A New Model for Seeking Meaningful Redress for Victims of Church-related Sexual Assault

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Introduction

In March 2014, Case Study 8, a public hearing of the national Royal Commission into Institutional Responses to Child Sexual Abuse focused on John Ellis's experience both of the Catholic Church's *Towards Healing* protocol and of litigation. This article outlines some aspects of these avenues of seeking redress following John's abuse by a priest as a child. It also discusses the challenges involved in the development of what some church lawyers have come to refer to as 'the Ellis Process': an alternative, extrajudicial process for seeking redress for survivors of church-related abuse. This process, advocated by John and Nicola Ellis, aims to afford survivors of church-based sexual abuse greater autonomy, responsiveness and satisfaction in seeking redress from the Church in a way that is restorative of dignity, agency, connection, and hope of recovery. Redress that is meaningful may be both financial and non-financial. John Ellis's adverse experiences of the 'in-house' church process and then litigation, point to the need to develop new redress processes: processes not tainted by past attitudes and consequent failures; processes that can provide a form of victim advocacy to alleviate the power imbalance and the sense of futility that many victims, including John, have experienced in pursuing a complaint of sexual abuse against a religious or other powerful institution.

Keywords: child sexual abuse – assault – victims – redress – litigation – *Towards Healing* – Catholic Church – psychotherapy – Conversational Model – trauma recovery

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The context: Our experience of *Towards Healing* and the formal court process[1]

The context to what Nicola and I do and why we work the way we do with victims and survivors of assault comes out of our own personal history — my history as a young person being abused by a priest over a number of years,[2] and then our shared history of living through the impacts of sexual abuse. We were both victims of abuse because Nicola became a secondary victim of what had happened to me through my adolescence. We bring these experiences to the work that we now do with other people who wish to seek redress without re-traumatisation.

For nearly three years, we went through the Catholic Church's own internal processes and then we had another three years through the formal court system. Both were unsatisfactory, so when we were asked several years later to assist other victims and seek redress from the Catholic Church for the abuse that they had suffered, we brought that experience to bear and tried to work out ways that would hopefully avoid some of the downsides and pitfalls of what we had been through together, which at times seemed would destroy us. The process we now use to resolve claims is intended to be restorative, rather than destructive.

Towards Healing

Towards Healing: Principles and Procedures in Responding to Complaints of Abuse against Personnel of the Catholic Church in Australia (Australian Catholic Bishops Conference and the Australian Conference of Leaders of Religious Institutes 2000, '*Towards Healing*') is a protocol introduced by the Australian Catholic Bishops Conference in 1996, which attempted to institute a uniform pastoral response to allegations of abuse reported to the Church.[3] All Catholic dioceses and religious orders in Australia have used *Towards Healing*, apart from the Melbourne Archdiocese, which adopted its own procedures. In *Towards Healing* (2000:7[12]):

> The Church makes a firm commitment to strive for seven things in particular: truth, humility, healing for the victims, assistance to other persons affected, an effective response to those who are accused and those who are guilty of abuse, and prevention of abuse.

In our experience, the process offered to survivors of abuse, however, has fallen far short of this commitment for several reasons. First, we found this process to be strongly adversarial.[4] It immediately became apparent that church officials were 'not on our side'.

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1 Based on the oral presentation to the University of Sydney Forum by John Ellis.

2 As outlined by Gail Furness SC in the Opening Address by Senior Counsel Assisting the Royal Commission into Institutional Responses to Child Sexual Abuse (Furness 2014:[12]):

> From about 1974 to 1979, Mr Ellis was sexually abused by Father Duggan while Mr Ellis was an altar boy and Father Duggan was an Assistant Priest, at the Christ the King Catholic Church at Bass Hill. Mr Ellis was then aged between 13 and 17 years old and Father Duggan was aged between 54 and 59 years old.

3 The 2000 version applied in John's case. The protocol has since been revised, the current version being published in January 2010. The relevant provisions referred to in this article have not been amended.

4 Case Study 8 in the Royal Commission's *Interim Report* (2014: vol 1, 182) and the Opening Address by Senior Counsel Assisting examined the *Towards Healing* experience. In the Opening Address by Senior Counsel Assisting, the case study was outlined as follows:

> First, the case study will consider the response of the Catholic Church's Professional Standards Office (NSW/ACT) and the Archdiocese of Sydney to the Towards Healing complaint lodged by Mr Ellis in 2002. This process was attended by significant delay as well as failures to comply with the procedures

In fact, when I first met with a church official having been told that someone was going to help me and provide support and assistance, I was met with, 'Well, you don't really want to do this, do you?' I felt that I was not believed and that I had to prove what had happened to me. I was subjected to a factual investigation process evidently underpinned by a belief that people who come forward with allegations like mine are probably lying, rather than being underpinned by any understanding of trauma and the impacts of abuse.[5] Our experience with other victims since suggests that little has changed.

Second, there was a lack of transparency and information about the process. I found out about 12 months into the process that the Church has a glossy brochure that set out their procedural steps and framework. I was not given this information when I first contacted the Church. A year on, after so many frustrating dealings with the Church and after I discovered there was this protocol document, I tried to hold them accountable to it, and it was clear they had not complied with their own processes. Our experience indicates that this is not an isolated occurrence.

Third, there is a significant power imbalance in a victim engaging in *Towards Healing* without an experienced advocate. Initially, I was placed in a situation where I was meeting with Church officials alone. I was not offered support — it was not suggested, and they seemed to think it was 'perfectly okay' not to do that. Later, Nicola and I attended meetings together with Church officials, but the power imbalance remained evident. The *Towards Healing* process includes a 'facilitation meeting', which is supposed to be conducted by an independent facilitator. The practice of the Church at that time and since has been that those facilitators cannot be perceived as independent of the Church. They often sit on the side of the table with the Church people, physically reinforcing their alignment. They were mostly men, and generally selected by the Church without consultation with the complainant (in contravention of the *Towards Healing* protocol), again reinforcing the power and hegemony of the Church.

Fourth, victims have little or no say in the exercise of the various discretions throughout the process, discretions that were presumably intended to provide flexibility, but in practice permit little or no accountability.[6] Nor is there real, effective appeal against an inconsistent application of that discretion by Church representatives.

> provided for in the *Towards Healing* protocol. The various failures were the subject of criticism and recommendations by two subsequent reviews of the process.
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> The second aspect of the case study will consider the response of the Archdiocese of Sydney and Cardinal Pell to legal proceedings brought by Mr Ellis after a *Towards Healing* facilitation on 20 July 2004 that left the complaint unresolved. (Furness 2014:[5]–[6])

5 The Royal Commission's examination of a letter from [the then] Archbishop Pell to John Ellis cites the changes made from the original draft of the then Director of the Catholic Church's Professional Standards Office (NSW/ACT) (Mr Davoren), noting that:

> whereas Mr Davoren's draft said "*as you are aware this is not to suggest you are not believed*", Archbishop Pell's letter omitted those words. While Mr Davoren regretted any hurt that Mr Ellis had experienced, Archbishop Pell's letter regretted only that a clear resolution of the matter was not possible." (Furness 2014:[34], emphasis in original)

6 For example, the *Towards Healing* protocol states that financial assistance may be paid to survivors, but this does not replicate legal liability (*Towards Healing* 2000:18[41.1]). The 'offer' made by the Church was not determined by the Church's assessment of the harm inflicted as a result of the abuse. Financial assistance was often given instead for particular items, such as rent assistance or home improvements so rendering the Church's assessment of their trauma arbitrary and reductive. The provision of ongoing financial assistance for specific expenditure also generates a sense of continuing dependence on the Church, an uncomfortable outcome for those who have suffered abuse by the Church.

Fifth, delays are very common and the Church is frequently unresponsive.[7] After many months in *Towards Healing*, I received a letter from Cardinal Pell on Christmas Eve telling me that there was nothing further the Church could do because the priest involved was in a nursing home suffering from dementia. Since this was Christmas Eve, no one was available in the Catholic Church for the next month.[8] I was not then aware of having any rights for any sort of review or consideration and thought that was the end of that process. I was left in pain and confusion: not believed, not supported, isolated and abandoned by the very institution that in my childhood I had been taught would be 'Christian' and caring. Fundamentally *Towards Healing* was not a safe place for me to be and I came to the end of that process feeling re-traumatised. My previously held faith had been completely destroyed.

The formal court process

Due to the length of time taken in *Towards Healing,* when I finally sought legal advice, I was advised to quickly lodge a statement of claim to preserve my rights. I was advised that the time for me to bring any action against the Archdiocese of Sydney (or other entity) under the *Limitation Act* would expire within ten days. So I promptly filed proceedings in court and at the same time wrote to the Church indicating that I intended to 'continue in a process of discussion and dialogue about the claim'. Unfortunately, once the documents were filed and served, there was an immediate change in the attitude of the Church, which became even more adversarial than in the *Towards Healing* process.[9] Litigation — speaking as a lawyer who practiced for 20 years — is an adversarial process. It is not a way to resolve disputes of this kind, but it was the only choice we were given at the time.

The civil legal system is an uncertain process. It has many of the same pitfalls, uncertainties, arbitrariness and incomprehensibility as the criminal justice system. The advantage is that we have been able to find ways around that, whereas that is very difficult in the criminal system, as Crown Prosecutor Kara Shead has pointed out (Shead 2014). As a victim in litigation, I was again in a position where I had no control over what was going on. The 'rules' were being determined by lawyers and judges, and the Church was using all the delays and pressure tactics that it had at its recourse: endless interlocutory applications, adjournments, and changing the rules on the way through. It is obviously a very costly process; it is also very depersonalised and, again, not 'safe'.

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7 As outlined by Senior Counsel Assisting the Royal Commission, there was clear recognition of the delays and lack of transparency in the report by the Interim National Review Panel Church commissioned by the National Committee for Professional Standards to report on 'Mr Ellis' *Towards Healing* complaint':

> On 10 March 2005, the Interim National Review Panel found that:
> a. There was a manifest absence of transparency through the failure to refer the matter to a Contact Person and the consequent absence of an explanation to Mr Ellis of the processes for addressing the complaint. There was also an absence of justice for Mr Ellis through the extensive delays in undertaking the required process. (Furness 2014:[63])

8 As outlined by Senior Counsel Assisting the Royal Commission:

> Mr Ellis received the Archbishop's letter on Christmas Eve 2002. The timing and content caused him considerable emotional distress. Mr Ellis construed the letter as "*a clear statement that the Archbishop considered the matter to be at an end, despite there having been no formal assessment of my complaint*". (Furness 2014:[35], emphasis in original)

9 As outlined by Senior Counsel Assisting the Royal Commission:

> On 28 March 2003, Mr Davoren wrote to Dr Casey, Private Secretary to the Archbishop and Dominic Cudmore, Assistant to the Chancellor referring to Mr Ellis' email. Mr Davoren's email stated:
> "*... Obviously Mr Ellis does not appreciate or does not want to appreciate that the case cannot proceed without Father Duggan making an admission, and that as far as the Archdiocese and this office is concerned there is nowhere for this 'case' to go. His comments about the Towards Healing process are, I suggest disingenuous; it would seem that the only logical reason for pursuing this fairly aggressive line is to establish a case for compensation.*" (Furness 2014:[38], emphasis in original)

It is well-documented elsewhere that the Court of Appeal decision that resulted from this litigation gave rise to what is now referred to as 'the Ellis defence'. This judgment found that civil litigation against 'members' of the Australian Catholic Church is not a sustainable avenue for redress. The Court determined that that the corporate trustees of church property were not an entity liable to suit for abuse committed by clergy and that '[t]he relationship between an assistant parish priest and the members [of the Church] as a whole is too slender and diffuse to establish agency in contract or vicarious liability in tort' (*Trustees of the Roman Catholic Church v Ellis* at [54]). This finding both reduced the viability of achieving compensation via such claims, particularly where the individual perpetrator was deceased or had insignificant resources, and also denied survivors the satisfaction of holding the Church entity culpable for failing to protect and support them.[10]

Even without such legal difficulties, civil litigation remains a very difficult and inaccessible path for many complainants. The length of time to reach a resolution and the financial resources needed to mount such a claim are traumatic, if not prohibitive. Civil litigation involves an adversarial, protracted, costly and emotionally burdensome path. We were pursued for $750,000 dollars in legal costs by the Church's lawyers, though these costs were finally waived following informal approaches outside litigation.[11]

Survivors of child sexual abuse are often highly traumatised, and the more traumatised and marginalised a survivor is, the less access there is to the usual pathways of 'justice' offered by the formal legal system. The disadvantage to this group of clients results from a complex interplay of factors, and any attempt to develop better access to justice will ultimately fail unless the complexity is grappled with and 'the law' learns to understand the psychological sequelae and relational dynamics that arise around 'complex trauma'. Mistrust of authority, not being believed, being punished for speaking out, being judged for being fragile or mentally unwell: these are all hurdles to justice that must be attended to sensitively.

The incentive and foundations for a different approach[12]

Both *Towards Healing* and the legal process left the Ellis family distraught, frustrated, emotionally distressed and in severe financial difficulty. John's mental wellbeing had

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[10] The Royal Commission in its public hearing for Case Study 8 in relation to *Towards Healing* 'examined the Catholic Church's response to John Ellis' complaint of being sexually abused by a priest as a child', and considered his civil litigation against:

- Cardinal Pell as the Archbishop of the Catholic Archdiocese of Sydney
- the Trustees of the Roman Catholic Church for the Archdiocese of Sydney
- the priest who was the subject of his complaint.

Mr Ellis first had to seek to extend the limitation period for his claim. In this preliminary application, the Archdiocese argued that neither Cardinal Pell nor the Trustees were the proper defendant in the claim. As the Cardinal was not then the Archbishop and the Trustees had nothing to do with appointing and supervising priests, they were not legally responsible. This argument was successful and Mr Ellis could not pursue his substantive claim for damages.

We also heard evidence about how the Archdiocese and its lawyers conducted the defence of the civil litigation, and about the legal costs and payments ultimately made to Mr Ellis.

(Royal Commission into Institutional Responses to Child Sexual Abuse 2014:vol 1, 182)

[11] See Case Study 8 and, in particular, paragraph 94 of the Opening Address of Senior Counsel Assisting:

While the Chancellor is expected to give evidence that he did not ever intend that the costs would be recovered from Mr Ellis, three years passed during which correspondence was exchanged by lawyers consistent with Mr Ellis being required, at some stage, to pay the costs before Mr Ellis was informed that he would not be required to pay the costs. (Furness 2014:[94])

[12] Based on the oral presentation to the University of Sydney Forum by Nicola Ellis.

deteriorated to the point where I held serious concerns for him and I decided to approach Monsignor John Usher, who had been appointed by Archbishop Pell as the Chancellor of the Archdiocese of Sydney. Due to his background in social work, John Usher understood child abuse and its impact.[13] The conversations that unfolded following that contact eventually led to a meeting with Cardinal Pell, an apology for the legal abuse, and the commitment not to pursue payment by John of the Church's legal costs.[14]

Some time later, a group of men from Newcastle contacted us asking for help in seeking redress for their abuse by another priest who was facing criminal charges. We agreed to help on the basis that a different approach was needed to avoid the problems we had encountered with both *Towards Healing* and the legal process. That alternative redress process, which others call 'the Ellis process', has its foundations in three conceptual areas: therapeutic jurisprudence, the Conversational Model of psychotherapy, and Trauma-Informed Care and Practice (TICP).

The framework of therapeutic jurisprudence was important to us as it advocates consideration of the impact of legal processes on psychological wellbeing, rather than simply the adjustment of legal rights. This approach encourages the incorporation of relevant social science or psychological research into assessing and responding to psychological injury. Therapeutic jurisprudence has been influential in relation to mental health courts and drug courts. In our way of working, the aim is for the redress process itself to have a 'healing' function (Daicoff 2011). Due to the connotations of 'healing', we more usually now talk about the process supporting our clients in trauma 'recovery'.

The Conversational Model of psychotherapy has arisen from the research and practice of Professor Russell Meares of the University of Sydney and his colleagues. This psychotherapeutic approach was developed specifically in relation to trauma and is an integrated model that incorporates psychodynamics, developmental and trauma theory, linguistics, and the latest research in neuroscience, particularly the neurobiology of attachment. Professor Meares has published extensively on the evidence-base for this psychotherapeutic model for understanding and facilitating recovery in the field of 'complex trauma'. The essential principles of the Conversational Model of psychotherapy are attentiveness to the particular experience of each person, listening fully and responding with resonance, warmth and empathy (Meares et al 2012). The quality of the relationship is a critical factor as the 'good enough' therapeutic relationship facilitates the development of safety, security, stability and trust. We seek to incorporate these principles into our work of seeking redress for and with our clients. It is this relational aspect of our work that often seems to be most valued and remembered by our clients.

The third underpinning of our model is Trauma Informed practice, which involves three phases of 'trauma recovery'. These phases are outlined in the Adults Surviving Child Abuse (ASCA) guidelines in relation to 'treatment' of trauma (ASCA 2014) and accord with best

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[13] Opening Address of Senior Counsel Assisting the Royal Commission:

> The pursuit by Corrs of the Archdiocese's costs against Mr Ellis was causing him so much distress that Nicola Ellis intervened by writing to Monsignor Usher, whom she knew, requesting a meeting regarding the claim for costs. She stated that she and her husband did not have the financial capacity to pay the costs of Cardinal Pell and the Trustees. She also advised that her husband was in a "fragile psychological state". (Furness 2014:[95])

[14] Opening Address of Senior Counsel Assisting the Royal Commission:

> On 11 March and on 6 August 2009, Monsignor Usher wrote to Mr Ellis recording Cardinal Pell's acknowledgment that mistakes had been made and that Cardinal Pell was committed to ensuring that they were not repeated. Monsignor Usher stated that Cardinal Pell had believed that Mr Ellis' legal claim was for many millions of dollars. (Furness 2014:[98])

practice in trauma integration and recovery (Courtois and Ford 2009). Our focus similarly commences with attending carefully to Phase 1: stabilisation. We generate an environment of safety and stability — for example, in our first contact with a new client, we assure them that they are not going to have to tell us over the phone or even in our first meeting about the details of what happened to them. If that information is recorded elsewhere, they may never have to speak of the abuse, unless they wish to do so. We explore safe ways for people to write a statement detailing what happened, and ensure that this only occurs when they are ready to do so.

Phase 2, therapeutically involves 'processing' the trauma. For our clients, revisiting the trauma is done only with an experienced therapist or in another safe and supportive context. An early step in our process is to facilitate the client working with a therapist, if they wish to do so. In our redress work, we bring sensitivity and flexibility, with the survivor having control over how, when, in what form and to whom the disclosure of abuse is made. When asking survivors for a chronology of their abuse and the impact it has had on their life, responses vary on a spectrum from a dot-point chronological history to lengthy prose reflecting on their current relationships and wellbeing. The support required for this task may involve a therapist, a friend or a family member. For others, this writing may be intensely private. Writing a coherent narrative may, by definition, be difficult for a person experiencing the fragmentation often associated with complex trauma. We assure our clients that we will work with whatever can be recalled. The way we gather information for the claim is constructed around the need to provide survivors with a sense of having been listened to, their experiences acknowledged, and their courage for speaking out to seek redress validated.

Some Church processes involve a meeting between the survivor and senior Church personnel, where the victim is expected to tell complete strangers all the details of the abuse. Very few of our clients ask for such meetings as they understand that, far from being a way to 'process the trauma', such meetings carry significant risks of re-traumatisation. We only encourage such meetings when we can assure the client that the church representative will not insist on 'all details' being spoken, and will respond with warmth and empathy.

Phase 3 of trauma recovery is therapeutically referred to as an experience of integration and rehabilitation. In our process, we aspire to facilitate integrative experiences both psychologically and in the client's external world — this may involve assisting with building an external support network, connecting the client with other survivors or, for many clients, witnessing the sense of agency and acknowledgment derived from publishing a book, creating works of art, or writing poetry or songs. As well as encouraging creative responses within the redress process, an integral and defining aspect of how we work is interconnectedness with others. We readily involve and often rely upon therapists, general practitioners, parole and probation officers, members of the pastoral divisions of the Church (if trustworthy) and police officers. Our model provides space to introduce survivors to an empathetic community with whom they can engage through lived experience of managing and surviving the consequences of trauma. No matter how effective we may be as lawyers in facilitating the legal process, without many of these other interpersonal connections and support providers, our relationships with our clients would be less robust and the process would be significantly less 'successful' in terms of our clients' experiences of feeling integrated into community with a new sense of belonging — in place of the abandonment and isolation experienced when victims feel paralysed or stuck in traumatic states, alone.

An alternative redress process based on collaborative dialogue

Our alternate civil redress model is based on collaborative dialogue — as lawyer with client, and lawyer with the Church entity. It does not sit outside the legal frameworks, but resolves matters according to legal principles. This distinguishes it from a victims' compensation scheme, which is primarily administrative. 'Non-adversarial justice' using mediation or negotiation, as a diversion from the traditional legal system in resolution of many types of legal disputes, is well-established. While premised on a reciprocal commitment to engagement by the Church and survivor, we do not see our approach as a purely conciliatory process in the model of conventional restorative justice. The orthodox understanding of restorative justice is to bring the stakeholders of a legal matter together in order to restore what was lost. Survivors of abuse often do not wish to restore their relationship with the Church and certainly not with the perpetrator (if still alive). Indeed, meetings of that nature risk re-victimising the survivor because of the persisting imbalance of power. For this reason, a valuable role we can play as lawyers and advocates is to form a buffer between the Church and the survivor in a way that allows for more tempered and less confronting interactions and a process that is restorative of the individual's sense of self-worth and self-respect, irrespective of whether there is any restoration of their connection with church personnel.

Dialogue with the client

In our dialogue as lawyer with client, we first explain why we do this work. Our clients know our history, why we do what we do. We have several conversations exploring what justice means for each person, what redress would be meaningful, what are the desired outcomes, what is important to this particular client — and then we work towards generating those outcomes. Our clients are assured that their particular needs and preferences will be respected. Our role also involves managing expectations sensitively so that if the desired outcomes are far beyond the legal framework, we take the time to explain why this is so. Taking the time to answer all questions arising is essential.

Dialogue with the Church

In discussion with Church entities, our model is based on our own experiences of talking with one person within the church entity who understood about child sexual abuse and its consequences. We ask the church entities to be willing to listen to and comprehend each person's lived experience and not to rely on traditional legal defences to deny the complaint, as may be done during civil litigation.[15] We treat church personnel with the same respect that we ask of them in relation to our clients.

In keeping with the notion of trying to keep things safe, we also ask for a psychological impact report — not a factual investigation.[16] These reports are prepared by forensic psychologists or psychiatrists with specialist expertise relating to childhood trauma and who can address the long-term consequences of the adverse childhood experiences of each client. The focus is on the needs of the victim — typically still a victim until they can move onto survival.

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[15] In her Opening Address, Senior Counsel Assisting the Royal Commission outlined one of the purposes of Case Study 8 in the following terms:

> It will explore why the stated aims of providing a "just and compassionate" response to victims of child sexual abuse at the hands of Catholic clerics only applied if complainants chose *Towards Healing*, an alternative to litigation, which had a capped amount payable which was not disclosed in the written material and contained a requirement that payment must be accompanied by signing a deed waiving all rights to compensation. (Furness 2014:[105])

[16] See *Everson v Victims Compensation Fund Corporation* [2000] NSWDC 3 (19 October 2000) for an example of the support for the use of this approach in legal proceedings.

Those needs might involve providing therapeutic support (to be paid for by the Church) and practical supports such as assisting with housing, Centrelink, and managing debts.

Perhaps the most important thing we ask of the Church is integrity and reliability, and to recognise that a respectful process is as important as the outcome. This means keeping the process contained and timely, but most importantly to meet the victim 'where they are' and assist in their support rather than add to their burdens — to avoid unnecessary costs and re-traumatising the client. One of our tasks in this process is 'translating' for our clients — generating realistic expectations, but also acting as a buffer between some of the language and attitudes that still come from Church entities, and trying to put those in terms that are more understandable and less traumatic for our clients.

Experience and challenges

Over the last six years we have achieved meaningful redress for more than 300 matters using this approach. This includes a number of matters that have come to us after being 'stuck' in the same seemingly impenetrable litigious difficulties we experienced. The outcomes for our clients have been 'just' outcomes within the constraints of our legal system, and reflect what Cardinal Pell has claimed the Church strives for in relation to applying the standards in the community for people who are injured in other contexts. These outcomes based in legal principles are not comparable to government victims' assistance programs. The non-financial, non-material issues of the response are aspects that have had important symbolic effect on many of our clients. What keeps us going is seeing that transformation in peoples' lives, the 'before' and 'after': not only for the primary victims, but also their families and sometimes their wider communities. Survivors in recovery, like us, often become people who are then able to give back.

There are continuing challenges. The first concerns the cooperation of the Church and other institutions. The implementation of the Royal Commission has, in some respects, appeared to have made some church entities more defensive and less concessionary in interactions with survivors. A real understanding by church personnel about the impacts of childhood trauma, including intergenerational impacts on wider family members, and a willingness to provide assistance to family members, are not yet evident. We will continue to advocate for the broader understanding and informed responsiveness.

For us, one challenge will be to continue to work with clients in this relational way. It takes time, sensitivity and skill, and a willingness to work collaboratively with the clients and church entities. For many clients, the process of giving one's own story of trauma to another, who, from that point on, will control its explanation and 'run the case' is a process that would be re-traumatising; that once their story has been told, their experience is corralled into the agenda of their lawyer and the legal process. A close-minded advocate, who interprets their interactions with a survivor of abuse through traditional or formulaic legal frameworks, will only repeat the failures of the past.

A further challenge is what to do if a 'road block' is encountered. Sadly, not all Church entities can be relied upon to see the value of our process, despite the concomitant benefits to them in terms of reduction of defence costs and avoidance of damage to the integrity and reputation of the entity. When Church lawyers are overly legalistic and defensive, it is usually not because of any sense of integrity in what they are doing. Rather, it is a sign of a lack of confidence and a retreat to 'safe' legalism — a triumph of form over substance. In our experience, calm persistence and education, rather than an over-reactive resort to blunt legal

measures is called for. It usually helps when the message can be made to reach a Church leader or partner of the law firm who has a proper understanding of the issues. As a last resort, we have the option to use the armoury of the formal legal system to break any deadlocks. Once calm has been restored, matters can then usually proceed in accordance with the settled processes. If formal processes are used sensitively, and the need for such steps explained, re-traumatisation of the survivor can usually be avoided and the availability of such processes can be seen as allowing the survivor to retain control in the redress process.

We are hoping that out of our experiences and searching for ways to seek meaningful redress for survivors of childhood sexual abuse by clergy, both lawyers and church entities will understand better the importance of adopting a more victim-focused way of working to resolve these issues for survivors of institutional child sexual abuse. Legislative reform is essential, particularly in relation to statutes of limitations and legal structuring of institutions to avoid liability. However, to avoid further harm being caused to survivors seeking redress, the legal, medico-legal and institutional representatives are to be encouraged to be open to attitudinal reform towards the ways survivors are responded to, so that meaningful redress promoting lasting recovery is facilitated reliably and compassionately. We hope our work continues to contribute to this endeavour.

Case

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