

STATUTORY DECLARATION

I, SEAN TYNAN of 841 Hunter Street, Newcastle West in the State of New South Wales, Manager Zimmerman Services, Co-ordinator for Commissions, do solemnly and sincerely declare that:

1. I am the Manager of Zimmerman House and the Co-Ordinator for Commissions at the Diocese of Maitland-Newcastle.
2. On 12 June 2013 the solicitors for the Special Commission of Inquiry concerning the investigation of certain child sexual abuse allegations in the Hunter Region (Commission) requested I provide a sworn statement regarding certain matters.
3. I give this statutory declaration solely at the request of the Commission. I give this statutory declaration unwillingly and only on the basis that, without exception, section 23(2) of the *Special Commissions of Inquiry Act 1983* applies to restrict the use of this statutory declaration and the documents referred to in it and annexed to it. For the record, the same unwillingness applies to all evidence given by me in any hearings of the Commission, whether public, private or in camera.

Background, qualification and experience

4. In 1993 I was awarded a Bachelor of Arts (Psychology) by the University of Newcastle.
5. Between May 1993 and February 2006 I fulfilled a number of roles in child protection including front line casework, management and practice specialist, for the NSW Department of Community Services and Life Without Barriers (a national non-Government provider of out-of-home care [OOHC] and disability services).
6. In the period February 2006 until end of September 2009 I was the Practice Quality Manager NSW / ACT for Life Without Barriers. This role included driving systemic and cultural change to enhance the protection of children.
7. On 21 September 2009 I commenced as the Manager of Zimmerman House for the Diocese of Maitland-Newcastle.

Manager of Zimmerman Services

8. Zimmerman Services, previously Zimmerman House, is a centralised team that provides child protection and healing services for the Diocese of Maitland-Newcastle. Zimmerman House was officially opened on 4 September 2007.
9. In October 2009 the work to be undertaken by Zimmerman House was as outlined in the second edition of the document *Towards A Better Future* dated January 2009.
10. Until October 2009, Zimmerman House had been responsible for investigation of all professional standard matters for the Diocese, which at the time included a large

Signed

Signed

861630_1:RSA:RSA

aged care sector. By October 2009 the scope of Zimmerman House's services had been reduced to providing child related programmes, excluding aged care.

11. When I commenced at Zimmerman House the manager's role had been vacated since May 2009. The staff employed at Zimmerman House at the time included one investigator who was a highly experienced worker who was in transition across to an alternate role and only worked with the Diocese two days per week, an Administrative Officer and a 'healing' case manager.
12. A copy of my position description in October 2009 is attached and marked "A"
13. In October 2009 I employed two additional investigators one full time and one working four days a week.
14. On 27 June 2011 the Diocese's child protection services were restructured and renamed Zimmerman Services.
15. As Manager I have the responsibility for the effective and efficient running of Zimmerman Services. I have a responsibility to keep the Bishop and senior Diocesan leadership apprised of matters related to child protection within the Diocese. More broadly, one of my responsibilities is to work to ensure that the Diocese meets its moral imperative and legislative requirements to protect the children of the Diocese and support the Diocese to meet its enduring legacy of the harm caused by the historic child sexual abuse that occurred. I endeavour to meet the later of these obligations by supporting the work of Healing and Support and being a member of the Insights Committee. I manage civil claims brought against the Diocese by victims of child sexual abuse committed by diocesan personnel, that are outside of the Towards Healing protocol.
16. A copy of the current position description of Manager of Zimmerman Services is attached and marked "B".

Services provided by Zimmerman Services

17. Within Zimmerman Services there are three structural parts; the Diocesan Child Protection Unit (DCPU), Healing and Support, and Insights.
18. The DCPU provides an intake (or duty) service which allows any member of the Diocese to obtain professional advice, guidance and support when dealing with a child protection concern. Intake is the process of gathering information, recording, analysing and classifying the information and then assuring that the appropriate follow-up actions occur. The DCPU conducts 'investigations', inquiries into allegations of abusive conduct against children or some breaches of professional standards by current Diocesan personnel. These may be conducted under Part 3A of the Ombudsman Act 1974 or the relevant codes of conduct for an employee or the Catholic Church in Australia's Professional Standards documents, (Towards Healing, Integrity in Ministry and Integrity in the Service of the Church).

19. The DCPU is responsible for provision of child protection training to Diocesan personnel, assessing and managing risks related to members of the Diocese who are the subject of investigation and undertaking the child protection component of the schools accreditation process (SEVDEV). Upon request and dependent on capacity restraints, the DCPU offers a range of services to the Diocese including risk assessments of children who have been identified as posing an elevated risk to their peers, assisting in supporting diocesan schools prepare for SEVDEV accreditation and complaints resolution.
20. The Administrative Officer for Zimmerman Services, Brenda Moloney, has the responsibility to maintain investigation records, Commission for Children and Young People volunteer declarations, Intake records, correspondence logs and other related records. The Administrative Officer supports in the maintenance of healing files. Ms Moloney has been in this role since January 2009.
21. Healing and Support works with the primary victims of abuse and their families to support and promote their personal and unique journey towards healing. The nature and extent of the work undertaken by the Coordinator Healing and Support is largely a function of the victim's needs and wishes. The work is also determined by situational imperatives; for example, the Coordinator Healing and Support has had an increasing role in supporting victims of abuse through the criminal justice system. The Coordinator of Healing and Support advocates both within the Diocese and externally on behalf of victims, supports them through a civil claim or other process designed to achieve restitution from the Diocese, provides counselling and support during periods of acute instability and crisis.
22. The Coordinator of Healing and Support is Maureen O'Hearn who has been in this role since before 2009. Prior to the restructure Ms O'Hearn reported to me, on my recommendation since the commencement of Zimmerman Services Ms O'Hearn reports to the Vice-Chancellor of Pastoral Ministries.
23. Insights was established before October 2009 but was not considered part of Zimmerman House/Service until 2011. Insights is derived from an identified need to explore the deep, lasting effects of child sexual abuse on the faith communities within the Diocese. The Insights group has worked with a number of local communities where current or former parish priests have been implicated in child sexual assault. Insights endeavours to work with 'tertiary victims' (i.e. those members of schools, parishes and communities whose faith, sense of belonging or well being has been harmed by the events of the past and what the Church did or did not do). Insights is guided by a voluntary committee and undertakes its work through a series of projects. The current project being conducted by Insights is the presentation and then broader distribution of a DVD produced with funding from the Diocese of Maitland-Newcastle that explores the issues of clerical abuse through two local people, a victim and a victim's mother. The two speak about the abuse and its impacts, community attitudes, grooming of both victim and entire faith communities, long term effects of abuse, listening to the victims and their families.

Significant changes introduced to Zimmerman House/Services by Mr Tynan and the reasons for such changes

Delineation between investigation and healing

24. Prior to October 2009 the Manager of Zimmerman House led the Diocese's 'holistic healing' and 'investigations' processes, managing both healing and investigative personnel. The Manager of Zimmerman House carried a personal caseload, working with individual survivors whilst also managing investigations of Diocesan personnel accused of abuse. To the best of my understanding the Manager of Zimmerman House also acted as the local 'Towards Healing' case manager, assessing a victim's claim, investigating or oversighting the investigation of the victim's claim, presenting the claim to the Bishop's Towards Healing Advisory Panel and recommending an appropriate settlement amount based on a pre-determined settlement scale.
25. When I was employed part of my engagement was that I was not to have an individual caseload of clients in the healing programme.
26. From when I commenced as Manager of Zimmerman House the Manager's role included being both the manager of investigations and manager of the 'healing' services. By June 2010, I established clear delineations between the roles of 'investigation' and 'healing', Zimmerman House caseworkers no longer undertook both functions to try and avoid any conflict of interest. There remained areas of commonality, driven by team choice and operational necessity; for example, both 'investigation' and 'healing' personnel participated in intake, undertaking SEVDEVs and presenting child protection training for a period. As part of the restructure I requested a change in the management and reporting structure.
27. As of 27 June 2011 with the commencement of Zimmerman Services the Manager of Zimmerman Services no longer has oversight of 'healing' services and does not work with individual survivors. The Manager of Zimmerman Services oversights the 'intake', 'investigations' and 'risk management' processes. Towards Healing settlements are directed through the NSW Professional Standards Office. Victims who wish to make a claim directly against the Diocese must be legally represented and, should the Diocese accept the claim, settlements are negotiated between the two parties according to a mutually agreed protocol. Unless there is a conflict of interest, the Manager of Zimmerman Services manages the process on behalf of the Diocese.
28. As part of the delineation by July 2011 the Coordinator Healing and Support no longer participated in intake and workload demands restricted her capacity to commit to child protection training.
29. As part of the restructure the 'healing services' now report to the Vice Chancellor Pastoral Ministries (as referred to above) and the DCPU was established under the oversight of the Manager of Zimmerman Services. Revised position descriptions and titles were established for Manager, Investigator and Coordinator Healing and Support. Linkages with the Insights Programme were formalised, with the provision

of logistical support and a financial allocation added to the Zimmerman Service's budget. Budgetary responsibility and provision of logistical support for the Coordinator Healing and Support remains with the Manager of Zimmerman Services.

Reporting Policy and Intake

30. In 2010 I introduced a diocesan wide reporting policy which, in conjunction with an intensified push for updated child protection training across the Diocese, is promoting increasing uniformity in reporting practices. I have more clearly defined the boundaries of responsibilities between Zimmerman Services and other services in the Diocese and introduced the use of 'terms of reference' to define investigations that fall outside the ambit of Part 3A, Ombudsman Act 1974. By 2012 I had embedded more rigorous and uniform practices within Zimmerman Services, with particular emphasis on 'intake' and the investigative processes.
31. Intake is of particular significance in promoting cultural change and is one of the main preventative strategies operating within the Diocese. Apart from its functional purpose, a member of the Diocese knows that they are able to contact Zimmerman Services in relation to any child protection concern they have and obtain expert advice. When this contact is 'live' (by phone or face to face) the brief interaction provides an opportunity for the DCPU investigator to build trust, highlight the importance of the individual's role in protecting children and reinforce that the Diocese takes all child protection concerns seriously.

Ethos

32. I have endeavoured to establish an ethos of professionalism within Zimmerman Services where staff are expected to use peer review to test their thinking, operate transparently and in close cooperation with relevant statutory authorities, ensure procedural fairness for all parties and to question the decision making of peers and management if they believe it is based on insufficient information or otherwise unsound. I have endeavoured to maximise the independence of the role of Coordinator Healing and Support, to ensure the Coordinator is free to advocate on behalf of victims both within the Diocese and externally.

Commissions

33. With the advent of the Special Commission of Inquiry and the Royal Commission, I was given responsibility for co-ordinating the Diocese's response. This meant that it was necessary to establish the new role of Team Leader in the DCPU, to ensure a continued focus on the ongoing protection of children and to maintain appropriate levels of day-to-day supervision of DCPU activities. The Team Leader was appointed internally and the vacated investigator's role has been subsequently filled. An additional full time position in Healing and Support has been recruited and will be commencing in late July 2013.

34. As part of the Diocese's preparations to assist the Special Commission of Inquiry and Royal Commission, a 'Researcher' position was approved, answerable to the Manager of Zimmerman House. The researcher position was filled on 17 June 2013.
35. On 26 April 2013 Bishop Wright approved the establishment of a single definitive file for all records relating to Diocesan clergy and issues of child sexual abuse, merging Zimmerman Services 'investigation' files with the Bishop's confidential 'special issues' files currently held in his office safes. The Researcher will integrate these records, followed by a more extensive consolidation, by reviewing the Diocesan Archives.

Location and Storage of Documents and Files

36. In October 2009 most Zimmerman House files were stored in a ground floor room at 58 Gipps Street, Carrington. Files were stored in lockable metal cabinets within the filing room. There were also files in standard filing cabinets in a ground floor meeting room and lockable cupboards in the ground floor photocopying room. 'Healing files' were kept in filing cabinets in Ms O'Hearn's office. Zimmerman House had 'back to base' motion monitoring and response security system outside of office hours, provided by a contracted security firm. Brenda Moloney, Administrative Officer had control of the keys to the filing room and the metal cabinets, placed in a wall mounted lockable key storage box.
37. Staff of Zimmerman House had access to the files, after accessing the requisite cabinet keys. No record was kept of when staff accessed documents. Occasionally the door to the filing room was left unlocked and on those occasions it was, theoretically possible, for someone in the building to access the room.
38. At about the end of 2010, the beginning of 2011 a process of recording of access to documents commenced. As files were accessed the sign on registers were inserted into the front of the files. When staff accessed each file they were to record on the sign on register that they had done so.
39. On 27 June 2011 Zimmerman Services commenced operations at 845 Hunter Street, Newcastle West, which included the DCPU being located in an Annex off the main building. All Zimmerman Services files, other than Healing files, were stored in a secure room at the back of the Annex. There was a single locked door. There were three keys for the door held by Brenda Moloney, Bishop Bill Wright and myself. If another staff member wanted to access a document kept in the room they had to request access to the room through Ms Moloney. If the request was valid Ms Moloney would retrieve the documents.
40. From 27 June 2011 if a staff member has access to an investigation file the staff member signs a register acknowledging their access including the date of access and the reason for access.
41. There was no register recording access to Intake files or other papers, however, those documents are stored in the locked room.

42. The civil claim files from when they commenced in mid 2010 were also kept in the secure room at the back of the Annex.
43. Upon movement to 845 Hunter Street the Healing files were kept in Ms O'Hearn's office in the main building of 845 Hunter Street. The Healing files were kept in a lockable filing cabinet. It is my understanding that the filing cabinet was kept locked.
44. From 13 March 2013 Zimmerman Services moved to 50 Crebert Street, Mayfield. All Diocesan Child Protection Unit files (inclusive of all investigative/complaints and civil claims files) are kept in a secure filing room. The room is accessible through a single locked door, off the main office area of Zimmerman Services Office at 50 Crebert Street. Keys to the filing room are held by Brenda Moloney and David Muxlow, the team leader of the DCPU. The holder of the keys is recorded on a key register.
45. Staff are able to access files through Ms Moloney. The procedure is the same as was instigated at 845 Hunter Street, staff make a request, Ms Moloney supervises access to the documents and the access register is filled in.
46. Healing files are stored in lockable filing cabinets placed within a lockable filing room accessible through the Ms O'Hearn's office.
47. The Zimmerman Services Office has 'back to base' motion monitoring and response security system outside of office hours, provided by a contracted security firm.

Bishop's Special Issues files

48. In October 2009 the Bishop's 'Special Issues' files were stored in three or four four drawer, lockable filing cabinets and in a lockable metal cabinet which were in the Bishop's Office, 1st floor 841 Hunter Street Newcastle West. To the best of my understanding Bishop Malone had the only set of keys to these cabinets and that Bishop Malone would file documents, as would his private secretary Elizabeth Doyle. Access was afforded upon the Bishop's approval.
49. Towards the end of 2010, the beginning of 2011 the Bishop's 'Special Issues' files were relocated into three four drawers, fire proof safes with key pad code locks, along with a lockable metal cabinet in the Bishop's Office, 1st floor 841 Hunter Street Newcastle West. I believe that the Bishop, Ms Doyle and the Vicar-General have the requisite codes to unlock the safes and the Bishop and Ms Doyle both have keys to the metal cabinet. I believe the safes remain locked as a matter of course. Any persons other than the three previously mentioned require the permission of the Bishop to access the files.
50. The Chancery had and continues to have 'back to base' motion monitoring and response security system outside of office hours, provided by a contracted security firm.

The policies, procedures or protocols in place (both at present and previously) within Zimmerman House/Services relating to contact with NSW Police in respect of any suspected child sexual report notified to Zimmerman Services

51. Between February 2007 (when Zimmerman House was established) and October 2009, there was a draft document 'Towards A Better Future' which had a number of references to reporting allegations. The 2nd edition of the draft document (January 2009) included references to reporting criminal conduct to Police on pages 25, 54, 55, 57, 62, 63, 64, 69, 70, 71, 105 and 118. A copy is attached as Annexure "C". I am unable to comment on practically how this was complied with.
52. From October 2009 when I commenced until March 2011 the NSW Ombudsman's guidelines 'Child Protection in the Workplace: Responding to allegations against employees' (June 2004) were used as interim procedures for conducting investigations. There are references to reporting criminal conduct to Police on pages 22, 24, 38, 50, 75 and as part of the Ombudsman Notification Form (Part A). A copy is attached as Annexure "D".
53. The first draft of the Diocese of Maitland-Newcastle Investigations Policy was circulated for consideration in March 2011 and approved on 20 February 2012. The current iteration, version 1.2 included references to reporting criminal conduct to Police on pages 15, 16, 24, 25, 26, 98, 99, 100. A copy is attached as Annexure "E".
54. Ms O'Hearn as the Coordinator Healing and Support has knowledge of the dealings with victims. It is my understanding that Ms O'Hearn actively encourages and supports victims to report allegations of child sexual abuse to the NSW Police Force. Ms O'Hearn also provides support throughout the process of reporting to the NSW Police including accompanying victims to police stations and assisting throughout the reporting process and the movement through the criminal justice system.
55. A staff member has recently accepted a position to assist Ms O'Hearn in this process.

Mr Tynan's view as to the adequacy of the procedures and protocols in place within Zimmerman House/Services (both at present and previously) to deal with the reporting of child sexual abuse allegations to the NSW Police Force

56. To the best of my knowledge, prior to the Diocesan Investigations Policy there was no approved policy addressing the issue of reporting allegations of child sexual abuse to the NSW Police Force. There was an understood practice within Zimmerman House that allegations of child sexual abuse were reported to NSW Police, reflected in the draft document 'Towards A Better Future'. To the best of my knowledge the reporting of child sexual abuse to Police was done effectively and efficiently, largely based on established personal relationships, notably contacting Officers from Strike Force Georgiana.
57. I believe that the current procedures that are in place are operating well, in as much as any allegations of criminal child sexual abuse made against living persons, are reported to the NSW Police, whether or not the victim consents to this. Reports are to NSW Police by the staff of the DCPU who receive the information irrespective of a victim's determination to make a complaint to Police. The current Diocesan policy is that all available demographic details are provided, including the victim's identification

Signed

Signed

and contact details, if known. If a victim has informed DCPU that they have not yet determined whether to make a complaint to police this is to be noted on the report DCPU provide to NSW Police.

58. Current Diocesan policy does not stipulate requirements for the reporting to NSW Police of allegations of child sexual abuse made against persons who are deceased, as there is no prospect for a conviction. Recent experiences have indicated that this omission is a potential weakness in the Diocese's processes. Both the Reporting Child Protection Concerns Policy (Draft version 1.2), and Investigations Policy (Draft version 1.3) are being prepared for distribution in August 2013, for final comment. The proposed procedure for reporting allegations of criminality will oblige members of the Diocese (notably Zimmerman Services) to report crimes committed against children that were allegedly committed by a deceased person to Police. A redacted copy relevant to the Commission's inquiry is attached as Annexure "F".

Mr Tynan and Zimmerman House/Services and the Diocese co-operation with Strike Force Lantle

59. I believe that I co-operated with Strike Force Lantle in good faith and used reasonable endeavours to fulfil any request made by strike force officers, including through the use of DCPU resources. As far as I am aware, Zimmerman House/Services and Diocesan personnel did so as well.
60. Strike Force Lantle's Officers made specific requests for information to the Diocese, which is what I, Zimmerman House/Services and the Diocese responded to. For example; on request I researched and prepared a briefing document detailing the structure of the Church in Australia and the canonical primacy of the Bishop's authority within his own Diocese and Zimmerman Services. A list of priests appointed to Maitland Parish was compiled by Zimmerman House personnel, in an attempt to capture clerical residents of Bishop's House.
61. All Diocesan personnel who were asked to submit to Police interview as part of Strike Force Lantle, did so voluntarily. I assisted in arranging these interviews. Where there were difficulties with a particular person attending a Police interview, I assisted in the communications between Police and that person, resulting in his attendance.
62. An example of co-operation is that on 3 April 2012, in a meeting between Detective Sergeant Little and Bishop Wright a request was made to ascertain whether the Diocese purchased a one-way aeroplane ticket for McAlinden to fly to England or Ireland. Bishop Wright facilitated this request, tasking the Vice Chancellor Administration, Sean Scanlon to undertake the requisite search of Diocesan financial records. During the same meeting Bishop Wright reiterated the Diocese's intention to fully cooperate with the NSW Police and Strike Force Lantle.
63. Another example of co-operation that I am aware of is that some time after 3 April 2012, Bishop Wright facilitated access to 'Bishop's House' for DS Little and Peter Gogarty.

64. Zimmerman House to my knowledge made records available to the strike force and provided documents to the strike force as requested. Claims of privilege were not made over documents provided to the strike force.

65.

66.

REDACTED

67.

REDACTED

68.

REDACTED

69.

70.

71.

72.

73.

74.

75.

REDACTED

76.

77.

78.

79.

Signed

Signed

861630_1-RSA:RSA

80.

81.

REDACTED

82.

83.

84.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act 1900.

Declared at NEWCASTLE [place] on 27 JUNE 2013 [date]

Signed

[signature of declarant]

in the presence of an authorised witness, who states:

I, MATTHEW GEMM [name of authorised witness],

a SOLICITOR [qualification of authorised witness],

certify the following matters concerning the making of this statutory declaration by the person who made it: [*please cross out any text that does not apply*]

1. ~~*I saw the face of the person OR *I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person has a special justification for not removing the covering.~~
2. ~~*I have known the person for at least 12 months OR *I have confirmed the person's identity using the following identification document:~~

DRIVERS LICENSE 75942F [describe identification document relied on]

Signed

27.6.13

[date]

[signature of authorised witness]

" A "

Sean Tynan

POSITION DESCRIPTION

BASIC ROLE PURPOSE:

The Manager of Zimmerman House will be responsible for leading and co-ordinating a professional team of dedicated people in the provision and coordination of support services, case management, investigation, reporting and training in matters relating to child protection on behalf of Diocesan agencies and ministries. The Manager will co-ordinate the response of the Diocese to past abuse by Church personnel by assisting the clients of Zimmerman House to access best practice healing therapies and services. The Manager will provide to the Diocesan community a quality service that is noted for its safe, supportive and healing approach, its sound commitment to legislative compliance and its steadfast support for survivors of abuse and their healing.

Position Title:	Manager of Zimmerman House
Date:	August 2009
Accountability:	The Bishop of the Diocese or his delegate

SPECIALIST SKILLS AND KNOWLEDGE:

- Tertiary qualifications in Psychology, Law, Social Work, Applied Social Science or related discipline
- A commitment to the vision, mission and values of the Diocese of Maitland-Newcastle
- Demonstrated leadership skills
- Substantial experience and expertise in working with survivors of sexual assault in a senior case management role
- Superior communication, liaison and conflict resolution skills
- Ability to provide education and training about Child Protection to a variety of stakeholders
- Working knowledge of Towards Healing and the NSW Professional Standards Office and the relevant relationship with this Diocese
- Thorough understanding of current Child Protection legislation and the ability to interpret child protection legislation, regulations, guidelines and protocols

Signed

Signed

14

Sean Tynan

KEY ROLE ACCOUNTABILITIES:

In carrying out the role, the Manager is required to meet the following key accountabilities:

1.0 Ethos and Mission

- 1.1 Demonstrate a commitment to a deepening understanding of the Mission of the Catholic Church
- 1.2 Respect, appreciate and conduct the role of Manager in a manner that is supportive of the Mission of the Diocese of Maitland-Newcastle
- 1.3 Actively support the work of the Diocese, its Mission, and its works
- 1.4 Establish harmonious working relationships with colleagues

2.0 Management

- 2.1 Provide a timely response to new clients seeking professional support and assistance from Zimmerman House to deal with abuse by Church personnel
- 2.2 Manage the staff of Zimmerman House by developing collaborative systems and structures that facilitate professional learning and promote a harmonious, professional and supportive work environment
- 2.3 Liaise with the Support Officer for the accused
- 2.4 Assess and access appropriate resources for clients of Zimmerman House
- 2.5 Prepare, negotiate and monitor insurance matters
- 2.6 Monitor cases to ensure regular contact with clients
- 2.7 Regular liaison with the Director of CSO, the CEO of CatholicCare and their respective Human Resource Managers
- 2.8 Regular liaison with the clergy of the Diocese, particularly parish priests and those responsible for child-related ministries

3.0 Holistic Healing

- 3.1 Participate in the delivery of holistic healing services to those directly affected by abuse
- 3.2 Contribute to research, review and planning relating to the delivery of healing services
- 3.3 Contribute to the further development of healing services offered by Zimmerman House
- 3.4 Provide leadership and participate in diocesan initiatives that respond to the healing of victims of abuse

Signed

Signed

Sean Tynan

4.0 Child Protection Advisory Services

- 4.1 Receive and process allegations of *reportable conduct* as defined by Part 3A Ombudsman Act 1974 in accordance with standards and guidelines relating to this legislation
- 4.2 Provide advisory services for Diocesan agencies, relevant ministry teams and parishes to support them in their compliance responsibilities
- 4.3 Provide advisory and educative services for agencies and parishes regarding their understanding of their mandatory reporting responsibilities as outlined in the Children and Young Persons (Care and Protection) Act 1998
- 4.4 Represent the Diocese in consultative processes relating to legislative change

5.0 Child Protection Investigations

- 5.1 Undertake preliminary risk assessments relating to the investigation planning processes
- 5.2 Allocate child protection investigations in accordance with risk assessment and assessment of the resources required to complete the task
- 5.3 Oversee the work of the Case Manager (Investigation)
- 5.4 Supervise the drafting of detailed and comprehensive investigation plans with investigation personnel
- 5.5 Prepare investigation briefs for external investigation personnel engaged by Zimmerman House or the Diocese
- 5.6 Co-ordinate the conduct of investigations of relevant child protection matters in a professional and confidential manner, in accordance with established Codes of Conduct and the standards outlined in the NSW Ombudsman's Guidelines
- 5.7 Ensure that investigation and other professional reports are prepared

6.0 Communication and Liaison

- 6.1 Speak on behalf of Bishop Michael if required
- 6.2 Report to the Professional Standards Committee as required
- 6.3 Liaise and collaborate with the Communications Team of the Diocese
- 6.4 Ensure regular support and communication to Diocesan agencies
- 6.5 Provide regular reporting to the appropriate authority (Diocese or agency)
- 6.6 Comply with Government reporting requirements

Signed

Signed

16

Sean Tynan

- 6.7 Actively participate in team meetings, strategic planning, inter agency liaison, and professional development
- 6.8 Participate in Team Briefing meetings
- 6.9 Understand current OHS policies and employee responsibilities in relation to OHS legislation
- 6.10 Maintain absolute confidentiality at all times in relation to the operation of the service and all stakeholders
- 6.11 Take responsibility for the out of hours "Helpline" phone

7.0 Education and Training

- 7.1 Develop ongoing Child Protection Education and Training Programs for all Diocesan agencies, ministries and parishes Conduct Child Protection Education and Training for all Diocesan agencies, ministries and parishes
- 7.2 Interpret reporting and other statistics to identify areas of strategic focus in terms of compliance and risk management
- 7.3 Ensure that staff and volunteers participate in the ongoing formation and training in the area of Child Protection

8.0 Professional Development

- 8.1 Maintain knowledge in accordance with a pre-approved professional development plan
- 8.2 Evaluate personal performance and undertake professional development
- 8.3 Demonstrate leadership in professional development initiatives through liaison with other external associations

9.0 Other

- 9.1 Other duties as required by the employer consistent with the knowledge and skills of the role

Signed

Signed

Sean Tynan

Key performance Indicators

Function	Performance Indicators
1. Ethos and Mission	K1 Active support of the work of the Diocese, its Mission, and its works
2. Management	K2 Demonstrated delivery of highly competent professional management services
3. Holistic Healing Services	K3 Demonstrated commitment to the strategic review and development of holistic healing services offered by Zimmerman House
4. Child Protection Advisory Services	K4 Evidence of a focus on service and the timely, accurate and effective delivery of child protection advisory services
5. Child Protection Investigations	K5 Evidence of sensitive, confidential management of information gathering processes
6. Communication and liaison	K6 Demonstrated communication and liaison with key stakeholders
7. Education and Training	K7 Personnel and volunteers across all agencies are formed and trained in all areas of Child Protection
8. Professional Development	K8 Evidence of engagement in and delivery of appropriate professional development
9. Accountability	K9 The Bishop and his delegates are fully informed of the work of Zimmerman House

The Diocese reserves the right to vary this Position Description, after consulting with you, in response to its changing needs.

Signed

Signed

POSITION DESCRIPTION

1. POSITION TITLE: Manager Zimmerman Services	2. STATUS / CLASSIFICATION: Permanent Full Time (37.5 hrs/wk)
3. SERVICE / FACILITY: Zimmerman Services	4. LOCATION: 845 Hunter Street Newcastle
5. RELATIONSHIPS: Bishop of Maitland-Newcastle Senior leadership of the Diocese, particularly the Diocesan Executive Coordinator of Healing and Support Services Clerics and Religious of the Diocese and personnel of the parishes Management and personnel of Catholic Schools Office and the Catholic systemic schools Management and personnel of the Chancery and CatholicCare Social Services Persons affected by historic child sexual abuse that occurred in the Diocese	6. DIRECT REPORTS: Investigators and Administrative assistant of the Diocesan Child Protection Unit

7. **OVERALL POSITION OBJECTIVE**

To be a leader in the Diocese of Maitland-Newcastle in relation to issues relating to child protection, through provision of advice and counsel to the Bishop and diocesan leadership, improving the diocese's compliance with legislation, statutory guidelines and church based regulations, promoting the inculcation of child-safe practices as a core function in mission and role and to assist in restoring trust in the diocese and wider Catholic Church as a place of love and safety for all.

8. **ORGANISATIONAL ENVIRONMENT**

- The Diocese of Maitland-Newcastle is a geographically and organisationally large and diverse church, held together by a shared faith and the over arching authority of the Bishop. Yet with that central authority it is equally true that the diocese contains a number of competing needs and wants with competing loci of power, influence and control.
- The diocese consists of distinct entities or services within it, including fifty five independent systemic schools operating under the auspice of the Catholic Schools Office, a social services arm operating in a legally distinct entity, semi-autonomous parishes operating under the leadership of parish priest or religious administrators and a small chancery.
- Zimmerman Services operates independent of established services and traditional church structures. Answerable to the Bishop of Maitland-Newcastle and diocesan executive, Zimmerman Service's function is to protect the children of the diocese through successfully engaging with diocesan services and ensuring that all diocesan services meet their statutory obligations and exceed them by integrating child safe practices into their ministry and mission.

9. QUALIFICATIONS REQUIRED

- Tertiary qualifications in Psychology, Social Work, Social Science, Legal Studies or related discipline and extensive experience at senior levels in the fields of Child Protection or criminal or statutory investigations, management, statutory compliance and policy development.

10. COMPETENCIES, SKILLS & EXPERIENCE REQUIRED

Essential

- Comprehensive understanding of child protection and investigative legislation and practices, Canon Law and the structures and operation of the Catholic Church in NSW.
- Demonstrated ability to conduct and oversight investigations of complex matters.
- Demonstrated capacity to understand legislation, standards, guidelines and protocols and integrate them into effective diocesan policies and procedures.
- Superior capacity to manage multiple simultaneous tasks, prioritise conflicting demands, work to hard deadlines, independently and with minimal supervision in a high pressure work environment.
- Demonstrated capacity to develop and provide education and training.
- Superior communication, liaison and conflict resolution skills.
- A high level of personal responsibility, commitment to professional, ethical and evidence based practice.
- Demonstrated capacity to establish and maintain effective, professional relationships with a wide range of leadership from diverse fields.
- Demonstrated ability to analyse, classify and appropriately respond to information and provide sound advice in a timely manner and usable form.
- Demonstrated capacity to undertake risk assessments, develop and implement appropriate risk management plans.
- Superior communication, liaison and conflict resolution skills, notably record keeping and report writing.
- Demonstrated ability to lead a small team of specialists and positively influence a large and diverse workforce and faith community.

Desirable

- A sound understanding and application of child protection legislation, notably the Children and Young Person's (Care and Protection) Act 1998, the Commission for Children and young People Act 1998, the Crimes Act 1900, the Ombudsman's Act 1974 and all related acts, regulations and statutory guidelines.
- Experience interviewing children and young people.
- High level computer skills.
- Understanding of and ability to work with adult survivors of childhood sexual abuse.

11. KEY ACCOUNTABILITIES

Key Performance Area	Key Tasks	Performance Indicators
<p>1. Provision of accurate and honest advice to the Bishop of Maitland-Newcastle and senior diocesan leadership.</p>	<ul style="list-style-type: none"> • Maintain an expert level of knowledge in the fields of child protection, civil investigations, professional standards in the Church • Maintain a high level of understanding and knowledge of current and credible theory and research into issues of clerical sexual abuse, developing child safe organisations and the treatment and care of those who were abused. • Establish and maintain appropriate lines of communication with statutory authorities investigating the diocese or 	<ul style="list-style-type: none"> • The Bishop of Maitland-Newcastle is well advised in regards to child protection and related areas by the Manager of Zimmerman Services. • The diocesan executive, civil claims advisory group and towards healing advisory are appropriately informed and advised by the Manager of Zimmerman Services to allow them to provide informed advice to the Bishop.

Signed

Signed

20

11. KEY ACCOUNTABILITIES		
Key Performance Area	Key Tasks	Performance Indicators
	<p>persons therein or overseeing the diocese in the area of child protection.</p> <ul style="list-style-type: none"> • Maintain a high level of knowledge of current and pending issues relating to child protection or claims for damages that will affect the diocese. • Maintain a high level of awareness of the community's understanding and beliefs on issues relating to the diocese's management of child protection issues • Integrate the above information into succinct and relevant advice to diocesan leadership. 	<ul style="list-style-type: none"> • The Bishop of Maitland-Newcastle and other diocesan leadership are provided accurate and timely briefing papers in regards to child protection and related areas by the Manager of Zimmerman Services.
<p>2. Management of the performance of the DCPU and ensuring that it fulfils its child protection mandate.</p>	<ul style="list-style-type: none"> • Maintain a high level of expertise in the standards and practices of civil investigations. • Establish and oversight the functioning of the DCPU's intake processes and information recording, management and secure storage. • Oversight of investigations conducted by the Diocesan Child Protection Unit (DCPU) or contracted to independent investigators on behalf of the Diocese of Maitland-Newcastle. • Make appropriate, evidence based judgements on allegations against employees, investigated to the civil standard, with the appropriate application of the rules of evidence. • Work with employee representative groups relating to child protection processes in general and individual investigations in particular. • Oversight of or direct case management of diocesan personnel assessed as posing an elevated risk to children. 	<ul style="list-style-type: none"> • The Bishop of Maitland-Newcastle fulfils his obligations as head of agency, by: <ul style="list-style-type: none"> ◦ advising the NSW Ombudsman of all reportable allegations within 30 days, ◦ maintaining a class and kind determination with the NSW Ombudsman, ◦ achieving positive reports from the Ombudsman's Office audits of exempt investigations, and ◦ remaining free of being subject to investigation by the NSW Ombudsman. • There is diocesan wide awareness of the role of the DCPU and readiness to use the service, as and when deemed appropriate. • Compliance of diocesan services and personnel with established risk management plans.
<p>3. Promotion of compliance within the diocese to child protection legislation, statutory and church based guidelines and the integration of child protection practices into all areas of diocesan endeavour.</p>	<ul style="list-style-type: none"> • Maintain a high level of expertise in the practice, legislative frameworks and statutory guidelines relating to child protection. • Maintain a high level of expertise in the development and application of professional standards within the Catholic Church in Australia. • Identify child protection training needs for diocesan personnel and develop, promote and present targeted child protection training programmes. 	<ul style="list-style-type: none"> • The majority of employees working for diocesan services have completed child protection training since January 2010. • Diocesan policies on reporting child protection concerns and conducting investigations are ratified and being applied. • Positive feedback from the leadership of diocesan services as to provision of child protection training.

11. KEY ACCOUNTABILITIES		
Key Performance Area	Key Tasks	Performance Indicators
	<ul style="list-style-type: none"> Identify outmoded or gaps in diocesan child protection policies and procedures and address by updating or developing, obtaining ratification and implementing policies and procedures Oversight of and participation in the development and implementation of internal audit mechanisms for diocesan services, specifically SEVDEV. 	
<p>4. Management of claims brought against the diocese for damages by persons who allege to have been victims of child sexual abuse committed by diocesan personnel, that are outside of the Towards Healing protocol</p>	<ul style="list-style-type: none"> Maintain a level of expertise in the practice of personal injury and the management of claims for damages. Obtain sufficient evidence to assess the strength of a claim brought against the diocese and ensure the claim is subject to appropriate due diligence. Provide a pastoral response to the claimant, including introducing the Coordinator Healing and Support Services and provision of ex-gratia counselling sessions. Obtain expert opinion on the claim, including psychiatric or psychological assessment and legal advice. Ensure the Bishop is provided a range of advice as to the claim. Collate and present all relevant information and opinion to the Bishop and those persons providing advice. <p>Where the Bishop determines that the diocese will endeavour to negotiate a settlement:</p> <ul style="list-style-type: none"> Offer the claimant every opportunity to be heard in relation to any statement, observation, accusation or complaint they may wish to make. Negotiate a process for achieving a mutually agreeable and just settlement of the claim within the limits of the instructions. Ensure completion of best endeavours undertakings which were included as part of the settlement. 	<ul style="list-style-type: none"> Provision of relevant material concerning a civil claim for damages, to the Bishop and the civil claims advisory group, sufficient for them to make an informed decision as to the claim. Ability to obtain settlements of claims, where determined by the Bishop, within the limits of instructions and in avoidance of costly litigation. The Bishop of Maitland-Newcastle has confidence that the settlements achieved are within the limits of his instructions and that the settlements are just, equitable and in the best interests of the claimant and the diocese. The Vice-Chancellor for Administration has confidence that the settlements achieved are appropriate for the nature of the claims bought and meet our obligations of good stewardship of diocesan resources.
<p>5. Support for and knowledge of healing services provided to persons who were affected by child sexual abuse within the diocese.</p>	<ul style="list-style-type: none"> Maintain a high level of understanding and knowledge of current and credible theory and research into the treatment of adult victims of child sexual assault. Maintain a high level of communication and cooperation with the Coordinator 	<ul style="list-style-type: none"> The Coordinator for Healing and Support Services has confidence and capacity to advocate on behalf of those who were affected by child sexual abuse within the diocese.

11. KEY ACCOUNTABILITIES		
Key Performance Area	Key Tasks	Performance Indicators
	<p>for Healing and Support Services and their current caseload.</p> <ul style="list-style-type: none"> • Be available for meetings on an individual or collective basis with persons who were affected by child sexual abuse within the diocese. • Participate in and support appropriate initiatives to address legacy issues for faith communities within the diocese, relating to child sexual assault and other issues of the abuse of power. 	<ul style="list-style-type: none"> • There is public awareness and approval of the innovative support provided to persons affected by child sexual assault within the diocese. • Persons who have been adversely affected are aware of and have confidence in the integrity and quality of the support services provided by the diocese.
<p>6. Advocating on behalf of the diocese in relation to child protection, within the diocese, to statutory authorities and to the general public.</p>	<ul style="list-style-type: none"> • Maintain an ongoing dialogue and relationship with the NSW Police, the Employment Related Child Protection Division of the NSW Ombudsman's Office and other statutory authorities, as required by circumstance. • Maintain a high level of communication and cooperation with the diocesan Communications Manager. • In conjunction with the Communications Manager, prepare media briefing notes and public statements for the Bishop of Maitland-Newcastle in the area of child protection. • Prepare occasional articles or commentary for publication on issues relating to child protection within the diocese. • Be available for and capable of media interviews or other public relations activities, including presentations to public forums, on issues of child protection. 	<ul style="list-style-type: none"> • The Diocese of Maitland-Newcastle earns and maintains the confidence of the NSW Police (local area commands), the Ombudsman's Office, the Commission for Children and Young People and Department of Human Services, as being an honest and committed partner in promoting the safety, welfare and well being of children and supporting the investigation of alleged criminality. • The Manager Zimmerman Services has positive and effective relationships with diocesan clergy, religious and laity. • The Vice-Chancellor Pastoral Ministries has confidence that the Manager Zimmerman Services is making a positive contribution to the perception of members of the diocese in relation to the diocese's conduct in the area of child protection. • The Communications Manager has confidence that the Manager Zimmerman Services is making a positive contribution to the public promotion of the diocese in relation to issues of child protection.
<p>7. Management of Zimmerman Services budget, other allocated resources and the personnel of the DCPU.</p>	<ul style="list-style-type: none"> • Maintain expenditure for Zimmerman Services within the agreed budget. • Identify and address any significant risks to budgetary integrity as they arise. • Monitor staffing levels within the DCPU comparative to the range and volume of work required of it and 	<ul style="list-style-type: none"> • Deliver Zimmerman Services within budget at end of financial year. • Absence of ongoing patterns of complaints bought by Zimmerman Service personnel. • Positive personnel surveys by Zimmerman Services staff.

11. KEY ACCOUNTABILITIES		
Key Performance Area	Key Tasks	Performance Indicators
	<p>address with diocesan leadership, as required.</p> <ul style="list-style-type: none"> • Ensure DCPU personnel receive levels of supervision appropriate for their professional development and personal circumstance. • Work with the Vice-Chancellor Pastoral Ministries, to ensure that the Coordinator Healing and Support Services is sufficiently supervised, supported and resourced to fulfil their role. 	<ul style="list-style-type: none"> • Stability in Zimmerman Services personnel. • The Vice-Chancellor Pastoral Ministries has confidence that the Manager Zimmerman Services is making a positive contribution in the management and support of the Coordinator Healing and Support Services.

12. SIGNIFICANT CHALLENGES (short & long term)	
What?	Why?
<p>Short Term (12 months)</p> <p>1. Assisting the Bishop to prepare the Diocese of Maitland-Newcastle (in particular) and contributing in the preparation of the Catholic Church in NSW (in general) for a possible public inquiry into issues of historic child sexual assault.</p>	<p>There is a significant group within the NSW community demanding a royal commission into the conduct of the Catholic and other faith based organisations in addressing the issue of child sexual abuse within their organisations. There are a number of influential individuals and groups within the law, the parliament, media and victim's support groups who are demanding an inquiry. The impetus for the demands is cited below (causation for challenge #3).</p> <p>Some church leaders, including the Bishop for Maitland-Newcastle have stated their support for some form of public inquiry.</p>
<p>Medium Term (1-3 years)</p> <p>2. Ensuring that due process is afforded members of the diocese who are the subject of child protection allegations, particularly if the allegation relates to sexual abuse or if the person who is subject to the allegation is a priest or male religious.</p>	<p>As a consequence of the issues cited below (causation for challenge #3), the environment is highly charged and often polarised.</p> <p>There is a group within the diocese and the majority of the general public who appear to be predisposed to view the person subject of allegation as having committed the alleged act.</p> <p>There is another group within the diocese fiercely loyal to the person subject of allegation and perceive any investigation and imposition of temporary safety measures as an injustice.</p>
<p>Long Term (Ongoing)</p> <p>3. Contributing to the restoration of public trust in and respect for the Diocese of Maitland-Newcastle (in particular) and the Catholic Church (in general), as a faith based organisation that is a leader in the care and protection of children.</p>	<p>The Diocese of Maitland-Newcastle has a particularly troubled history in relation to the sexual predation of children by persons associated with the diocese. There is a significant amount of information in the public arena including allegations of the implicit involvement of church leadership.</p>

12. SIGNIFICANT CHALLENGES (short & long term)	
What?	Why?
	Both nationally and internationally the church is being brought to account for a historic failure to protect children and a growing wave of criminal investigations, trials and often convictions. In the Diocese of Maitland-Newcastle over fifteen years of proven crimes, media reporting and hearsay evidence has made many of the faithful despair and the general public loose respect and trust.
Long Term (Ongoing) 4. Ensuring that diocesan services are operating in accordance with NSW child protection legislation in an environment of constricting budgets and increasing work pressures.	The ongoing, comparatively rapid evolution of state laws in child protection makes it an ongoing challenge to maintain currency update diocesan policies and procedures and ensure their successful dissemination and application across largely autonomous workplaces

13. LEVEL OF DECISION MAKING

Decisions that may be made by the Manager Zimmerman Services independently:

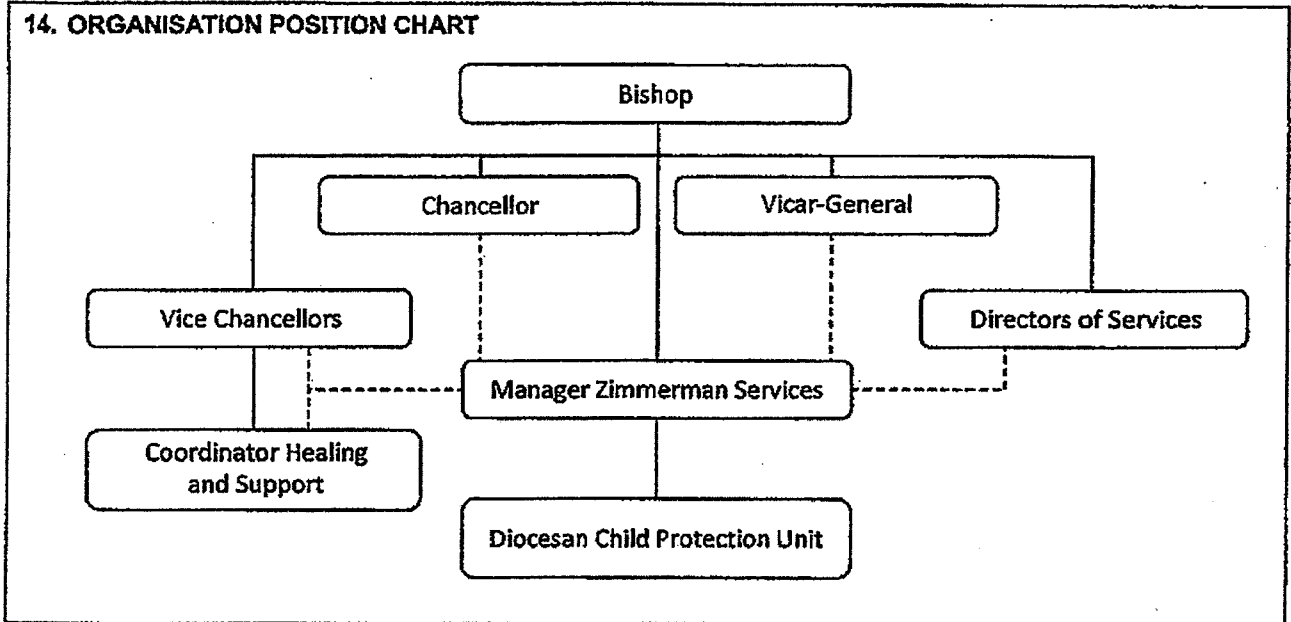
- Establishing definitive allegations in an investigation
- Making findings in an investigation
- Determining whether an investigation constitutes a relevant employment proceeding and requires notification to the CCYP and under which category
- Diocesan response to specific requests / directives from statutory oversight authorities.
- Discretionary expenditure of Zimmerman Services budget.
- Provision of leave, attendance at professional development opportunities and other day-to-day management of DCPU personnel.

Decisions that may be made by the Manager Zimmerman Services after consultation with relevant Diocesan leadership:

- Conducting an investigation into an alleged breach of professional standards is predicated by establishing terms of reference with the relevant service leadership.
- Developing and delivering training packages for diocesan personnel are guided by consultation with service leadership.
- Developing policies and procedures relating to child protection are done in consultation with affected diocesan services.
- Implementing temporary safety measures for diocesan personnel who are subject of child protection investigations are done in consultation with the person affected and the leadership of the relevant diocesan service.
- Managing diocesan personnel who are identified as posing an elevated level of risk to children is undertaken in consultation with the leadership of the relevant service.
- Setting of remuneration levels and hiring/firing of DCPU personnel are made in consultation with Human Resources.
- Participation in media interviews and public forums are made in consultation with the Diocesan Executive and Communications Manager.

Decisions that are referred and to whom

- Investigation outcomes are made by the leadership of the relevant service who supervises the person subject of child protection investigation.
- The limits of instructions when attempting to negotiate a settlement to a damages claim against the diocese is made by the Bishop of Maitland-Newcastle.
- Diocesan policies on child protection are approved by the Bishop of Maitland-Newcastle, service specific policies and procedures are approved by the relevant service leadership.



15. EMPLOYMENT CONDITIONS

Performance Management
 Performance agreement tri-annual performance review

Reward & Recognition
 Educational and development opportunities negotiated bi-annually

Remuneration
 Agreed salary and conditions comparable to industry standards and level of responsibility

- 16. OTHER RELEVANT INFORMATION**
- Occupant must:
- have a current drivers licence;
 - abide by the laws of the Commonwealth of Australia and NSW and the polices of the Diocese. Any criminal or civil action taken against the occupant must be reported immediately to the Vice Chancellor - Administration;
 - take reasonable action to familiarise himself/herself with Diocesan policies and procedures;
 - not take advantage of their role in the Diocese for personal gain;
 - take responsibility for their personal safety and the wellbeing of other employees, clients, contractors and other visitors to the Diocese; and
 - be familiar with, and observe, Diocesan policy and procedures on Equity and Diversity and Occupational Health and Safety in the performance of the responsibilities of the position.

17. SIGNATURES

OCCUPANT	SUPERVISOR	DATE:
-----------------	-------------------	--------------

However victims of abuse come to us, our first response must be to listen openly to their complaint, without defensiveness.

We must accept that at times when victims of abuse come forward they are justifiably angry, both from the hurt they have suffered and also often from the ways they have been treated in the past by church personnel. It is important that our response is open and accepting. Often the first wish of victims who present to us is the desire for justice and the need to ensure children are safe. Victims are always assured that we share these goals.

When a victim makes a formal Towards Healing complaint

Whenever a victim of abuse comes forward to the Diocese of Maitland-Newcastle, they are invited to enter into an ongoing relationship of support with Zimmerman House. This relationship of support is offered for as long as the person requires it.

Somewhere in this relationship of support, victims may also wish to progress a formal complaint against the church. The vehicle for a formal complaint is the Towards Healing process. Victims may make a statement of complaint either by contacting the Professional Standards number or through a Case Manager at Zimmerman House. When a complaint is taken it is forwarded to the NSW Professional Standards Office. The complaint is registered then returned to Zimmerman House to be progressed.

Settlements may be financial but also may take the form of an apology, counselling or a specific request.

No matters would be progressed through Towards Healing until our obligations under criminal and civil law are met.

Response to allegations

If the behaviour an aggrieved person describes indicates a crime has occurred, the person is encouraged strongly to take their complaint to the police. It is the practice of Zimmerman House to notify the police of any potential crime and the name of the alleged offender, even if the aggrieved person will not allow their name to be disclosed.

- when adults don't respond children think that they aren't believed or cared about and it is harder for them to bring up the subject again.
 - being observant will help you to pick up non-verbal clues about what is wrong
-
- When you become aware that someone has been abused by a person that you know it can be very difficult for you to refrain from showing disbelief. However, as difficult as it is for you, if you receive a disclosure or complaint you should remember that the damage done to people who have been abused, disclosed the abuse and then not been believed is immense.
 - **Do not perpetuate secrets - tell the person you must pass on knowledge of criminal behaviour or current risk to children or young people to someone who can help.**

In summary

- Avoid expressing judgment, doubt or shock
- Do not quiz the person for details and let them talk at their own pace
- Validate their decision to tell
- Tell the person you **must** tell someone who can help
- Record immediately anything you were told, anything you observed
- Put **date, time and signature** on record

2. **Contact Zimmerman House and pass on this concern**

- Say that you will be contacting the Zimmerman House immediately. Zimmerman House will advise what further steps should be taken.

3. **If the person is in immediate danger contact the local Police.**

Note. *You must not contact the alleged offender as it may endanger the complainant and may make further investigations more difficult.*

Reporting Responsibilities

Section 3

Who should report?

In the interest of ensuring a child safe culture within the diocese, all employees, clergy, religious and volunteers have a responsibility to report child protection concerns and criminal behaviour.

Voicing a concern will not be viewed as an accusation. Your concern will be dealt with professionally and confidentially. You will be heard and supported through the process.

What do I report?

- Any disclosure of abuse or neglect made to you by a child or young person (see Responding to disclosures)
- Any disclosure of criminal behavior
- Any disclosure of past abuse
- Any signs of risk of harm to a child or young person (see Policy document sections 8,9 and 10)

Who do I report to?

There are avenues for reporting concerns for every employee. If in doubt about where to report, discuss the matter with your manager, parish priest or directly with someone from Zimmerman House, the Diocesan Child Protection and Professional Conduct Unit.

Relevant agencies

Any signs, disclosures of knowledge of criminal behaviour should be reported to the police.

What happens then?

All effort will be made to keep your report confidential.

- In the case of a report to police, you may not receive feedback unless the information you hold is required in evidence
- In the case of a report to DoCS, you will receive written notice that your concerns have been noted. It is important to remember that not all reports to DOCs are immediately acted upon. Concerns are prioritised in order of need for intervention. All concerns however are recorded. The DOCs Helpline is a centralised data base recording all concerns about a particular child. While your information alone may not be sufficient to trigger DOCs intervention, it will be considered with other concerns noted about this child, providing a clear picture for DOCs to assess current risk and need for intervention.
- If you report to the Ombudsman through Zimmerman House, an objective investigation of your concerns will take place.
- You will be given support and debriefing from Zimmerman House regarding your report of concern if you feel you require it

Contact details

➤ Police:

Contact nearest local police station (see yellow pages)

➤ DoCS: Phone DOCS Helpline 24 hour toll free number

- Mandatory reporters **133627**
- Non-mandatory reporters **132111**
- Fax information if cannot get through by phone 96337666

➤ Ombudsman:

Phone Zimmerman House on: 02 49408091

After hours: 1800 234 050

dealing with abuse victims and/or offenders. Contact persons will be offered training in the principles of *Towards a Better Future* and will be offered ongoing support.

All discussion with a contact person or Zimmerman House case manager will be confidential, as will the written complaint obtained by them, except that:

- If the written complaint is required by law to be notified to external authorities (for example, because it discloses serious criminal behaviour or involves a minor) the notification will be given in accordance with the law.
- When an aggrieved person does not wish to make a formal complaint to police of a potentially criminal matter, it is Zimmerman House policy to disclose to police the details of the allegation and the name of the person subject of allegation without naming the aggrieved person
- A copy of the written complaint may be provided to Zimmerman House advisors, legal advisers or the insurance underwriters
- For the matter to be properly investigated and appropriate action to be taken the rules of procedural fairness may require that a copy of the written complaint be given to the alleged offender at an appropriate time in the investigation so that a right of reply may be given.
- When a matter has been handed over to external authorities such as the police or DoCS, right of reply or details of the complaint cannot be given by Zimmerman House until that external investigation is completed.

After the initial complaint has been received, the contact person or Zimmerman House case manager who took the complaint may act as a support person for the aggrieved person through any subsequent legal or investigation process.

i Information

- a summary of the investigation process is provided as a Zimmerman House brochure

Step 2 - Reporting Requirements

When we discover criminal or civil law has been breached, we have an obligation to report

Every day we come into contact with children and young people. Every day we come into contact with people who are vulnerable in one way or another. As a church we are privileged to be in a position where these people trust us. We therefore need to be clear that when we become aware we have an obligation to report.

It is reasonable to assume that all persons in authority in the church will from time to time have dealings with a child, young person or vulnerable adult who has been or is being victimised. The legal reporting requirements can differ depending upon what kind of abuse has taken place and who is involved.

Our Policy

Our policy is that all Reportable Conduct involving employees working with children and young people be reported to the NSW Ombudsman and Zimmerman House, that all criminal conduct is reported to the Police and Zimmerman House and that all Risk of Harm to children or young people is to be reported to DoCS.

In the Diocese of Maitland Newcastle, regardless of whether mandatory reporting to DoCS is required under legislation, any person in a position of authority within the church who knows, believes or suspects on reasonable grounds, that child or young person is at risk of harm or has suffered abuse is expected to make a report. (request of Bishop Michael Malone)

In this diocese it has been agreed that any person with a position of authority within the church, be it paid or unpaid, or any person working with children or young people in any capacity will consider themselves to be mandatory reporters, even where they may only be voluntary reporters under legislation.

It is a requirement that church insurers are notified of any act or circumstance that may give rise to a claim. There may be no retrospective indemnity for past causes of legal

liability if this condition is not observed. Zimmerman House can make this notification on behalf of supervising bodies.

To whom does it apply?

This policy applies to all those under the jurisdiction of the church who become aware of reportable conduct in relation to children and young people, criminal conduct or risk of harm to children or young people.

Protection of persons making reports

If, in relation to a child or young person, a person makes a report in good faith to DoCS or to a person who has the power or responsibility to protect the child or young person, such as the Police, legislation in most States and Territories provides significant protection. If you have any concerns about this aspect of reporting, please contact the Zimmerman House

Notification to the Police

A victim always has the right to seek lawful remedies outside the church and our internal process may not always be a substitute for other actions. If you receive a report of concern, you must report the matter to the Police if:

- Someone is in danger
- DoCS or the Zimmerman House requests you to
- There is knowledge which would assist authorities to apprehend or convict a person of a serious offence, or
- The incident involves either or sexual assault or serious physical assault regardless of age.

Notification to Zimmerman House

It is essential that Zimmerman House is advised of all notifications and /or allegations made because:

- Zimmerman House acts as a liaison point for all the parties involved in the process and ensures that the church complies with any legal reporting obligations.

finding is inconclusive. This means that completed employment proceedings must be reported in all circumstances except where a finding has been reached that the allegation is false, vexatious or misconceived.

Initial Process for Investigation of Disclosure

1. Determine if a report needs to be made to DoCS or the Police. If it does not, then notify Zimmerman House directly of your concerns. If the behaviour alleged meets the criteria for reportable conduct, the matter will be reported to the NSW Ombudsman by Zimmerman House.
If in doubt whether a report should be made to any of the authorities above you may contact Zimmerman House for advice. Zimmerman House will allocate an identification number that is to be used for all future correspondence and communication. This is to ensure confidentiality by removing the need to refer to matters using names or locations.
2. If a report needs to be made to any of the authorities:
 - Contact DoCS using the numbers supplied at the end of the policy section and the end of this chapter
 - Contact the local Police through numbers available in the yellow pages.
 - Zimmerman House will complete the appropriate forms for the NSW Ombudsman
3. All future contact with the NSW Ombudsman and/or the Police is to be through the Zimmerman House or a person appointed by Zimmerman House.
7. The person to whom the disclosure has been made should prepare a written report of the facts, as known. This is provided to Zimmerman House or the person appointed by Zimmerman House.
8. If the matter involves a child or young person, it is important that the child or young person and alleged offender have no further contact until investigations have been made by DoCS or the Police.

9. Where necessary, Zimmerman House will liaise with DoCS or police concerning referral to counselling for the child, young person or adult complainant. If the abuse involves sexual assault this may involve referral to a Sexual Assault Unit.
10. The complainant may need a support person to assist him/her through the investigation process. The support person should comfort the complainant and answer questions but should not attempt to gain more information about the alleged assault.
11. It is important to pass on whatever information is necessary to the Police or DoCS as the requirements of law overrule any issue of confidentiality.

12. Information

- All risk of harm concerns are to be reported to DoCS using the following number/s.
 - 24 hours - 132 111 for the general public
 - DoCS Helpline 13 3627 for Mandatory Reporters to get priority access to a DoCS Helpline Child Protection Caseworker. Do not give this number to the general public.

To Do

- All organisations within the church that deal with children and young people need to be aware of their obligations under child protection legislation. Information brochures and forms are available from Zimmerman House.

Records

- A record of all conversations and other communications made in the process of an investigation should be kept in a secure place. Be sure to make a note of any referral number or case number supplied by DoCS or the Police and the identification number allocated by Zimmerman House.

Do Not

- Do not discuss the matter with anyone except the civil authorities and Zimmerman House at this stage.

Hierarchy of legislative compliance

1. **Criminal matter** – the police must be notified ASAP – (even if the complainant's details are not released to the police) If the police decide to investigate, the diocesan investigation process is put on hold and no detail of the allegation can be given until police notify the diocese that their investigation is completed
2. DOCS notification must be made if there is any current risk to children or young persons – again the diocese withdraws until any DOCS investigation is completed
3. Ombudsman's Legislation – Employers have a responsibility to investigate any a child protection allegations of concern regarding their employees. Once it has been established that there are no current police or DOCS investigations, the diocese as the employer must conduct its own investigation of such a matter. Zimmerman House will oversight this investigation (for the purposes of the Ombudsman's legislation, volunteers and clergy members are also considered to be employees.) If the allegation involves a clergy member, the diocesan investigation is outsourced by Zimmerman House to an independent investigator.
4. Outcomes of a diocesan workplace investigation will determine the appropriateness of a notification to the Commission for Children and Young People (CCYP), i.e. whether a notification is made and the category of that notification (Category 1 or Category 2)
5. It is this CCYP data base which is accessed as part of relevant employment screening of potential new employees.

The purposes for which Zimmerman House uses personal information include:

- To keep aggrieved persons informed about matters related to the investigation through correspondence;
- Day-to-day administration;
- To satisfy Diocesan and legal obligations and allow Zimmerman House to discharge its duty of care.

Job applicants, staff members and contractors: In relation to personal information of job applicants, staff members and contractors, the primary purpose of collection is to assess and (if successful) to engage the applicant, staff member or contractor, as the case may be.

The purpose for which personal information of job applicants, staff members and contractors is used includes:

- Administering the individual's employment or contract, as the case may be;
- For insurances purposes;
- Satisfying the Diocesan and Zimmerman House's legal obligations, for example, in relation to Child Protection Legislation.

Exception in relation to employee records: Under the Privacy Act the NPP's do not apply to an employee record. As a result, this Privacy Policy does not apply to the treatment of an employee record, where the treatment is directly related to a current or former employment relationship between the Diocese and employee.

Volunteers: Personal information is also obtained about volunteers who assist the workplace in its functions or conduct associated activities.

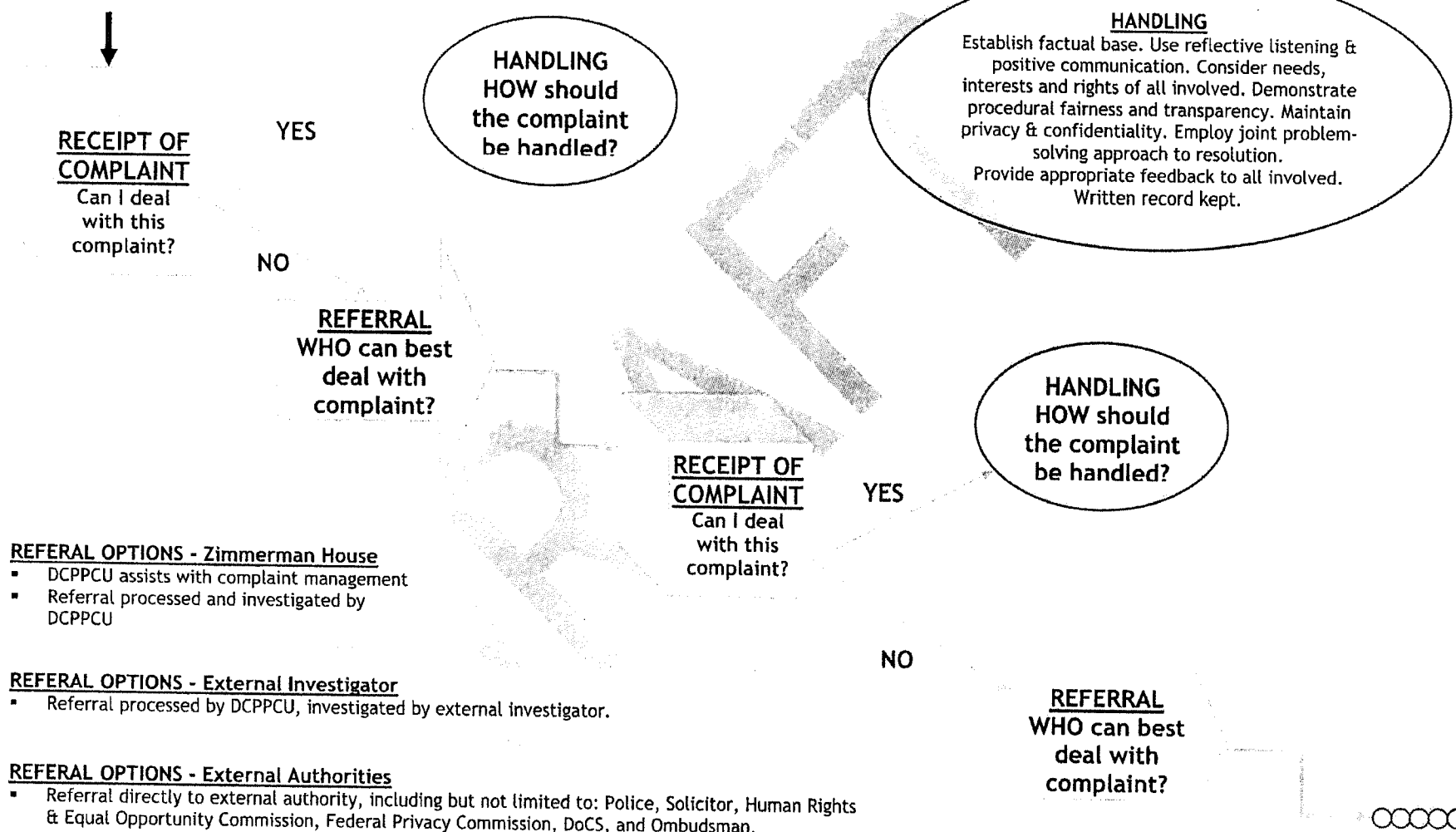
3. Who might Zimmerman House disclose personal information to?

Personal information, including sensitive information, held about an individual may be disclosed to:

- DoCS (in the case of a risk of harm allegation)
- Police (in the case of alleged or actual criminal activity)
- Anyone the individual authorised the workplace to disclose information to.

Signed

COMPLAINTS MANAGEMENT PROCESS DIAGRAM II



Signed

38

or not the child has been harmed or not and regardless of whether the alleged behaviour is thought to have occurred. In the case of alleged psychological harm, there needs to be information that a child has been harmed as a result of the employee's behaviour.

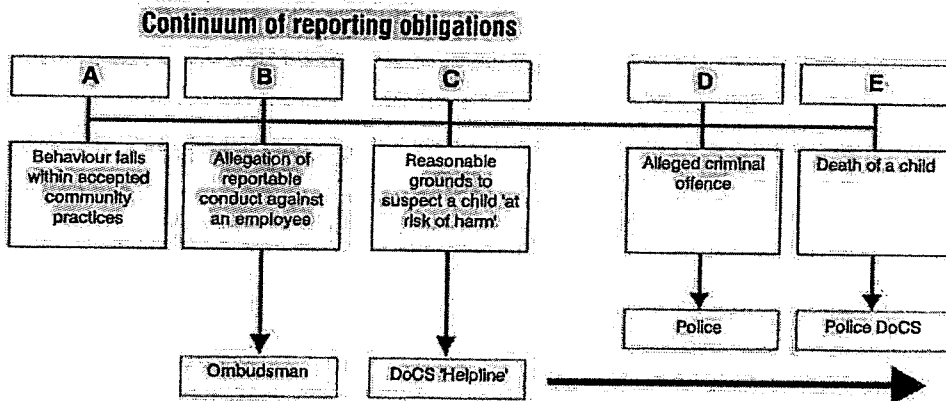
Note: See 3.3 and 3.8 for further information regarding the definitions of reportable conduct and reportable convictions).

The following reporting continuum highlights at point (A) where the employee's behaviour falls within the boundaries of accepted community practice; for example, appropriately comforting a child who has hurt them self; and the other end of the continuum (E) represents the death of a child as a result of an employee's behaviour.

Between (A) and (B) are those matters which fall within the exemptions:

- the use of physical force that, in all the circumstances, is trivial or negligible, but only if the matter is to be investigated and the result of the investigation recorded under workplace employment procedures, or
- conduct of a class or kind exempted from being reportable conduct by the Ombudsman under section 25CA of the *Ombudsman Act*.

A matter is notifiable to the Ombudsman when the complaint/information received by an agency constitutes on the face of it an allegation of reportable conduct or an allegation of misconduct that may involve reportable conduct (B). However, this type of allegation may not be notifiable to statutory investigative bodies (eg DoCS) unless there is some evidence that the child may be 'at risk of harm' (C) or a criminal offence may have been committed (D).



2.6 Who is an employee of the agency?

In s. 25(1) of the *Ombudsman Act*, there are two groups of people who are considered to be employees and who may have reportable allegations made against them or be the subject of a reportable conviction.

These two groups are:

- any employee of the agency, whether or not employed in connection with any work or activities of the agency that relates to children, and
- any individual engaged by the agency to provide services to children (including in the capacity as a volunteer).

2.8 What systems for reporting allegations are required by an agency?

Heads of agencies are required to set up systems within the organisation to ensure that they are advised by employees of any allegation (which may be reportable conduct or exempt from notification) or conviction against an employee, of which they become aware. Employees may become aware of allegations through a variety of means. Employees need to be aware of the systems in place to report each of these situations to the appropriate worker within the agency so that the head of the agency can take the necessary steps to protect children and notify the Ombudsman. Such systems may include memoranda, policies, procedures, code of conduct or forms. These systems should cover a variety of situations such as those for:

- employees making allegations against other employees
- children or their parents or caregivers making allegations against an employee
- allegations arising from advice received by an investigative agency, including DoCS, NSW Police, and/or the Ombudsman
- disclosures by employees of previous charges and/or convictions of an offence involving reportable conduct or any sexual offence as defined under the *Child Protection (Prohibited Employment) Act*, or
- information disclosed by an employee as a result of employment screening procedures.

Note: See **Appendix 8D** for information on what to include in an agency child protection policy regarding responsibilities under the Ombudsman Act. Please also refer to **Appendix 8F** for issues to consider in developing an agency's code of conduct.

2.8.1 Self-reporting

The *Child Protection (Prohibited Employment) Act* requires all employees in child-related employment to disclose to their employer any previous convictions for a serious sex offence.

Note: See **1.3** for the definition of serious sex offence.

The Act commenced in July 2000 and the CCYP has responsibility for implementing this legislation. This process provides an opportunity for agencies to become aware of employees who have been convicted of certain reportable conduct or any sexual offences.

Employers have an obligation to notify the Ombudsman of any reportable allegation or conviction of which they become aware. One way an employer may become aware of a conviction is by an employee declaring them self as a 'prohibited person'.

Government employees are already required to notify their departmental head if they are charged with or convicted of a serious offence.

Note: Under *Public Sector Employment and Management Act 2002*, s. 48. - Disciplinary action may be taken if an officer is convicted of a serious offence

(1) If an officer is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more, or is convicted elsewhere than in New South Wales of an offence that, if it were committed in New South Wales, would be an offence so punishable, the appropriate department head may:

of any such policies and the role of policies in risk management and preventing reportable conduct.

Agencies need to also educate and raise the awareness of parents and carers about the need to monitor their child's use of the internet, email and mobile phone use in the light of how these technologies have been used to abuse children.

Child pornography

It is a criminal offence in NSW to download from the internet, possess or publish child pornography. Any allegations of this nature should be notified to the Ombudsman as an allegation of reportable conduct and should also be referred to the Police.

3.5.5 What is child sexual assault?

Sexual assault refers to a sexual offence against, with or in the presence of a child. It includes the involvement of children in sexual acts or acts of indecency and any sexual threat imposed on a child.

Adults or older children who perpetrate child sexual offences exploit the dependency and immaturity of children. They create situations whereby they can have access to children in order to have the opportunity to commit a sexual offence against them. Physical or psychological coercion based on the power imbalance between an adult and a child is also part of sexual assault. It has been widely documented that the dynamics of sexual assault are often very different from other forms of abuse due largely to the secrecy surrounding these acts and the strategies used by people to commit the assault.

It is not uncommon for children who have been sexually assaulted to be reluctant to disclose the abuse due to their fear of negative consequences following disclosure. Nor is it uncommon for children to deny (sometimes referred to as 'recant') or retract a sexual assault allegation. A child may recant or retract even when there is medical evidence supporting the sexual assault allegation. However, with support many children will later re-affirm the allegation. Reasons given by children for recanting include:

- pressure from the perpetrator
- pressure from family, and
- anxiety about the investigatory proceedings.

Note: See 8G for more information on interviewing children.

3.5.6 What is physical assault?

Physical assault refers to the assault and/or non-accidental injury and/or harm to a child by a parent, caregiver or another person responsible for the child or young person. Physical assault is a hostile act towards a child. The assault occurs regardless of the adult's intention to harm and regardless of the child or young person's consent. Assault can include pushing, shoving, throwing objects, hitting, or threatening behaviour (either verbal or actions) that causes the child to fear that an assault is likely to occur.

appropriate **initial response** by the agency to such information is extremely important in order to:

- protect children and other vulnerable people from harm
- protect employees from malicious gossip or unfounded accusations, and
- demonstrate that allegations are treated seriously by the employer.

Once an allegation has been made, an agency should undertake the following **initial actions**:

- record the words used by the child or other person making an allegation (verbatim if possible) and clarify what is being alleged
- assess whether the allegation involves a child being 'at risk of harm' and report to the 'Helpline' of DoCS or the Police and notify them promptly when appropriate
- assess whether the allegation is a matter which is required to be notified to the Ombudsman as a reportable allegation or the allegation involves conduct which is exempt from such.

Note: See 3.4 for information on the process of assessing if an allegation is a reportable allegation.

- undertake an initial risk assessment to decide whether the employee's current duties are appropriate while an investigation is being conducted
- prepare an investigation plan, identifying key witnesses and ensure evidence collection processes are in place
- commence and properly document an investigation, and
- notify the Ombudsman within 30 days if the alleged behaviour constitutes a reportable allegation.

Note: See 5.12 Steps in the investigative process for more information on initial response to an allegation against an employee.

Subsequent action should include completing the investigation, deciding what action the agency will take, and sending a final report to the Ombudsman.

Note: Sometimes a complaint may be made about an employee that contains insufficient information to assess whether the behaviour or conduct may constitute reportable conduct. For example, a parent may include in a complaint, words to the effect that 'employee X injured or assaulted my child'. The agency should clarify in terms of specific behaviours, what the employee is alleged to have done (ie 'employee X slapped my child on the hand') before contacting the Ombudsman. This clarification should be undertaken with the complainant only, not other witnesses.

3.11 When does a complaint against an employee become a reportable allegation?

Employers are required to deal with a wide variety of complaints relating to employees' professional practice or conduct, eg: rudeness, punctuality, failure to achieve expected outcomes, management issues. Although most complaints about employees will not fall into the category of reportable allegations, **all** allegations against employees should be recorded and responded to appropriately.

Note: See 3.4 for information on the process of assessing if a matter involves a reportable allegation.

5.12.1 Initial response to an allegation

The initial response should be to:

- clarify the allegation – exactly what has been alleged? Who, What, When, Where, for example:
 - the identity of the person making the allegation and (if different) the identity of the child
 - the identity of the employee against whom the allegation is made
 - when and where the alleged incident or incidents occurred, and
 - a description of the acts and/or omissions which form the basis of the allegation against the employee.

Note: See 3.3.1 for more information on clarifying an allegation.

- assess whether the allegation involves a child being 'at risk of harm' and if so report to the 'Helpline' of DoCS or the Police and notify them promptly when appropriate
- assess whether the allegation is a matter which is required to be notified to the Ombudsman as a reportable allegation or the allegation involves conduct which is exempt from such notification. (Matters which are exempt from notification are required to be recorded and investigated according to workplace employment proceedings).

Note: See 3.4 for information on determining if an allegation is a reportable allegation or exempt from notification.

- assess any risks posed by the employee to children in the agency's care and take any necessary interim action to ensure the safety and well being of the children including whether the employee's duties need to be changed during the investigation process.

Note: See 5.14 for more information on risk assessment and risk management.

- ensure confidentiality and procedural fairness, consider what to tell people who are not involved but are aware of the allegation (eg other employees or parents), or who ask what has happened in relation to the employee (It is important to remind the person who makes such inquiries of the sensitive and confidential nature of such a matter and that you are therefore unable to discuss, confirm or deny the allegation).

Note: The agency Child Protection policy and/or Disciplinary Procedures guidelines should include information about this issue to ensure appropriate confidentiality is maintained within the agency.

- address any support needs of both the child and the employee who is the subject of the allegation.
- Before starting an investigation, identify the people to consult for advice (eg Ombudsman's office or relevant peak body/agency) or who might provide relevant information, including witnesses, if any (if an agency has any inquiries or concerns during the investigation process the Ombudsman's office can be contacted for assistance).
- If the allegation is a reportable allegation, complete **Part A** of the Ombudsman's notification form and ensure that it is sent to the Ombudsman's office within 30 days of the head of agency becoming aware of the allegation

Note: Agencies are not required to complete the investigation of the allegation during this time.

5.4 Has Community Services been informed of the current allegation?⁷

- Yes - Date of report: No
 Unknown Not applicable

5.5 Is Community Services investigating this reportable allegation?

- Yes No
 Unknown

5.6 Has the NSW Police Force been informed of the current allegation⁸?

- Yes - Date of report: No
 Unknown Not applicable

5.7 Is the NSW Police Force investigating this reportable allegation?

- Yes No
 Unknown

7 Agencies must report suspected risk of harm to Child Wellbeing Units or Community Services' Helpline. The main purpose of a Community Services investigation is to identify whether a child is at risk of significant harm and whether any care and support issues exist. Advice should be obtained from Community Services before commencing an employment related child protection investigation.

8 Agencies must report allegations of a criminal nature to the NSW Police Force. The main purpose of a police investigation is to make inquiries to determine whether there is sufficient evidence to charge a person with a criminal offence. Advice should be obtained from the NSW Police Force prior to commencing an employment related child protection investigation. Agencies are encouraged to refer police to the NSW Police Force's 'Standard Operating Procedures regarding employment related child abuse allegations', which require that the employing agency be kept informed of the police investigation and any action that can be taken by the employing agency during the police investigation.

" E "

6. Rights and Obligations

6.1 Diocese's Obligation to Report Suspected Criminal Conduct

Where a member of the Diocese believes that they are in receipt of information pertaining to a crime or conspiracy to commit a crime, that person will raise their concerns with their supervisor.

Where a member of the Diocese's supervisor is unavailable or they believe their supervisor may have a conflict of interest in relation to the situation, the member of the Diocese will make contact with a member of the DCPU (Diocesan Child Protection Unit).

The DCPU will report any alleged crime that would constitute a serious indictable offence or conspiracy to commit a serious indictable offence (refer *Appendix E*). Section 316, Crimes Act 1900 makes it a criminal offence to conceal a serious indictable offence.

Where the alleged crime would not constitute a serious indictable offence, the presumption remains that the DCPU will report the allegation to NSW Police. However, in exceptional circumstances, the investigator is able to submit an application to the investigations manager requesting an exemption from reporting. Exceptional circumstances could include:

- the alleged offence would constitute a summary offence, and
- ~~the alleged offence would constitute a minor indictable offence and the alleged victim:~~
 - o is no longer at risk from the alleged offender, and
 - o provides the investigator with a written statement that they do not want to report the alleged offence to Police.

The investigations manager will make the final decision. In reaching this decision the investigations manager may consult with legal counsel or other persons as is considered appropriate. Any decision not to report alleged criminality will be documented by the investigator and form part of the investigations record.

Where appropriate and practical, the investigator will discuss the intended report to Police, with the alleged victim (if they are not the person who informed the investigator of the alleged crime).

However, the Diocese will report alleged crimes or conspiracies to commit crimes to Police irrespective of the reporter's or alleged victim's wishes.

When a report is made to Police all relevant available information is provided to the Police, including the identity of the reporter and alleged victim(s) and perpetrator(s). The investigator should ensure that the alleged victim is aware of this practice as soon as practicable.

Approved by: Bishop William Wright (V 1.0, 17/02/2012)
 Update: 15 October 2012
 Review Date: June 2013
 Version 1.2 The version of this document held on the intranet supersedes all printed copies

Signed

Signed

45

It is understood that there is no possibility of obtaining an indictment where an alleged offender is deceased.

6.2 Duty of Care

It is acknowledged that being involved in any investigation may cause stress, feelings of uncertainty, confusion and fear. This is equally true for:

- the alleged victim(s) and their family particularly when the alleged victims are children;
- the PSOA, their friends and family; and
- other witnesses to the alleged behaviours, particularly child witnesses.

Where appropriate, the investigator may advocate for additional supports to members of the Diocese or other persons involved in an investigation, e.g. if the parents of a child witness advise the investigator that their child is showing signs of ongoing anxiety.

For most members of the Diocese, the Employment Assistance Programme (EAP) is available. The investigator can assist the person access support through the relevant Diocesan service.

For members of the Diocese not included in the EAP, the investigator is able to offer limited counselling on a fee for service basis. Approval is for up to 5 x 1 hour counselling sessions. The provider should be either a registered psychologist or social worker (eligible for membership of the AASW) and payment will be made at no more than the recommended APS or AASW rates. If there is an identified need for counselling beyond the initial five sessions, the investigator may prepare a written submission to the Manager Zimmerman Services to approve further counselling. This will be determined on the basis of demonstrated need.

If asked, members of the Diocesan Child Protection Unit will make themselves available to undertake debriefing or educational sessions with Diocesan workplaces or teams after the completion of an investigation that involved one or more of its members. Arrangements may be made with the Manager Zimmerman Services.

Where colleagues are aware that an investigation is occurring, they have an obligation to be supportive of the PSOA or any other person involved in an investigation and suspend judgement; i.e. being understanding but not 'taking sides'.

Supervisors of the PSOA, or any other person involved in an investigation, have an obligation to ensure that these people continue to receive appropriate supervision and support. The PSOA is afforded special consideration and additional support.

Where the PSOA remains in the workplace, special consideration should be afforded to them, including provision of time away from normal business during the work day to meet with their nominated representative to prepare material for the investigation or attend

Approved by: Bishop William Wright (V 1.0, 17/02/2012)

Update: 15 October 2012

Review Date: June 2013

Version 1.2 The version of this document held on the Intranet supersedes all printed copies

Signed

Signed

46

The Government Information (Public Access) Act 2009, (GIPA Act) sets a presumption that the PSOA will be afforded access to relevant employment proceedings³. However, s.14 of the GIPA Act sets out public interest considerations for withholding information (refer *section 12.2*).

The investigator is required to consider all the relevant factors for and against the rights of a person's privacy when conducting an investigation. The investigator should not give a guarantee to any person that their identity will be protected.

6.9 Provision of Information Pertaining to the Investigation to Third Parties, Within and External to the Diocese (Other than the Ombudsman)

Information pertaining to an investigation is only given to persons where there is a legitimate *need to know*, based on a legal capacity to do so. Need to know does not equate to full disclosure, only that information which is relevant to the person's roles and responsibilities.

People with a presumptive need to know, unless excluded by an established conflict of interest, include:

- senior management of the relevant Diocesan service;
- the supervisor of the PSOA or service manager in which the alleged behaviour occurred;
- a counsellor or other professional offering support services to the PSOA;
- external parties with a statutory right to the information; and
- the PSOA's nominated representative (refer to *section 10.6*).

Section 6(1) of the Privacy Act 1988 exempts employee records from the act, however opinion from the Catholic Commission for Employment Relations (February 2011) is that the exemption set out in section 6(1) is restricted to acts or practices directly related to an employment relationship.

Therefore, for the purposes of this policy the release of information, in whole or part, that could form part of an investigation record (refer *section 9.6*) may only be done to those members of the Diocese obliged to be informed as they have an established, legitimate need to know.

During the course of the investigation, the investigator will ensure that there is regular, ongoing contact between themselves and the appropriate personnel within the relevant Diocesan service. This includes the formal pre-investigation planning meeting held at the beginning of an investigation (refer *section 10.5*) and the post-investigation consultation

³ Investigation records only fall under the GIPA Act if and when they are the record of a relevant employment proceeding, (i.e. a category 1 or 2 notification is made to the Commission).

Approved by: Bishop William Wright (V 1.0, 17/02/2012)

Update: 15 October 2012

Review Date: June 2013

Version 1.2 ~~_____~~ The version of this document held on the Intranet supersedes all printed copies

Signed

Signed

47

(refer **section 10.9**). The agreed contact schedule between investigator and the Diocesan service should form part of the investigation plan.

The investigator will not provide any other persons any information relating to the investigation without the express consent of the person to whom the information relates or without the written approval of the investigations manager. Any determination to provide information to other parties will be documented by the investigator, identifying who was given what information and why. This written record will form part of the investigation records.

As noted earlier, statutory authorities, other than the Ombudsman (refer **Section 11.1**), may have a legitimate need to know and will be advised that the Diocese may hold information relevant to their investigations or other processes. However, the external authority or prescribed body will be provided the information through the exercise of the statutory authority's legal right to information, which requires the use of:

- Chapter 16A exchange of information provisions (refer **section 6.9**);
- section 248⁴;
- search warrant⁵; or
- subpoena.

The investigator should refer to the NSW Government website for relevant guidelines and template documents relating to exchanging information:

http://www.community.nsw.gov.au/kts/guidelines/info_exchange/info_index.htm

No provision in this policy affects the duty of an investigator to report any:

- child or class of children that they believe to be at risk of significant harm to the Community Services Helpline,
- matter that may amount to an act or acts of criminality to the NSW Police Force, or
- conduct or conviction that is reportable to the NSW Ombudsman.

6.10 Chapter 16A Exchange of Information with Prescribed Bodies

Chapter 16A Children and Young Persons (Care and Protection) Act 1998 allows for the exchange of information between prescribed bodies. One of the principles of Chapter 16A states that:

agencies that have responsibilities relating to the safety, welfare or well-being of children or young persons should be able to provide and receive information that promotes the safety, welfare or well-being of children or young persons,

⁴ Children and Young Persons (Care and Protection) Act 1998

⁵ Part 5, Law Enforcement (Powers and Responsibilities) Act 2002

Approved by: Bishop William Wright (V 1.0, 17/02/2012)
Update: 15 October 2012
Review Date: June 2013
Version 1.2 The version of this document held on the intranet supersedes all printed copies

Signed

Signed

48

There is no question that Catholic systemic schools and CatholicCare are both prescribed bodies.

This policy argues that the whole of the Diocese may be considered a prescribed body by clause 7(f) of the Children and Young Persons (Care and Protection) Regulation 2000 which states that a prescribed body is:

any other organisation the duties of which include direct responsibility for, or direct supervision of, the provision of health care, welfare, education, children's services, residential services, or law enforcement, wholly or partly to children.

The investigator is an operative of the Diocese and where the investigation relates to the safety, welfare or wellbeing of a particular child or class of children, the investigator is able to obtain documentary evidence from third parties who are prescribed bodies.

Appendix G provides a quick checklist regarding Chapter 16A however the investigator should refer to the NSW Government website for complete guidelines and template documents relating to exchanging information under Chapter 16A:

http://www.community.nsw.gov.au/kts/guidelines/info_exchange/info_index.htm

Approved by: Bishop William Wright (V 1.0, 17/02/2012)

Update: 15 October 2012

Review Date: June 2013

Version 1.2 The version of this document held on the Intranet supersedes all printed copies

Signed

Signed

49

Appendix G: Checklist for Chapter 16A Exchange of Information

When can I provide information under Chapter 16A?

Are you and the requesting organisation prescribed bodies?

YES → A prescribed body is any organisation specified in Section 248(6) of the *Children and Young Persons (Care and Protection) Act 1998* (the Act) or in Clause 7 of the *Children and Young Persons (Care and Protection) Regulation 2000*. Generally prescribed bodies include the NSW Police force; NSW Government departments and public authorities; organisations that arrange the provision of out-of-home care; government schools, registered non-government schools or TAFE; public health organisations or private hospitals; private fostering or adoption agencies; child care centres; designated agencies; registered agencies or any organisation responsible for the direct supervision or provision of health care, welfare, education, children's services, residential services, or law enforcement wholly or partly to children.

NO → You cannot share information with an organisation under Chapter 16A.

Does the information relate to the safety, welfare or wellbeing of a child or young person?

YES → Information can be shared with the prescribed body in accordance with Chapter 16A.

NO → Information can only be shared as otherwise required or permitted by any law.

Do I "reasonably believe" that the information would assist the prescribed body to make a decision, assessment or plan; initiate or conduct an investigation; provide a service; or manage a risk that might arise in the recipient's capacity as an employer or designated agency in relation to the safety, welfare or wellbeing of a child or young person?

YES → That information can be shared under Chapter 16A.

NO → You cannot share information with the prescribed body under Chapter 16A.

I have not received a request for information, but believe I have information that could assist another prescribed body to: make a decision, assessment or plan; initiate or conduct an investigation; or provide a service or manage any risk that might arise in the recipient's capacity as an employer or designated agency in relation to the safety, welfare or wellbeing of a child or young person.

YES → That information can be shared under Chapter 16A.

NO → You cannot share information under Chapter 16A.

Approved by: Bishop William Wright (V 1.0, 17/02/2012)

Update: 15 October 2012

Review Date: June 2013

Version 1.2 The version of this document held on the Intranet supersedes all printed copies

Signed

Signed

50

When must information not be shared?

Do you reasonably believe that sharing the information would:

- prejudice an investigation of any breach (or possible breach) or any law
- prejudice a coronial inquest or inquiry
- prejudice any care proceedings
- contravene any legal professional or client legal privilege
- enable the existence or identity of a confidential source of information in relation to the enforcement or administration of a law to be ascertained
- endanger a person's life or physical safety
- prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a breach (or possible breach) or a law
- not be in the public interest.

YES → You are not required to provide any information you reasonably believe meets any of the above exemptions. Refer further to organisational policies regarding the exemptions or seek legal advice.

NO → Information can be shared under Chapter 16A.

In the event that an exemption does apply, the requesting agency must be notified in writing of the grounds for the refusal.

What do I need to do before releasing information?

Consent is not required as Chapter 16A authorises its exchange under law, however it is best practice to seek consent and/or inform a child, young person or their family that information about them is being disclosed, if practicable.

Has the child, young person or their family consented to or been informed that information will be released?

YES → The requesting/receiving prescribed body should be advised that the child/young person or family has consented or has been informed.

NO → The requesting/receiving prescribed body should be advised of the reasons why consent has not been obtained or the child, young person or family has not been informed including:

- it may further jeopardise a child or young person's safety, welfare or wellbeing
- it could place yourself or another person at risk of harm
- the parent/carer is not able to be contacted and the matter is urgent.

Approved by: Bishop William Wright (V 1.0, 17/02/2012)

Update: 15 October 2012

Review Date: June 2013

Version 1.2 The version of this document held on the Intranet supersedes all printed copies

Signed

Signed

51

Has all identifying information about the reporter been removed?

YES → Information can be shared under Chapter 16A.

NO → Information cannot be provided unless one of the exemptions provided for in section 29 of the Act are met.

What protection do I have if I share the information?

Is the information provided in good faith, in accordance with the principles and procedures under Chapter 16A?

YES → A person is not liable for any civil or criminal action or any disciplinary action, and cannot be held to have breached any code of professional etiquette or ethics or departed from any accepted standards of professional conduct.

Approved by: Bishop William Wright (V 1.0, 17/02/2012)
Update: 15 October 2012
Review Date: June 2013
Version 1.2 The version of this document held on the Intranet supersedes all printed copies

Signed

Signed

52

8. Procedure for Reporting Allegations of Criminal Conduct

The Diocese of Maitland-Newcastle will report to NSW Police or other relevant authorities, criminal conduct which:

- involves crimes against children, or
- which could constitute a serious indictable offence.

This will be done irrespective of the wishes of the complainant or alleged victim.

A serious indictable offence is an indictable offence that is punishable by imprisonment for a term of five years or more. Section 316, Crimes Act 1900 makes it a criminal offence to conceal a serious indictable offence.

A member of the Diocese, who believes that they are in receipt of information pertaining to a crime will raise their concerns with their supervisor within one working day.

It is a supervisor's responsibility to report any alleged crime to the DCPU (Diocesan Child Protection Unit) within one working day.

Where a member of the Diocese's supervisor is unavailable or they believe their supervisor may have a conflict of interest in relation to the situation, the member of the Diocese must make contact with a member of the DCPU within one working day.

Irrespective of any conflict of interest, all members of the Diocese have the right to discuss any alleged criminal conduct directly with the Diocesan Child Protection Unit (DCPU), to seek advice, guidance and support in addressing their concerns. The DCPU is contactable by phone during *office hours, (4979 1390)*.

The NSW Police Force is a very large and complex organisation. As part of the Diocese's commitment to protecting children, the DCPU has an ongoing working relationship with NSW Police and may be aware of a particular local investigations or strike forces that may be the most appropriate and effective referral point for alleged crimes.

Nevertheless, a member of the Diocese has the choice to report their information directly to the *NSW Police Assistance Line (131 444)*, unless the alleged crime is life threatening or a time critical emergency situation. In those circumstances ring *000* Emergency Services and ask for 'Police' (refer *section 7*).

It is understood that there is no possibility of obtaining an indictment where an alleged offender is deceased. Nevertheless, those crimes committed against children that were allegedly committed by a deceased person, will be reported to Police for the purposes of supplying intelligence.

Original policy approved by: Bishop Michael Malone
Date of original approval: 21 October 2010
Date of current Draft: June 2013
Version 1.2.2 – DRAFT

Signed

Signed

53

6. Rights and Obligations

6.1 *Diocese's Obligation to Report Suspected Criminal Conduct*

The Diocese of Maitland-Newcastle will report to NSW Police or other relevant authorities, criminal conduct which involves crimes against children or which could constitute a serious indictable offence.

Where a member of the Diocese believes that they are in receipt of information pertaining to a crime that person will raise their concerns with their supervisor within one working day.

It is a supervisor's responsibility to report any alleged crime or criminal conspiracy to the DCPU (Diocesan Child Protection Unit) within one working day.

Where a member of the Diocese's supervisor is unavailable or they believe their supervisor may have a conflict of interest in relation to the situation, the member of the Diocese must make contact with a member of the DCPU within one working day.

Section 316, Crimes Act 1900 makes it a criminal offence to conceal a serious indictable offence. The DCPU will report any alleged crime that would constitute a serious indictable offence or conspiracy to commit a serious indictable offence (refer *Appendix E*).

Where the alleged crime does not involve children or constitute a serious indictable offence, the presumption remains that the DCPU will report the allegation to NSW Police. However, in exceptional circumstances the investigator is able to submit an application to the investigations manager requesting an exemption from reporting. Exceptional circumstances are restricted to:

- the alleged offences constituting a summary offence, and
- the alleged offence not relating to any sexual assault or misconduct, and
- the alleged victim no longer being at risk from the alleged offender, and
- the alleged victim providing the investigator with a written statement that they do not want to report the alleged offence to Police.

The investigations manager will make the final decision as to not reporting the alleged criminal conduct. In reaching this decision the investigations manager may consult with legal counsel or other persons as is considered appropriate. Any decision not to report alleged criminality will be documented by the investigator and form part of the investigations record.

Where appropriate and practical, the investigator will discuss the intended report to Police, with the alleged victim (if they are not the person who informed the investigator of the alleged crime).

However, the Diocese will report alleged crimes to Police irrespective of the reporter's or alleged victim's wishes.

Original policy approved by: Bishop William Wright (V 1.0, 17/02/2012)
Date of original approval: 17 February 2012
Date of current Draft: June 2013
Version 1.3.1 - DRAFT

Signed

Signed

54

The investigator will report the alleged crime to the most appropriate Police Officer possible. Where the allegations may be relevant to an ongoing investigation, the investigator will contact the senior Officer in charge of that investigation. Alternatively, the investigator will report the allegation to the *Crimes Manager of the Local Area Command*, in which the alleged crime has occurred or will occur. Any verbal report to Police will be followed up with a written confirmation to the relevant Officer.

The written record of the report will form part of the Investigation record.

When a report is made to Police all relevant available information is provided to the Police, including the identity of the reporter and alleged victim(s) and perpetrator(s). The investigator should ensure that the alleged victim is aware of this practice as soon as practicable.

It is understood that there is no possibility of obtaining an indictment where an alleged offender is deceased. Nevertheless, those crimes committed against children that were allegedly committed by a deceased person, will be reported to Police for the purposes of supplying intelligence.

6.2 Duty of Care

It is acknowledged that being involved in any investigation may cause stress, feelings of uncertainty, confusion and fear. This is equally true for:

- the alleged victim(s) and their family particularly when the alleged victims are children;
- the PSOA, their friends and family; and
- other witnesses to the alleged behaviours, particularly child witnesses.

Where appropriate, the investigator may advocate for additional supports to members of the Diocese or other persons involved in an investigation, e.g. if the parents of a child witness advise the investigator that their child is showing signs of ongoing anxiety.

For most members of the Diocese, the Employment Assistance Programme (EAP) is available. The investigator can assist the person access support through the relevant Diocesan service.

For members of the Diocese not included in the EAP, the investigator is able to offer limited counselling on a fee for service basis. Approval is for up to 5 x 1 hour counselling sessions. The provider should be either a registered psychologist or social worker (eligible for membership of the AASW) and payment will be made at no more than the recommended APS or AASW rates. If there is an identified need for counselling beyond the initial five sessions, the investigator may prepare a written submission to the Manager Zimmerman

Original policy approved by: Bishop William Wright (V 1.0, 17/02/2012)
Date of original approval: 17 February 2012
Date of current Draft: June 2013
Version 1.3.1 – DRAFT

Signed

Signed

55

ANNEXURE "G"

TO

ANNEXURE "O"

REDACTED



**Crown
Solicitor's
Office**

Your Ref:
My Ref: 201203450
T20 Emma Sullivan
Tel: (02) 9224-5029
Fax: (02) 8224-5355
Email: crownsol@agd.nsw.gov.au

12 June 2013

Mr Alex Kohn
Makinson & d'Apice Solicitors and Notaries
DX 296 SYDNEY

By email : akohn@makdap.com.au

Dear Mr Kohn

Special Commission of Inquiry into matters relating to the Police investigation of certain child sexual abuse allegations in the Catholic Diocese of Maitland-Newcastle ("Inquiry") – further statement from Sean Tynan

I refer to previous correspondence including my earlier letter of today.

The Commissioner would be further assisted by the provision of a sworn statement (affidavit or statutory declaration) from Mr Tynan, to be regarded as confidential unless and until further advised by the Inquiry, which addresses the following:

1. In concise terms, details as to Mr Tynan's background, qualifications and experience;
2. Mr Tynan's role within Zimmerman House/Services and the nature and extent of the work undertaken, and services provided, by Zimmerman Services (both now and as and from October 2009);
3. Details as to any significant changes (if any) introduced to Zimmerman House/Services by Mr Tynan and the reasons for such changes;
4. Details as to the location and storage of both:
 - (a) Zimmerman House/Services documents and
 - (b) confidential Bishop's files as at:
 - (i) October 2009 and following (noting any relevant changes);
 - (ii) present time;

including details as to the means by which such documents are secured and the identities of the persons who, in the ordinary course, may have access to such documents;

5. The policies, procedures or protocols in place (both at present and previously) within Zimmerman House/Services relating to contact with NSW Police in respect of any suspected child sexual report notified to Zimmerman Services (whether by a client or prospective client or otherwise), including any procedures for encouraging and/or facilitating victims to report allegations of child sexual abuse to the NSW Police Force. Please annex any extracts of relevant documents recording such policies, procedures or protocols;
6. Mr Tynan's view as to the adequacy of the procedures and protocols in place within Zimmerman House/Services (both at present and previously) to deal with the reporting of child sexual abuse allegations to the NSW Police Force;
7. Mr Tynan's views regarding the extent to which he, Zimmerman House/Services and the Diocese co-operated with Strike Force Lantle. If applicable, please detail instances of such co-operation;
8. Whether Mr Tynan is aware of any instance in which he, Zimmerman House/Services and/or the Diocese may have failed to co-operate, or may have impeded or obstructed, any Police investigation being conducted by Strike Force Lantle in respect of allegations relating to Fr McAlinden and/or Fr Fletcher – and, if so, the nature of such non-co-operation, impediment or obstruction;
9. Detail as to:
 - (a) Mr Tynan's role in responding to the search warrant dated 31 May 2011 executed by Police in relation to Zimmerman House/Services; and
 - (b) the extent to which documents were provided in response to the search warrant.
10. To the extent that he feels able to opine on the matter, Mr Tynan's views as to whether the Diocese, as an institution, could or should have dealt with the McAlinden and/or Fletcher matters differently or better than it did, including how things might have been dealt with differently or better;
11. In respect of the documents entitled '*Profile of Clerics Accused or Convicted of Child Sexual Abuse*' relating to (i) Fr. Denis McAlinden and (ii) Fr. James Fletcher, in each instance details as to:
 - (a) when the document was prepared by Mr Tynan (if a precise date cannot be provided, please provide a reasonable estimate). Please also provide a copy of any email exchanges or correspondence between Mr Tynan and any other person in relation to such document;
 - (b) when the document was disseminated by Mr Tynan and to whom and, if possible, when the document was submitted to the Congregation for the Doctrine of the Faith. Please also provide a copy of any email(s) or other correspondence confirming dissemination of the document;
 - (c) Whether Mr Tynan (whether in response to the warrant or otherwise) provided Police with copies of either document – and, if so, when and to whom was it provided. If it was not so provided, please indicate the reasons why.

12. Any other matters considered relevant to the Inquiry's Terms of Reference.

Please note that it is contemplated that the proposed statement may, at an appropriate time, be served on interested parties authorised to appear at the Inquiry. It may also become an exhibit in due course.

The Commissioner would be pleased to receive the requested sworn statement on or before **Monday, 19 June 2013.**

Please contact Emma Sullivan on (02) 9224 5029 or Jessica Wardle on (02) 9224 5052 should you have any questions in relation to this request.

Yours faithfully

Signed

Emma Sullivan
Special Counsel
for Crown Solicitor