43, 7 September 2016 at T18072:24–26.  
753 Transcript of M Hill, Case Study 43, 7 September 2016 at T18072:32–T18073:1.  
754 Transcript of A Turton, Case Study 43, 5 September 2016 at T17960:39–T17961:29.  
755 Transcript of M Hill, Case Study 43, 7 September 2016 at T18071:21 – T18073:1.  
756 Submissions on behalf of Brother Alexis Turton dated 3 February 2017, Case Study 43, SUBM.1043.006.0001 at [14].  
757 Exhibit 43-0009, Case Study 43, CTJH.053.70050.0320\_R at 0320–0321.  
758 Exhibit 43-0009, Case Study 43, CTJH.053.70050.0320\_R at 0321–0322.  
759 Exhibit 43-0009, Case Study 43, CTJH.053.07172.0160\_R at 0160–0161.  
760 Exhibit 43-0009, Case Study 43, CTJH.053.07172.0160\_R at 0161.  
761 Exhibit 43-0009, Case Study 43, CTJH.053.07172.0171\_R at 0187.  
762 Transcript of A Turton, Case Study 43, 5 September 2016 at T17961:37–46.  
763 Transcript of M Hill, Case Study 43, 7 September 2016 at T18067:29–33.  
764 Exhibit 43-0024, 'Statement of Brother Hill', Case Study 43, STAT.1178.001.0001 at [62], Transcript of M Hill, Case Study 43, 7 September 2016 at T18066:18–26.

765 Transcript of M Hill, Case Study 43, 7 September 2016 at T18066:31–33.  
 766 Transcript of M Hill, Case Study 43, 7 September 2016 at T18066:35–37.  
 767 Transcript of M Hill, Case Study 43, 7 September 2016 at T18066:39–46.  
 768 Transcript of M Hill, Case Study 43, 7 September 2016 at T18069:34–47.  
 769 Transcript of M Hill, Case Study 43, 7 September 2016 at T18073:17–37.  
 770 Transcript of M Hill, Case Study 43, 7 September 2016 at T18070:2–5.  
 771 Exhibit 43-0024, ‘Statement of Brother Hill’, Case Study 43, STAT.1178.001.0001 at [63].  
 772 Transcript of M Hill, Case Study 43, 7 September 2016 at T18067:47–T18068:4.  
 773 Transcript of M Hill, Case Study 43, 7 September 2016 at T18081:28–30.  
 774 Transcript of M Hill, Case Study 43, 7 September 2016 at T18067:43–46.  
 775 Transcript of M Hill, Case Study 43, 7 September 2016 at T18068:19–28.  
 776 Transcript of M Hill, Case Study 43, 7 September 2016 at T18068:6–12.  
 777 Transcript of M Hill, Case Study 43, 7 September 2016 at T18067:12–17.  
 778 Transcript of M Hill, Case Study 43, 7 September 2016 at T18067:19–22.  
 779 Transcript of M Hill, Case Study 43, 7 September 2016 at T18067:24–27.  
 780 Exhibit 43-0030, ‘Statement of Brother Carroll’, Case Study 43, STAT.1181.001.0001\_R at [96].  
 781 Transcript of P Carroll, Case Study 43, 8 September 2016 at T18247:27–30, T18248:14–17.  
 782 Transcript of M Hill, Case Study 43, 9 December 2016 at T24681:20–26.  
 783 Exhibit 43-0009, Case Study 43, CTJH.053.70046.0022\_R.  
 784 Exhibit 43-0009, Case Study 43, CTJH.053.70046.0022\_R at 0023.  
 785 Exhibit 43-0009, Case Study 43, CTJH.053.70046.0022\_R at 0027.  
 786 Transcript of M Hill, Case Study 43, 9 December 2016 at T24682:2–5.  
 787 Transcript of M Hill, Case Study 43, 9 December 2016 at T24682:14–18.  
 788 Transcript of M Hill, Case Study 43, 9 December 2016 at T24683:30–38.  
 789 Submissions on behalf of Brother Michael Hill, Case Study 43, SUBM.1043.005.0001 at [10]–[11].  
 790 Exhibit 43-0009, Case Study 43, CTJH.053.07172.0160\_R at 0161.  
 791 Exhibit 43-0009, Case Study 43, CTJH.053.07165.0058.  
 792 Exhibit 43-0009, Case Study 43, CTJH.053.70046.0015.  
 793 Exhibit 43-0009, Case Study 43, CTJH.053.70046.0005.  
 794 Exhibit 43-0009, Case Study 43, QLD.0157.001.0035\_R; Exhibit 43-0009, Case Study 43, CTJH.053.07172.0153\_R.  
 795 Exhibit 43-0009, Case Study 43, CTJH.053.70050.0137.  
 796 Transcript of M Hill, Case Study 43, 7 September 2016 at T18068:30–46.  
 797 Transcript of M Hill, Case Study 43, 7 September 2016 at T18069:1–7.  
 798 Transcript of M Hill, Case Study 43, 7 September 2016 at T18069:1–15.  
 799 Exhibit 43-0009, Case Study 43, CTJH.053.70050.0151.  
 800 Transcript of M Hill, Case Study 43, 7 September 2016 at T18074:22–36.  
 801 Exhibit 43-0009, Case Study 43, CTJH.053.70050.0148\_R.  
 802 Exhibit 43-0009, Case Study 43, CTJH.053.70050.0148\_R.  
 803 Exhibit 43-0009, Case Study 43, CTJH.053.07164.0088\_R.  
 804 Exhibit 43-0009, Case Study 43, CTJH.053.70050.0145\_R.  
 805 Exhibit 43-0045, ‘Statement of CQP’, Case Study 43, STAT.1210.001.0001\_R at [8].  
 806 Exhibit 43-0045, ‘Statement of CQP’, Case Study 43, STAT.1210.001.0001\_R at [17]–[19].  
 807 Exhibit 43-0045, ‘Statement of CQP’, Case Study 43, STAT.1210.001.0001\_R at [20].  
 808 Exhibit 43-0045, ‘Statement of CQP’, Case Study 43, STAT.1210.001.0001\_R at [21].  
 809 Exhibit 43-0045, ‘Statement of CQP’, Case Study 43, STAT.1210.001.0001\_R at [22].  
 810 Exhibit 43-0045, ‘Statement of CQP’, Case Study 43, STAT.1210.001.0001\_R at [23]–[24].  
 811 Exhibit 43-0045, ‘Statement of CQP’, Case Study 43, STAT.1210.001.0001\_R at [25].  
 812 Exhibit 43-0045, ‘Statement of CQP’, Case Study 43, STAT.1210.001.0001\_R at [26].  
 813 Exhibit 43-0045, ‘Statement of CQP’, Case Study 43, STAT.1210.001.0001\_R at [27].  
 814 Exhibit 43-0045, ‘Statement of CQP’, Case Study 43, STAT.1210.001.0001\_R at [28]–[29].  
 815 Exhibit 43-0045, ‘Statement of CQP’, Case Study 43, STAT.1210.001.0001\_R at [30]–[31].  
 816 Transcript of M Malone, Case Study 43, 1 September 2016 at T17762:42–T17763:6.

817 Transcript of M Malone, Case Study 43, 1 September 2016 at T17763:10–11, 29–30, T17764:3–4.  
818 Transcript of M Malone, Case Study 43, 1 September 2016 at T17764:2–5.  
819 Transcript of M Malone, Case Study 43, 1 September 2016 at T17763:32–36.  
820 Transcript of M Malone, Case Study 43, 1 September 2016 at T17774:22–42.  
821 Transcript of M Malone, Case Study 43, 1 September 2016 at T17763:12–14.  
822 Transcript of M Malone, Case Study 43, 1 September 2016 at T17763:13–20.  
823 Transcript of M Malone, Case Study 43, 1 September 2016 at T17765:34–41.  
824 Transcript of M Malone, Case Study 43, 1 September 2016 at T17765:44–T17766:1.  
825 Exhibit 43-0024, ‘Statement of Brother Hill’, Case Study 43, STAT.1178.001.0001 at [67].  
826 Transcript of M Hill, Case Study 43, 7 September 2016 at T18075:24–27.  
827 Transcript of M Hill, Case Study 43, 7 September 2016 at T18075:45–T18076:3.  
828 Transcript of M Hill, Case Study 43, 7 September 2016 at T18077:5–21.  
829 Transcript of M Hill, Case Study 43, 7 September 2016 at T18077:23–26.  
830 Transcript of M Hill, Case Study 43, 7 September 2016 at T18082:19–36.  
831 Transcript of M Hill, Case Study 43, 7 September 2016 at T18083:7–18.  
832 Transcript of M Hill, Case Study 43, 7 September 2016 at T18083:20–26.  
833 Transcript of M Hill, Case Study 43, 7 September 2016 at T18083:28–30.  
834 Exhibit 43-0024, ‘Statement of Brother Hill’, Case Study 43, STAT.1178.001.0001 at [68].  
835 Transcript of M Hill, Case Study 43, 7 September 2016 at T18081:46–T18082:2.  
836 Transcript of M Hill, Case Study 43, 7 September 2016 at T18082:2–5.  
837 Transcript of M Hill, Case Study 43, 7 September 2016 at T18082:13–15.  
838 Transcript of M Hill, Case Study 43, 9 December 2016 at T24670:30–33.  
839 Transcript of M Hill, Case Study 43, 9 December 2016 at T24670:35–45.  
840 Transcript of M Hill, Case Study 43, 9 December 2016 at T24671:45–47.  
841 Transcript of M Hill, Case Study 43, 9 December 2016 at T24671:3–6.  
842 Transcript of M Hill, Case Study 43, 9 December 2016 at T24672:34–T24673:24.  
843 Transcript of M Hill, Case Study 43, 9 December 2016 at T24673:35–28.  
844 Transcript of M Hill, Case Study 43, 9 December 2016 at T24674:11–14, 25–34.  
845 Transcript of M Hill, Case Study 43, 9 December 2016 at T24675:10–14.  
846 Transcript of M Hill, Case Study 43, 9 December 2016 at T24675:29–32.  
847 Transcript of M Hill, Case Study 43, 9 December 2016 at T24675:34–T24676:19.  
848 Transcript of M Hill, Case Study 43, 9 December 2016 at T24676:21–26.  
849 Transcript of M Hill, Case Study 43, 9 December 2016 at T24679:19–33.  
850 Transcript of CQP, Case Study 43, 9 December 2016 at T24663:46–T24664:5, T24664:46–T24665:22.  
851 Transcript of CQP, Case Study 43, 9 December 2016 at T24666:3–14.  
852 Submissions on behalf of Brother Michael Hill, Case Study 43, SUBM.1043.005.0001 at [28].  
853 Submissions on behalf of Brother Michael Hill, Case Study 43, SUBM.1043.005.0001 at [32].  
854 Exhibit 43-0045, ‘Statement of CQP’, Case Study 43, STAT.1210.001.0001\_R at [27].  
855 Submissions on behalf of Brother Michael Hill, Case Study 43, SUBM.1043.005.0001 at [35].  
856 Exhibit 43-0030, ‘Statement of Brother Carroll’, Case Study 43, CTJH.053.70101.0010\_R at 0011.  
857 Transcript of M Hill, Case Study 43, 7 September 2016 at T18077:39–T18078:2.  
858 Transcript of M Hill, Case Study 43, 7 September 2016 at T18078:43–T18079:2–6.  
859 Transcript of M Hill, Case Study 43, 7 September 2016 at T18079:8–30.  
860 Transcript of M Hill, Case Study 43, 7 September 2016 at T18079:32–42.  
861 Transcript of M Hill, Case Study 43, 7 September 2016 at T18080:4–18.  
862 Transcript of M Hill, Case Study 43, 7 September 2016 at T18080:23–28.  
863 Exhibit 43-0030, ‘Statement of Brother Carroll’, Case Study 43, STAT.1181.001.0001\_R at [109].  
864 Exhibit 43-0009, Case Study 43, CTJH.053.70050.0134\_R.  
865 Transcript of P Carroll, Case Study 43, 8 September 2016 at T18249:1–7.  
866 Transcript of P Carroll, Case Study 43, 8 September 2016 at T18329:7–19.  
867 Exhibit 43-0024, ‘Statement of Brother Hill’, Case Study 43, STAT.1178.001.0001 at [65].  
868 Submissions on behalf of Brother Michael Hill, Case Study 43, SUBM.1043.005.0001 at pp 7–8, [42]–[43], [47].



869 Submissions on behalf of Brother Michael Hill, Case Study 43, SUBM.1043.005.0001 at [56].  
870 Exhibit 43-0009, Case Study 43, CTJH.053.70050.0542.  
871 Exhibit 43-0024, 'Statement of Brother Hill', Case Study 43, STAT.1178.001.0001 at [69].  
872 Exhibit 43-0009, Case Study 43, CTJH.053.70050.0136\_R.  
873 Transcript of M Hill, Case Study 43, 7 September 2016 at T18084:10–16.  
874 Exhibit 43-0009, Case Study 43, CTJH.053.70050.0134\_R.  
875 Exhibit 43-0009, Case Study 43, CTJH.053.70050.0132.  
876 Exhibit 43-0024, 'Statement of Brother Hill' Case Study 43, STAT.1178.001.0001 at [72]–[73].  
877 Transcript of P Carroll, Case Study 43, 8 September 2016 at T18250:33–38.  
878 Transcript of P Carroll, Case Study 43, 8 September 2016 at T18250:44–T18251:3.  
879 Transcript of M Hill, Case Study 43, 7 September 2016 at T18088:30–T18089:16.  
880 Transcript of M Hill, Case Study 43, 7 September 2016 at T18089:18–29.  
881 Exhibit 43-0009, Case Study 43, CTJH.053.70050.0021.  
882 Transcript of M Hill, Case Study 43, 7 September 2016 at T18084:45–T18085:3.  
883 Transcript of M Hill, Case Study 43, 7 September 2016 at T18085:10–23.  
884 Transcript of M Hill, Case Study 43, 7 September 2016 at T18085:23–27.  
885 Transcript of M Hill, Case Study 43, 7 September 2016 at T18085:29–T18086:11.  
886 Transcript of M Hill, Case Study 43, 7 September 2016 at T18086:31–45.  
887 Transcript of M Hill, Case Study 43, 7 September 2016 at T18087:29–41.  
888 Transcript of M Hill, Case Study 43, 7 September 2016 at T18087:47–T18088:4.  
889 Transcript of M Hill, Case Study 43, 7 September 2016 at T18089:31–46.  
890 Exhibit 43-0030, 'Statement of Brother Carroll', Case Study 43, STAT.1181.001.0001\_R at [80].  
891 Submissions on behalf of Brother Michael Hill, Case Study 43, SUBM.1043.005.0001 at [59].  
892 Transcript of P Carroll Case Study 43, 8 September 2016 at T18251:18–24.  
893 Exhibit 43-0009, Case Study 43, CTJH.053.07170.0208.  
894 Exhibit 43-0009, Case Study 43, CTJH.053.07170.0211.  
895 Exhibit 43-0009, Case Study 43, CTJH.053.70050.0049\_R.  
896 Exhibit 43-0009, Case Study 43, CTJH.053.70015.0045\_R.  
897 Exhibit 43-0009, Case Study 43, CTJH.053.07160.0283\_R.  
898 Exhibit 43-0009, Case Study 43, CTJH.053.07160.0283\_R;  
Exhibit 43-9, Case Study 43, QLD.0153.001.0793.  
899 Exhibit 43-0009, Case Study 43, CTJH.053.70013.0043\_R;  
Transcript of A Turton, Case Study 43, 5 September 2016 at T17963:21–25.  
900 Exhibit 43-0009, Case Study 43, CTJH.053.70013.0043\_R.  
901 Transcript of A Turton, Case Study 43, 5 September 2016 at T17964:27–31.  
902 Transcript of A Turton, Case Study 43, 5 September 2016 at T17964:33–38.  
903 Transcript of A Turton, Case Study 43, 5 September 2016 at T17965:34–45.  
904 Transcript of A Turton, Case Study 43, 5 September 2016 at T17966:3–16.  
905 Transcript of A Turton, Case Study 43, 5 September 2016 at T17966:40–43.  
906 Transcript of A Turton, Case Study 43, 5 September 2016 at T17966:22.  
907 Transcript of A Turton, Case Study 43, 5 September 2016 at T17965:3–14.  
908 Exhibit 43-0020, 'Statement of Brother Turton', Case Study 43, STAT.1179.001.0001 at [46].  
909 Exhibit 43-0020, 'Statement of Brother Turton', Case Study 43, STAT.1179.001.0001 at [47].  
910 Exhibit 43-0020, 'Statement of Brother Turton', Case Study 43, STAT.1179.001.0001 at [48];  
Transcript of A Turton, Case Study 43, 5 September 2016 at T17965:23–26.  
911 Exhibit 43-0020, 'Statement of Brother Turton', Case Study 43, STAT.1179.001.0001 at [49].  
912 Transcript of A Turton, Case Study 43, 5 September 2016 at T17965:27–32.  
913 Transcript of A Turton, Case Study 43, 5 September 2016 at T17968:1–16.  
914 Transcript of A Turton, Case Study 43, 5 September 2016 at T17969:7–11.  
915 Exhibit 43-0020, 'Statement of Brother Turton', Case Study 43, STAT.1179.001.0001 at [50].  
916 Transcript of A Turton, Case Study 43, 6 September 2016 T17973:21–25; Exhibit 43-43-0020,  
'Statement of Brother Turton', Case Study 43, STAT.1143.001.0001 at [50].  
917 Transcript of A Turton, Case Study 43, 6 September 2016 at T17973:33–39.

918 Exhibit 43-0009, Case Study 43, CTJH.053.70013.004\_R.  
 919 Transcript of A Turton, Case Study 43, 6 September 2016 at T17974:7–9, 25–27;  
 Exhibit 43-0009, Case Study 43, CTJH.053.70013.0081\_R.  
 920 Exhibit 43-0009, Case Study 43, CTJH.053.70013.0043\_R.  
 921 Transcript of A Turton, Case Study 43, 6 September 2016 at T17974:34–37.  
 922 Transcript of A Turton, Case Study 43, 6 September 2016 at T17976:13–23.  
 923 Transcript of A Turton, Case Study 43, 6 September 2016 at T17976:37–41.  
 924 Transcript of A Turton, Case Study 43, 6 September 2016 at T17977:2–5.  
 925 Transcript of A Turton, Case Study 43, 6 September 2016 at T17978:35–43.  
 926 Exhibit 43-0009, Case Study 43, CTJH.053.70013.0043\_R at 0044.  
 927 Transcript of A Turton, Case Study 43, 6 September 2016 at T17977:29–41.  
 928 Transcript of A Turton, Case Study 43, 6 September 2016 at T17977:46–T17978:7.  
 929 Transcript of A Turton, Case Study 43, 6 September 2016 at T17976:2–11.  
 930 Exhibit 43-0020, ‘Statement of Brother Turton’, Case Study 43, STAT.1179.001.0001 at [50];  
 Transcript of A Turton, Case Study 43, 6 September 2016 at T17979:5–10.  
 931 Exhibit 43-0009, Case Study 43, CTJH.053.70013.0081\_R.  
 932 Exhibit 43-0009, Case Study 43, CTJH.053.07174.0035\_R; Exhibit 43-0009, Case Study 43,  
 CTJH.053.70013.0069\_R; Exhibit 43-0009, Case Study 43, CTJH.053.70013.0127\_R; Exhibit 43-0009,  
 Case Study 43, CTJH.053.70013.0094\_R; Exhibit 43-0009, Case Study 43, CTJH.053.70013.0079\_R.  
 933 Transcript of A Turton, Case Study 43, 6 September 2016 at T17979:33–41.  
 934 Exhibit 43-0009, Case Study 43, CTJH.053.70013.0043\_R at 0044.  
 935 Transcript of A Turton, Case Study 43, 6 September 2016 at T17981:41–T17982:8; Exhibit 43-0020,  
 ‘Statement of Brother Turton’, Case Study 43, STAT.1179.001.0001 at [62].  
 936 Transcript of A Turton, Case Study 43, 6 September 2016 at T17982:10–42.  
 937 Submissions on behalf of Brother Alexis Turton dated 3 February 2017, Case Study 43,  
 SUBM.1043.006.0001 at [21].  
 938 Exhibit 43-0020, ‘Statement of Brother Turton’, Case Study 43, STAT.1179.001.0001 at [67]–[68].  
 939 Transcript of A Turton, Case Study 43, 6 September 2016 at T17983:8–15.  
 940 Exhibit 43-0020, ‘Statement of Brother Turton’, Case Study 43, STAT.1179.001.0001 at [69].  
 941 Exhibit 43-0020, ‘Statement of Brother Turton’, Case Study 43, STAT.1179.001.0001 at [64]–[65];  
 Transcript of A Turton, Case Study 43, 6 September 2016 at T17982:10–T17983:40.  
 942 Transcript of A Turton, Case Study 43, 6 September 2016 at T17983:39–T17984:10.  
 943 Transcript of A Turton, Case Study 43, 6 September 2016 at T17984:27–42.  
 944 Transcript of A Turton, Case Study 43, 6 September 2016 at T17984:44–T17985:20.  
 945 Submissions on behalf of Brother Alexis Turton dated 3 February 2017, Case Study 43,  
 SUBM.1043.006.0001 at [24]–[26].  
 946 Submissions on behalf of Brother Alexis Turton dated 3 February 2017, Case Study 43,  
 SUBM.1043.006.0001 at [21]–[23].  
 947 Submissions on behalf of Brother Alexis Turton dated 3 February 2017, Case Study 43,  
 SUBM.1043.006.0001 at [41].  
 948 Submissions on behalf of Brother Alexis Turton dated 3 February 2017, Case Study 43,  
 SUBM.1043.006.0001 at [45].  
 949 Exhibit 43-0009, Case Study 43, CTJH.053.70018.0002\_R.  
 950 Transcript of A Turton, Case Study 43, 6 September 2016 at T17985:32–37.  
 951 Transcript of A Turton, Case Study 43, 6 September 2016 at T17986:11–23.  
 952 Exhibit 43-00020, ‘Statement of Brother Turton’, Case Study 43, STAT.1179.001.0001 at [71];  
 Transcript of A Turton, Case Study 43, 6 September 2016 at T17990:22–38.  
 953 Transcript of A Turton, Case Study 43, 6 September 2016 at T17990:40–T17991:24.  
 954 Transcript of A Turton, Case Study 43, 6 September 2016 at T17991:26–38.  
 955 Transcript of A Turton, Case Study 43, 6 September 2016 at T17991:40–42.  
 956 Transcript of A Turton, Case Study 43, 6 September 2016 at T17992:8–14.  
 957 Submissions on behalf of Brother Alexis Turton dated 3 February 2017, Case Study 43,  
 SUBM.1043.006.0001 at [30]–[31].

- 958 Exhibit 43-0009, Case Study 43, CTJH.053.07166.0088.  
959 Exhibit 43-0009, Case Study 43, CTJH.053.07166.0083.  
960 Transcript of A Turton, Case Study 43, 6 September 2016 at T17992:37–45.  
961 Transcript of A Turton, Case Study 43, 6 September 2016 at T17993:6–27.  
962 Exhibit 43-0009, Case Study 43, CTJH.053.07166.0082.  
963 Exhibit 43-0009, Case Study 43, CTJH.053.07163.0177\_R.  
964 Transcript of A Turton, Case Study 43, 6 September 2016 at T17996:32–46.  
965 Transcript of A Turton, Case Study 43, 6 September 2016 at T17996:45–T17997:9.  
966 Exhibit 43-0020, ‘Statement of Brother Turton’, Case Study 43, STAT.1179.001.0001\_R at [75].  
967 Exhibit 43-0009, Case Study 43, NPF.103.001.0119\_E\_R at 0125–0133.  
968 Exhibit 43-0009, Case Study 43, NPF.103.001.0119\_E\_R at 0125–0133.  
969 Exhibit 43-0009, Case Study 43, NPF.103.001.0119\_E\_R.  
970 Exhibit 43-0009, Case Study 43, NPF.103.001.0119\_E\_R at 0020, 0022.  
971 Exhibit 43-0009, Case Study 43, NPF.103.001.0119.  
972 Transcript of A Turton, Case Study 43, 6 September 2016 at T18004:14–24.  
973 Exhibit 43-0009, Case Study 43, CTJH.053.70010.0135\_R at 0136\_R.  
974 Exhibit 43-0009, Case Study 43, CTJH.053.07174.0038\_R.  
975 Exhibit 43-0009, Case Study 43, CTJH.053.07174.0038\_R; Transcript of A Turton, Case Study 43, 6 September 2016 at T17999:11–24.  
976 Exhibit 43-0009, Case Study 43, CTJH.053.07174.0038\_R.  
977 Transcript of A Turton, Case Study 43, 6 September 2016 at T17999:15–20.  
978 Transcript of A Turton, Case Study 43, 6 September 2016 at T17999:29–37.  
979 Transcript of A Turton, Case Study 43, 6 September 2016 at T18003:15–27.  
980 Transcript of A Turton, Case Study 43, 6 September 2016 at T18000:22–T18001:12.  
981 Transcript of A Turton, Case Study 43, 6 September 2016 at T18001:14–41.  
982 Transcript of A Turton, Case Study 43, 6 September 2016 at T18002:14–19.  
983 Submissions on behalf of Brother Alexis Turton dated 3 February 2017, Case Study 43, SUBM.1043.006.001 at [32]–[33].  
984 Submissions on behalf of Brother Alexis Turton dated 3 February 2017, Case Study 43, SUBM.1043.006.001 at [34].  
985 Submissions on behalf of Brother Alexis Turton dated 3 February 2017, Case Study 43, SUBM.1043.006.001 at [35].  
986 Exhibit 43-0009, Case Study 43, CTJH.053.70015.0045\_R.  
987 Exhibit 43-0009, Case Study 43, CTJH.053.70015.0045\_R.  
988 Exhibit 43-0020, ‘Statement of Brother Turton’, Case Study 43, STAT.1179.001.0001\_R at [106]–[108].  
989 Exhibit 43-0020, ‘Statement of Brother Turton’, Case Study 43, STAT.1179.001.0001\_R at [104].  
990 Transcript of M Hill, Case Study 43, 6 September 2016 at T18047:46–T18048:4.  
991 Transcript of M Hill, Case Study 43, 7 September 2016 at T18092:7–14.  
992 Exhibit 43-0024, ‘Statement of Brother Hill’, Case Study 43, STAT.1178.001.0001 at [52].  
993 Exhibit 43-0024, ‘Statement of Brother Hill’, Case Study 43, STAT.1178.001.0001 at [51]–[52].  
994 Transcript of M Hill, Case Study 43, 7 September 2016 at T18092:3–5, 16–25.  
995 Transcript of M Hill, Case Study 43, 7 September 2016 at T18093:3–8.  
996 Transcript of A Turton, Case Study 43, 6 September 2016 at T17980:26–45.  
997 Transcript of A Turton, Case Study 43, 6 September 2016 at T17981:23–39.  
998 Transcript of M Hill, Case Study 43, 7 September 2016 at T18094:2–19.  
999 Transcript of M Hill, Case Study 43, 7 September 2016 at T18095:34–T18096:6.  
1000 Transcript of A Turton, Case Study 43, 6 September 2016 at T17993:46–T17994:4.  
1001 Transcript of A Turton, Case Study 43, 6 September 2016 at T17994:6–9, T17995:33–37.  
1002 Transcript of A Turton, Case Study 43, 6 September 2016 at T17995:33–41.  
1003 Exhibit 43-0009, Case Study 43, CTJH.053.07161.0496.  
1004 Exhibit 43-0024, ‘Statement of Brother Hill’ Case Study 43, STAT.1178.001.0001 at [44].  
1005 Exhibit 43-0024, ‘Statement of Brother Hill’ Case Study 43, STAT.1178.001.0001 at [46].  
1006 Transcript of M Hill, Case Study 43, 7 September 2016 at T18096:23–25.



- 1007 Transcript of M Hill, Case Study 43, 7 September 2016 at T18096:15–17.
- 1008 Transcript of M Hill, Case Study 43, 7 September 2016 at T18096:19–21
- 1009 Exhibit 43-0024, ‘Statement of Brother Hill’, Case Study 43, STAT.1178.001.0001 at [48].
- 1010 Transcript of M Hill, Case Study 43, 7 September 2016 at T18096:27–30.
- 1011 Transcript of M Hill, Case Study 43, 7 September 2016 at T18096:32–37.
- 1012 Transcript of M Hill, Case Study 43, 7 September 2016 at T18092:27–38.
- 1013 Transcript of M Hill, Case Study 43, 7 September 2016 at T18093:1–8.
- 1014 Transcript of M Hill, Case Study 43, 7 September 2016 at T18098:26–31.
- 1015 Transcript of M Hill, Case Study 43, 7 September 2016 at T18098:33–40.
- 1016 Exhibit 43-0009, Case Study 43, CCI.0097.00058.0013\_R.
- 1017 Exhibit 43-0009, Case Study 43, CCI.0097.00058.0013\_R.
- 1018 Transcript of A Turton, Case Study 43, 6 September 2016 at T18006:4–24.
- 1019 Transcript of M Hill, Case Study 43, 7 September 2016 at T18097:34–38.
- 1020 Transcript of M Hill, Case Study 43, 7 September 2016 at T18098:13–24.
- 1021 Exhibit 43-0009, Case Study 43, CCI.0097.00058.0012\_R.
- 1022 Exhibit 43-0009, Case Study 43, CTJH.053.07161.0467.
- 1023 Exhibit 43-0009, Case Study 43, CTJH.053.07161.0466.
- 1024 Transcript of M Hill, Case Study 43, 7 September 2016 at T18100:2–22.
- 1025 Exhibit 43-0024, ‘Statement of Brother Hill’, Case Study 43, STAT.1178.001.0001 at [51];  
Transcript of M Hill, Case Study 43, 9 December 2016 at T24687:6–T24688:26.
- 1026 Transcript of M Hill, Case Study 43, 7 September 2016 at T18115:2–5, T18116:4–6.
- 1027 Transcript of M Hill, Case Study 43, 7 September 2016 at T18116:8–10.
- 1028 Transcript of M Hill, Case Study 43, 7 September 2016 at T18100:24–T18101:7.
- 1029 Transcript of M Hill, Case Study 43, 7 September 2016 at T18116:31–42.
- 1030 Transcript of M Hill, Case Study 43, 7 September 2016 at T18117:2–31.
- 1031 Transcript of M Hill, Case Study 43, 7 September 2016 at T18117:33–T18118:5.
- 1032 Transcript of M Malone, Case Study 43, 1 September 2016 at T17768:6–8.
- 1033 Exhibit 43-0009, Case Study 43, QLD.0153.001.0715\_R.
- 1034 Exhibit 43-0009, Case Study 43, CTJH.053.70013.0032\_R.
- 1035 Exhibit 43-0009, Case Study 43, CTJH.053.70016.0168\_R.
- 1036 Exhibit 43-0009, Case Study 43, QLD.0153.001.0724\_R.
- 1037 Exhibit 43-0009, Case Study 43, CTJH.053.07160.0362.
- 1038 Transcript of M Hill, Case Study 43, 9 December 2016 at T24685:21–44.
- 1039 Transcript of P Carroll, Case Study 43, 8 September 2016 at T18251:35–T18252:14.
- 1040 Transcript of P Carroll, Case Study 43, 8 September 2016 at T18252:24–40.
- 1041 Transcript of P Carroll, Case Study 43, 8 September 2016 at T18255:30–T18256:13.
- 1042 Transcript of P Carroll, Case Study 43, 8 September 2016 at T18256:8–13.
- 1043 Exhibit 43-0009, Case Study 43, CTJH.053.07160.0363.
- 1044 Exhibit 43-0009, Case Study 43, CTJH.053.07160.0364.
- 1045 Exhibit 43-0009, Case Study 43, CTJH.053.07160.0365\_R.
- 1046 Exhibit 43-0009, Case Study 43, CTJH.053.07160.0366.
- 1047 Exhibit 43-0009, Case Study 43, CTJH.053.07160.0283\_R
- 1048 Submissions on behalf of Brother Michael Hill, Case Study 43, SUBM.1043.005.0001 at [79].
- 1049 Submissions on behalf of Brother Michael Hill, Case Study 43, SUBM.1043.005.0001 at [76].
- 1050 Submissions on behalf of Brother Michael Hill, Case Study 43, SUBM.1043.005.0001 at [78].
- 1051 Exhibit 43-0009, Case Study 43, QLD.0152.001.0006\_R.
- 1052 Exhibit 43-0044, ‘Statement of Detective Inspector Marsh’, Case Study 43,  
STAT.1258.001.0001\_R at [6].
- 1053 Exhibit 43-0009, Case Study 43, CTJH.053.07161.0461\_R.
- 1054 Transcript of M Hill, Case Study 43, 7 September 2016 at T18103:5–13.
- 1055 Transcript of M Hill, Case Study 43, 7 September 2016 at T18103:38–T18104:14.
- 1056 Transcript of M Hill, Case Study 43, 7 September 2016 at T18104:33–45.
- 1057 Transcript of M Hill, Case Study 43, 7 September 2016 at 18104:20–31.

- 1058 Exhibit 43-0009, Case Study 43, CTJH.053.07161.0504.
- 1059 Exhibit 43-0009, Case Study 43, CTJH.053.07160.0283\_R at 0285.
- 1060 Exhibit 43-0009, Case Study 43, CTJH.053.07160.0283\_R at 0286.
- 1061 Exhibit 43-0009, Case Study 43, QLD.0153.001.0765\_R; Exhibit 43-0009 Case Study 43, QLD.0153.001.0044
- 1062 Exhibit 43-0009, Case Study 43, QLD.0152.001.0002\_R; Exhibit 43-0009 Case Study 43, QLD.0153.001.0021\_R.
- 1063 Exhibit 43-0009, Case Study 43, QLD.0153.001.0044.
- 1064 Exhibit 43-0009, Case Study 43, CTJH.053.07160.0335\_R.
- 1065 Exhibit 43-0009, Case Study 43, CTJH.053.70010.0135\_R at 0136\_R; Exhibit 43-0009, Case Study 43, CTJH.053.70013.0032\_R.
- 1066 Exhibit 43-0009, Case Study 43, CTJH.053.07160.0335\_R.
- 1067 Exhibit 43-0009, Case Study 43, CTJH.053.70016.0138.
- 1068 Exhibit 43-0009, Case Study 43, CTJH.053.70016.0138.
- 1069 Exhibit 43-0009, Case Study 43, CTJH.053.70016.0138.
- 1070 Exhibit 43-0009, Case Study 43, CTJH.053.07160.0334\_R.
- 1071 Exhibit 43-0042, Case Study 43, CTJH.053.70016.0137\_R.
- 1072 Submissions on behalf of Brother Michael Hill, Case Study 43, SUBM.1043.005.0001 at [84].
- 1073 Exhibit 43-0009, Case Study 43, CTJH.053.07160.0333\_R.
- 1074 Exhibit 43-0009, Case Study 43, CTJH.053.07160.0332\_R.
- 1075 Exhibit 43-0009, Case Study 43, QLD.0153.001.0708\_R at 0708–0709.
- 1076 Transcript of M Hill, Case Study 43, 7 September 2016 at T18105:17–T18106:28.
- 1077 Transcript of M Hill, Case Study 43, 7 September 2016 at T18107:42–46.
- 1078 Transcript of M Hill, Case Study 43, 7 September 2016 at T18108:3–8.
- 1079 Exhibit 43-0024, ‘Statement of Brother Hill’, Case Study 43, STAT.1178.001.0001 at [51], [57]; Transcript of M Hill, Case Study 43, 7 September 2016 at T18107:34–35.
- 1080 Transcript of M Hill, Case Study 43, 7 September 2016 at T18108:17–40.
- 1081 Transcript of M Hill, Case Study 43, 7 September 2016 at T18108:27–T18109:16.
- 1082 Transcript of M Hill, Case Study 43, 7 September 2016 at T18109:32–41.
- 1083 Transcript of M Hill, Case Study 43, 7 September 2016 at T18110:1–36.
- 1084 Transcript of M Hill, Case Study 43, 7 September 2016 at T18111:45–T18112:5.
- 1085 Transcript of M Hill, Case Study 43, 7 September 2016 at T18113:14–18.
- 1086 Transcript of M Hill, Case Study 43, 7 September 2016 at T18113:20–32.
- 1087 Exhibit 43-0044, ‘Statement of Detective Inspector Marsh’, Case Study 43, STAT.1258.001.0001\_R at [10]–[12].
- 1088 Exhibit 43-0044, ‘Statement of Detective Inspector Marsh’, Case Study 43, STAT.1258.001.0001\_R at [21].
- 1089 Transcript of M Hill, Case Study 43, 9 December 2016 at T24689:3–5, 32–33.
- 1090 Transcript of M Hill, Case Study 43, 9 December 2016 at T24690:1–16.
- 1091 Transcript of M Hill, Case Study 43, 9 December 2016 at T24690:18–22.
- 1092 Submissions on behalf of Brother Michael Hill, Case Study 43, SUBM.1043.005.0001 at [83]–[85].
- 1093 Exhibit 43-0009, Case Study 43, CTJH.053.70038.0162\_R.
- 1094 Exhibit 43-0030, ‘Statement of Brother Carroll’ Case Study 43, STAT.1181.001.0001\_R at [165].
- 1095 Transcript of P Carroll, Case Study 43, 8 September 2016 at T18242:7–15.
- 1096 Transcript of P Carroll, Case Study 43, 8 September 2016 at T18231:18–T18232:5.
- 1097 Transcript of P Carroll, Case Study 43, 8 September 2016 at T18259:47–18260:20.
- 1098 Exhibit 43-0035, Case Study 43, REPT.0010.001.0001 at [3].
- 1099 Exhibit 43-0035, Case Study 43, REPT.0010.001.0001 at [8].
- 1100 Exhibit 43-0035, Case Study 43, REPT.0010.001.0001 at [10].
- 1101 Exhibit 43-0035, Case Study 43, REPT.0010.001.0001 at [11]–[12].
- 1102 Exhibit 43-0035, Case Study 43, REPT.0010.001.0001 at [13].
- 1103 Exhibit 43-0035, Case Study 43, REPT.0010.001.0001 at [23].
- 1104 Exhibit 43-0035, Case Study 43, REPT.0010.001.0001 at [24].

- 1105 Exhibit 43-0035, Case Study 43, REPT.0010.001.0001 at [26].
- 1106 Exhibit 43-0035, Case Study 43, REPT.0010.001.0001 at [16].
- 1107 Exhibit 43-0035, Case Study 43, REPT.0010.001.0001 at [17].
- 1108 Submissions of the Truth, Justice and Healing Council in response to Submissions of Counsel Assisting, Case Study 43, SUBM.1043.002.0001 at [8].
- 1109 Exhibit 43-0035, Case Study 43, REPT.0010.001.0001 at [52].
- 1110 Exhibit 43-0035, Case Study 43, REPT.0010.001.0001 at [54]–[55].
- 1111 Exhibit 43-0035, Case Study 43, REPT.0010.001.0001 at [56].
- 1112 Exhibit 43-0035, Case Study 43, REPT.0010.001.0001 at [33].
- 1113 Exhibit 43-0035, Case Study 43, REPT.0010.001.0001 at [47].
- 1114 Exhibit 43-0035, Case Study 43, REPT.0010.001.0001 at [38].
- 1115 Exhibit 43-0035, Case Study 43, REPT.0010.001.0001 at [33]–[37].
- 1116 Exhibit 43-0035, Case Study 43, REPT.0010.001.0001 at [43].
- 1117 Exhibit 43-0035, Case Study 43, REPT.0010.001.0001 at [44]–[45].
- 1118 Exhibit 43-0035, Case Study 43, REPT.0010.001.0001 at [166].
- 1119 Exhibit 43-0035, Case Study 43, REPT.0010.001.0001 at [167]–[168].
- 1120 Exhibit 43-0030, ‘Statement of Brother Carroll’, Case Study 43, STAT.1181.001.0001\_R at [190]–[195].
- 1121 Exhibit 43-0030, ‘Statement of Brother Carroll’, Case Study 43, STAT.1181.001.0001\_R at [190].
- 1122 Exhibit 43-0035, Case Study 43, REPT.0010.001.0001 at [154]–[159].
- 1123 Exhibit 43-0030, ‘Statement of Brother Carroll’, Case Study 43, STAT.1181.001.0001\_R at [129].
- 1124 Exhibit 43-0035, Case Study 43, REPT.0010.001.0001 at [143], [147].
- 1125 Exhibit 43-0035, Case Study 43, REPT.0010.001.0001 at [143]–[144].
- 1126 Exhibit 43-0030, ‘Statement of Brother Carroll’, Case Study 43, STAT.1181.001.0001\_R at [70].







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